

A Broken Circle

“Disappeared” and abducted in Kosovo province

Since 1991 Amnesty International has documented and campaigned against the widespread and systematic violations and abuses of human rights perpetrated by all parties to the conflicts in the successor states of the former Yugoslavia. Amnesty International has strongly opposed the killings, torture, rape and forced expulsions which have occurred throughout the region. The organization has campaigned intensively in support of the relatives of the tens of thousands of “disappeared” and abducted persons throughout the former Yugoslavia.

Amnesty International has urged the national authorities in the region to cooperate with the various international mechanisms set up to deal with the thousands of cases of “disappeared” and abducted persons in the former Yugoslavia. The organization has also urged the international community to ensure that adequate resources are made available for this task.

“Disappeared” and abducted in Kosovo province

The human rights situation in Kosovo province has been of concern to Amnesty International for over 10 years. (See *Kosovo: A decade of unheeded warnings: Amnesty International's concerns in Kosovo: May 1989 - March 1999*, Volume One: AI Index: EUR 70/39/99 and Volume Two: AI Index: EUR 70/40/99) Over the last two years Amnesty International has intensified its campaigning effort in response to the escalation of human rights violations perpetrated by FRY forces against the ethnic Albanian population in Kosovo province. Amnesty International estimates that during this period approximately 4,000 ethnic Albanians became the victims of “disappearances”.

Since the forces of the Federal Republic of Yugoslavia (FRY) withdrew from Kosovo province in June/July 1999, human rights violations perpetrated by FRY forces have ceased. However, the fate of the thousands of ethnic Albanians who “disappeared” before and during the NATO intervention in the province is still unclear and new human rights abuses, including the abduction of Serbs, Roma and ethnic Albanians go on.

Although the armed opposition group the Kosovo Liberation Army (KLA) has now officially been disarmed and disbanded, it is clear that large numbers of weapons including automatic firearms, mines and anti-tank weaponry remain in private hands or under the control of small groups. The newly-created Kosovo Protection Corps (TMK - Trupa Mbrojtëse e Kosovës), established under the auspices of the United Nations

Interim Administration Mission in Kosovo (UNMIK) with the intention of providing a civil relief body is dominated by former leaders and members of the KLA. It is also clear that many former leaders of the KLA retain a prominent and influential position in Kosovar Albanian society. Members and former members of the KLA have reportedly been responsible for the perpetration of human rights abuses against the minority Serb and Roma populations, and against ethnic Albanians who they claim "collaborated" with the Serbian authorities.

The withdrawal of FRY forces from Kosovo province was accompanied by escalating human rights abuses on the part of armed ethnic Albanian groups or individuals directed against these minority ethnic groups. Amnesty International has already expressed its concern about these human rights abuses and continues to urge KFOR, the international force with a United Nations (UN) Security Council mandated responsibility to create a safe environment in Kosovo to which all refugees and internally displaced persons can return, to do its utmost to protect all minority populations in Kosovo. The organization has already urged all states contributing to UNMIK and KFOR to deploy civilian police, trained in the relevant human rights standards, as a matter of urgency. See: *KFOR forces should live up to responsibility to protect all inhabitants of Kosovo* (25 June 1999, AI Index: 70/101/99) and *Kosovo: murder of 14 ethnic Serbs -- UN civilian police must be deployed* (26 July 1999, AI Index EUR 70/104/99).

Amnesty International remains concerned about the hundreds of Serbs and Roma who have been abducted in Kosovo province both before and after the withdrawal of FRY forces in July 1999.

Amnesty International is calling upon the FRY authorities to release all information about prisoners being held in Serbia and urges the authorities to clarify these and other cases of "disappearance" by conducting independent and impartial investigations and by bringing those responsible to justice. It similarly calls upon representatives of the Kosovo Albanian community to cooperate fully with members of the UNMIK or other relevant organizations in investigating cases of persons reported to have been abducted by ethnic Albanians, whatever their ethnic origin, and bringing those responsible to justice.

The organization urges former members of the Kosovo Liberation Army (KLA) and individuals of influence within the Kosovo Albanian community to use whatever influence they have in ethnic Albanian society to stop human rights abuses being perpetrated against persons of all ethnicities (including Roma, Serb and ethnic Albanians who are perceived as having "collaborated" with the Serbian authorities). Amnesty International also urges former members of the KLA or other armed ethnic Albanian groups, or individuals to release any information they may possess concerning these abducted persons.

Amnesty International urges the international community to undertake a program to clarify the fate or whereabouts of all persons who have "disappeared" or been abducted in Kosovo, by initiating in close cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), a comprehensive program of exhumations of grave sites in Kosovo, with the identification of the dead and the return of their bodies to their families as a fundamental part of its activities. The organization welcomes the announcement by UNMIK that a Commission on Prisoners and Detainees has been established. The Commission, which is tasked with seeking information on all detainees from Kosovo in order to support or make interventions on their behalf and advocating on behalf of detainees and their families, had its inaugural meeting in Priština on 21 September. Amnesty International believes, however, that it is of the greatest importance that the Commission includes in its activities the question of establishing the whereabouts of those who have "disappeared" or have been abducted.

International law concerning the prohibition of "disappearances", and abducted persons

Amnesty International considers that a "disappearance" has occurred when there is reason to believe that a person has been deprived of their liberty by agents of the state or with their authorisation, support, consent or acquiescence, and the authorities fail to provide information or refuse to acknowledge the deprivation of liberty thus concealing their fate or whereabouts.

Amnesty International distinguishes "disappearances" - in which state agents are directly or indirectly involved - from the situation of a person who has been abducted by members or agents of a non-governmental entity and that entity conceals the fate and whereabouts of that person.

There are potentially many human rights which "disappeared" persons are denied. The UN Working Group on Enforced or Involuntary Disappearances (WGEID -The Working Group on Disappearances) has stated that:

"A reading of the Universal Declaration of Human Rights shows that to a greater or lesser degree practically all basic human rights of . . . a person who suffers a "disappearance" are infringed."¹

¹UN doc. E/CN.4/1983/14, para. 133

The rights of people who are abducted are similarly abused.

Among the human rights that the "disappeared" and abducted are denied are:

1. The right to recognition as a person before the law
2. The rights to liberty and security of person (Article 3, UDHR, Article 9, ICCPR)
3. The right to humane conditions of detention and freedom from torture, cruel or degrading treatment or punishment (Article 5 UDHR, Article 7, ICCPR)
4. In addition "disappearance" also violates or constitutes a grave threat to the right to life (Article 3, UDHR, Article 6, ICCPR)

The legal prohibition against "disappearances" is reiterated in the UN Declaration on the Protection of All Persons from Enforced Disappearance (the Declaration). The Declaration was adopted by the United Nations General Assembly in 1992. The fact that no UN member state was willing to go on record opposing it and that the Declaration was adopted by the General Assembly by consensus without a vote is an indication of international agreement that "disappearances" are grave human rights violations.

Article 1 of the Declaration states that:

"any act of enforced disappearance . . . is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights."

Article 2 states that:

"No State shall practise, permit or tolerate enforced disappearance."

Article 7 states that:

"No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify forced disappearances."

Articles 9 and 10 insist on the right for a "prompt and effective judicial remedy as a means of determining the whereabouts ... of persons deprived of their liberty..." and insist that "any person deprived of liberty shall be held in an officially recognized place of detention..." and that "accurate information on the detention of such persons and the

place or places of detention, including transfers, be made promptly available to their family members [and] their counsel...", and that an up-to-date list of all those detained be made available to such persons.

The UN Working Group on Disappearance, in its 1990 report, stated that:

"enforced or involuntary disappearances constitute the most comprehensive denial of human rights of our time".

"Disappearances" also violate various provisions of the four Geneva Conventions of 1949 (supplemented by the two Additional Protocols adopted in 1977) - the basis of the international law of armed conflict. The Geneva Conventions contain detailed safeguards which protect actual or potential victims during times of armed conflict. The Geneva Conventions are widely accepted as binding standards of behaviour which must be observed by all parties to an armed conflict. Virtually all states are parties to the Geneva Conventions.

The Geneva Conventions apply to international conflicts. However, Article 3 (common to all four Conventions) covers situations of armed conflict which are not of an international character. Common Article 3 contains a list of fundamental rules for the protection of persons not, or no longer, taking an active part in hostilities. Each party to the conflict is "bound to apply these rules as a minimum". Common Article 3 prohibits "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture... at any time and in any manner whatsoever", thus Common Article 3 contains legal safeguards which protect all persons from "disappearance" in situations of internal armed conflict.

Amnesty International believes that it is not just the "disappeared" and abducted persons themselves who are victims of human rights violations or abuses - - the families of the "disappeared" and abducted are also victims. Not knowing whether their family member is dead or alive causes untold pain and suffering to the families. In the case of "disappearance" this suffering can, in certain circumstances, amount to torture.²

²The Human Rights Committee has recognised that the "anguish and stress" suffered by a family member of a "disappeared" person can amount to torture, inhuman or degrading treatment. *Quinteros v. Uruguay* (107/1981) Report of the Human Rights Committee. The European Court of Human Rights has also recently decided in one case that the "anguish and distress" of the mother of a woman who was the victim of a "disappearance" and the "authorities' complacency" in the face of it amounted to torture. *Kurt. v. Turkey* (25 May 1998) European Court of Human Rights, para. 134.

The "Disappeared" and the abducted of Kosovo

The Roma of Kosovo

During the NATO campaign thousands of Romani people fled Kosovo province. Although the majority of those who fled at this time reportedly gave the reason for their flight as fear of the NATO air strikes, some of those interviewed at the time by Amnesty International said that they had been evicted at knife point by ethnic Albanians.

Few of these Roma refugees have returned home, and since the withdrawal of FRY forces from Kosovo province the situation of those who remained worsened drastically. The vast majority of these have now fled to Macedonia, Montenegro and Serbia proper in their turn, as the Roma population has been targeted by ethnic Albanians who claim that the Roma participated in the mass violations of human rights committed by the FRY forces. Although Amnesty International has received some reports that some members of the Roma population did take part in acts of looting, and may have worked in cooperation with FRY and Serbian forces, (a frequently cited example is that Roma work gangs were used to transport and bury the bodies of killed ethnic Albanians) it is clear that in many cases they were acting under duress. Although the KLA has denied that it is involved in or encourages revenge attacks against Roma and Serbs, the *Kosovapress* news agency, which is extremely closely linked to the KLA, has on occasion published news items³ accusing Romani individuals of cooperating with Serbian forces and giving their names and the town where they live. In addition, Roma interviewed by Amnesty International who described being arbitrarily detained, beaten, kicked and otherwise ill-treated or evicted from their homes claim that those responsible represented themselves as KLA members, and sometimes showed identity cards supposedly issued by the KLA.

Amnesty International is concerned about the various human rights abuses which are being perpetrated against the Roma on a daily basis. Amnesty International delegates in Kosovo province have heard harrowing stories of killings, torture, cruel, inhuman and degrading treatment, and forced displacement perpetrated by armed ethnic Albanian groups against the Roma. Furthermore, Amnesty International is concerned about the members of the Roma community who have been abducted. Such is the level of fear and insecurity among members of this community that many Roma are unwilling to talk about their missing family members or to have their names publicly reported in case they

³ See for example *Edhe romët janë bashkëfajtorë për krimet në Kosovë* (Roma share guilt for crimes in Kosovo): *Kosovapress* website, 26 August 1999

become the target for reprisals. As a result it is impossible to arrive at a realistic estimate of the numbers of those abducted; it is nonetheless clear from interviews carried out by members of Amnesty International that a considerable number of Roma are concerned for the fate of family members abducted by armed men claiming to be representatives of the KLA.

A typical account was given by the son of "A. B.", who worked in one of the large state-owned enterprises near Priština, where he lived. One afternoon in the middle of June a group of men who represented themselves as KLA members came to his home and took him away by car. His son told Amnesty International that he had gone to a school in the area which was being used as a KLA base to seek information about his father. He claims that he was told, "If he comes home tonight, then he's alive; if not, then he will go into a ditch, dead."

On seeking further information at another KLA base, he was told that his father had been taken to a small village nearby. He was also warned not to report the case to KFOR or other organizations. A few days later a handwritten note was fixed to the door of the family house, giving that day's date and reading "You have 24 hours to get out, otherwise you are dead - KLA". Although the family could not ascertain the origin of the note, the threat was sufficient to cause them to leave their home and take refuge in an improvised camp in Kosovo Polje; they later moved to a camp near Obili_ organised by the UNHCR.

Amnesty International is calling on all ethnic Albanian political groups to take immediate steps to halt all human rights abuses in Kosovo province. The organization urges former members of the KLA and other prominent members of ethnic Albanian society in Kosovo to use whatever influence they have to stop human rights abuses being perpetrated against persons of all ethnicities (including Roma, Serb and ethnic Albanians who are perceived as being "disloyal" to the KLA). Amnesty International urges members of the KLA and other armed ethnic Albanian groups or individuals, where possible, to release information about these abducted persons, and to cooperate fully with UNMIK, KFOR and the UN civilian police in Kosovo province in any investigations into human rights abuses in Kosovo province.

The Serbs of Kosovo

Thousands of Serbs started to depart from Kosovo and move into Serbia proper even before the Serbian police and Yugoslav Army had fully withdrawn from Kosovo. Many feared violence from the armed ethnic Albanians of the KLA and moved out before they might become targets. The Serbian government took the official position of encouraging them to stay, but Serbs in Kosovo had nevertheless been subject to persistent propaganda

about violence by the KLA against Serbs. This propaganda, disseminated by state-controlled print and broadcast media, may have misrepresented and exaggerated the participation of the ethnic Albanian population in violence against Serbs; nonetheless, whatever the experience of individual Serbs with their ethnic Albanian neighbours may have been, their fear of the KLA was deep-rooted and genuine.

In the view of the Serb population, they have seen such fears borne out by subsequent events. Of those who chose to remain in the province, many have become the victims of severe human rights abuses, including killings, kidnapping, ill-treatment and forced expulsions. Despite the presence of international forces, these abuses continue to be perpetrated on a daily basis by armed ethnic Albanian groups or individuals, many of whom present themselves as belonging to the KLA. Victims of such abuses are frequently the elderly or ill, who are unable or unwilling to leave their homes. Numbers remain contentious, but UNMIK has apparently stated that around 170 Serbs have been killed in the three-month period since June 1999; the FRY Minister of Foreign Affairs, *Ivadin Jovanovi* in a press conference held in New York on 28 September put the number as high as 400. However, it should be noted that in a press conference on 13 October a KFOR spokesman stated that the total number of killings in Kosovo since 12 June was 348.

Many of these abuses, whether those responsible were individuals or groups, appear to have been intended as a form of summary justice carried out on the basis of ascribing collective guilt to the Serb population of the province. Although it is clear that gross human rights abuses were committed by members of Serbian and FRY security forces and paramilitary groups, and that members of the civilian population may have been implicated in such abuses, it is equally clear that the only permissible way for those responsible to be brought to justice is through the judicial system, whether that be the ICTY or local courts.

Although Hashim Thaçi, former political representative of the KLA and the head of the self-appointed Provisional Government of Kosova (*Qeveria e Përkohshme së Kosovës*), which has not been internationally recognized, has condemned the worst of such attacks, and stated on several occasions that "rogue elements" are responsible for such abuses, ethnic Albanian structures have reportedly shown little energy or commitment to assist efforts to investigate these incidents and bring those responsible to justice. Indeed, there are indications that members of the KLA were implicated in a number of incidents in Orahovac in late June and early July 1999, in which both Serbs and Roma were reportedly abducted by men in KLA uniform; some of these men were alleged to have been taken to the local police station, which was occupied by KLA forces who had recently re-entered the town. According to *Pravoslavlje Pres*, the news agency of the Serbian Orthodox Church, at least 16 Serbs and Roma from the town remained unaccounted for on 30 August.

Serbs have been abducted from other towns and villages at the hands of such groups. Local organizations from Gnjilane (Gjilanë), where a relatively large population of Serbs still remains in close proximity, have claimed that over 50 Serbs from the town were abducted in the period between the arrival of KFOR and the middle of September. Although representatives of the OSCE in the area have only registered 19 of these cases, this figure is certainly an underestimate. Relatives of one man reported to have been abducted from Gnjilane itself in mid-August have told Amnesty International that they are unwilling to report the case to KFOR or UNMIK, fearing that they might themselves become the target of reprisals.

Although Amnesty International received reports during 1998 and the early part of 1999 of similar abductions of Serbs, (See "*Disappeared*" and "*missing*" persons: *The hidden victims of conflict* AI Index: EUR 70/57/98 p8 ff), the number of such incidents has risen markedly since June. On 30 August *Pravoslavljje Pres* published a list containing the names of over 200 Serbs who are believed to have been abducted by ethnic Albanian individuals or groups and are still missing.

Some of those abducted were witnessed being taken from their homes or places of work, others vanished while travelling from one place to another. In many cases the bodies of the victims of such abductions have later been found abandoned or buried; for others there is no indication of their fate. There are persistent rumours that ethnic Albanian groups continue to detain Serbs and Roma in ad hoc detention centres: to date such rumours have not been independently confirmed.

"Disappearances" of ethnic Albanians in Djakovica

Djakovica (Albanian Gjakovë) is one of the larger cities in Kosovo province, and it experienced a particularly high level of violence and destruction at the hands of Serbian and (FRY) forces during the period between the inception of NATO air strikes on 27 March 1999, and the withdrawal of these forces from the province following the peace agreement of 9 June. Testimony obtained by Amnesty International delegates in Kosovo, Albania and Macedonia indicates that a large number of ethnic Albanians may have been unlawfully killed during this period; in addition a considerable number of people from the city or passing through it in flight from other areas were reported to have been either arrested by police or abducted by unknown armed men. The circumstances of arrest varied - many were stopped in the street or taken from columns of internally displaced people on their way to the Albanian or Macedonian frontier, while others were arrested at their homes, or at the homes of relatives with whom they had taken refuge. Some of these arrests were reportedly accompanied by ill-treatment. Typically, men were separated from

women, children and the elderly and marched or driven away. There is some evidence to suggest that a number of these men were taken only a short distance before being killed, while others are known to have been taken to the police station or other improvised centres of detention.

Some of those held in these centres have described to Amnesty International the conditions in which they were held. Burim Grezhda, a resident of Djakovica, described how in early May 1999 he, along with other men, was separated from the women and children, had his identity documents confiscated and was taken to the police station. At the police station he was given a paraffin test, purportedly to ascertain whether he had recently had contact with a firearm, and then taken to the warehouse at the Ereniku winery along with over two hundred others. He reported that the prisoners had their hands bound, and that some of them were beaten. Another man, "B.C." who was independently interviewed by Amnesty International delegates, gave a similar description of being taken to the police station, being tested for gunpowder traces and then being held in the Eriniku warehouse following his arrest on 10 May. He also reported witnessing beatings, although he was not beaten himself. His brother, who was arrested with him, has not yet been released, and "BC" requested that his name be withheld in case his brother was put at risk. He also reported that the worst beatings were reserved for those who had or were believed to have had connections with the KLA.

After five days a number of the men held there were released - Barim Grezhda estimated between 80 and 100 people - although others remained in detention. The names of some of these men appear on the lists of prisoners held in jails within Serbia proper; the whereabouts of others remain unknown. Their testimony is supported by that of a man who lived nearby the building, and described seeing a number of prisoners - he estimated about 260 - being brought by three buses, and taken into a warehouse in the winery. He reported hearing shouts and screams from the warehouse while the men were present.

It is not yet possible to establish the precise number of those who "disappeared" from Djakovica. Lists of those who were arrested and taken away have been compiled by various local groups. Although figures remain approximate, around 1,200 are believed to have been taken in this manner. The names of some of these have appeared on lists of prisoners transferred to jails within Serbia proper which have made available by the Serbian Ministry of Justice, but the whereabouts of at least 800 remain unknown.

The majority of those who "disappeared" in this way appear to have done so in a period of intense activity by Serbian security forces over a five day period following 7 May. This activity appears to have been in response to the presence of the KLA which had a foothold in certain areas of the town; the majority of those who "disappeared"

during this period were taken from their homes or arrested in the street, and their relatives claim that they were not members of the KLA.

The Serbian population of Djakovica had always been small, and as practically all ethnic Serbs, and as many Roma as were able, fled the city before or shortly after the arrival of NATO troops under the command of KFOR, there are far fewer cases of missing members of these ethnic groups reported from this town than from other cities and villages in Kosovo. One is the case of Veljko Foli_, a lorry driver who had left Kosovo along with his family for Belgrade before KFOR forces entered the province. On 19 June he returned to the town via Montenegro and Pe_ (Pejë) with the intention of also bringing his mother to Belgrade, and has not been seen since.⁴ His family have been unable to obtain any information on his whereabouts.

Amnesty International's Recommendations

To the Serbian and Yugoslav authorities

- The authorities, including the Minister of Justice and the Minister of Defence of the Federal Republic of Yugoslavia, should provide full and accurate information about all persons formerly detained in Kosovo or originating from Kosovo concerning their place of detention, including transfers and releases, to lawyers and relatives of those detained.
- The authorities should cooperate fully with the Commission on Prisoners and the Detainees chaired by the Office of the High Commissioner for Human Rights, established by United Nations Interim Administration Mission in Kosovo (UNMIK) in Kosovo in the provision and dissemination of such information, and provide the Commission with a complete list of all persons formerly detained in Kosovo and still unaccounted for or currently detained
- The authorities should continue to cooperate with the International Committee of the Red Cross (ICRC) in providing free access to all those detained in Serbia.
- The authorities should take steps to clarify all cases of "disappearance" by conducting independent and impartial investigations, with the aim of bringing all those responsible to justice.

⁴Source *Kosovo - Disappearance of non-Albanians 24th March - 10th August 1999* Humanitarian Law Centre, Belgrade

To members of the Kosovo Transitional Council, their Constituencies and Appointees

- Members of the Kosovo Transitional Council, their constituencies and appointees should use their influence over all sectors of society and over all political structures in Kosovo to facilitate the provision of any and all information to the Commission concerning all persons currently detained and still unaccounted for in Kosovo.

To the leaders of the Kosovo Protection Corps and former members of armed Albanian groups

- The leaders of the Kosovo Protection Corps should cooperate fully with the Commission on Prisoners and Detainees with a view to drawing up a complete list of all persons currently detained and still unaccounted for in Kosovo.
- The leaders of the Kosovo Protection Corps should cooperate fully with the ICRC and facilitate unrestricted access by the ICRC to all persons currently detained and still unaccounted for in Kosovo.

To the ethnic Albanian community

- Former members of the Kosovo Liberation Army (KLA) or other armed Albanian groups, and those retaining political influence in Kosovo should use whatever influence they have within ethnic Albanian society to stop such human rights abuses as unlawful killings, ill-treatment, abduction and unauthorized detention being perpetrated against persons of all ethnicities, including Roma, Serbs, ethnic Albanians and members of other ethnic groups.
- They should release any information that they possess concerning the whereabouts or fate of those abducted persons whose abduction has been ascribed to members of the KLA or other ethnic Albanian groups or individuals.
- They should cooperate fully with police, legal and other structures established under the authority of UNMIK in investigating cases of abducted persons, whatever their ethnic origin, reported to have been abducted by ethnic Albanians, and assist in bringing those responsible to justice.

- They should use their influence to ensure that groups and individuals cooperate fully with representatives of the ICRC, in particular to resolve the fate of those reportedly abducted or detained by members of the KLA or other armed groups.

To the international community

- The Special Representative of the Secretary General in Kosovo should give urgent attention to the establishment by UNMIK, at a high level, of a comprehensive and effective mechanism to clarify the fate of all of all those who have "disappeared" or been abducted in Kosovo province. This process should involve systematic data collection and further exhumation of grave sites in order to determine the identities of those buried there and return their bodies to their relatives. This program should be carried out in close cooperation with the International Criminal Tribunal for the former Yugoslavia.
- All member states of the United Nations should contribute to the deployment of civilian police, trained in the relevant human rights standards, including the UN Declaration on the protection of all persons from Enforced Disappearance. Police and other forces under the authority of UNMIK should take steps to fully and promptly investigate all reports of abductions with the aim of clarifying their whereabouts and bringing those allegedly responsible to justice.