

BOSNIA-HERZEGOVINA

"To bury my brothers' bones"

“When I counted later, 25 members of my close family, my nearest and dearest family, all gone. And that wounds me terribly. All sorts of ideas come into my head. I don’t have the people I used to sit around with, the people I used to talk to.... I had everything - house, land and all that, but the most severe pain is close family, when you lose that. Your house, buildings, or apartment, that can all be compensated for, but your family, never. It’s lost forever. And now, let me tell you, I feel such grief that I don’t know what to do with myself.”¹

Since September 1995, when Amnesty International published its report *The Missing of Srebrenica* (AI Index: EUR 63/22/95), only a very small number of the “missing” persons have been found to be in detention or otherwise accounted for, and further evidence has surfaced pointing increasingly to the mass execution of men captured or abducted by the Bosnian Serb Army (BSA) in July 1995.² General Ratko Mladić and Radovan Karadžić, the *de facto* Bosnian Serb military and political leaders, were indicted by the International Criminal Tribunal for the former Yugoslavia (the Tribunal) on 16 November 1995 for genocide, crimes against humanity, and violations of the laws or customs of war in connection with the events immediately following the Bosnian Serb capture of Srebrenica on 10 July 1995. They are accused of being responsible for the summary executions of Bosnian Muslim men and women in and around the UN military compound of Potočari, the summary executions of Bosnian Muslim men who were *hors-de-combat* because of injuries, surrender or capture after fleeing into the woods towards Tuzla, and the summary executions of Bosnian Muslim men which occurred at mass execution sites in and around Karakaj. Meanwhile, a peace agreement for Bosnia-Herzegovina has begun to be put into effect, and the United Nations Protection Forces (UNPROFOR) have left the region, replaced by NATO-led Peace Implementation Forces (IFOR). The peace agreements guarantee that all those displaced by the conflict have the right to return to their homes or obtain compensation, including the inhabitants of Srebrenica enclave, which is now part of Republika Srpska, the Bosnian Serb entity in Bosnia-Herzegovina.

For most of the Muslim citizens of Srebrenica, however, returning to live alongside Serbs is unthinkable while the fate of at least 6,000 people remains unknown. Many have accepted the grim fact that their relatives are most likely dead, and long only for a place to mourn. Yet despite overwhelming odds, many relatives of the “missing” continue to cling to the slight chance that their loved ones are alive and in detention. Until the truth is known and those responsible are prosecuted, relatives of the “missing” from Srebrenica remain suspended in an agony of uncertainty, angry at the international community for its failure to protect the “missing”, and finding it difficult to contemplate trusting the Serbs.

What is important to the families of the “missing” is not numbers but the individuals; the brothers, daughters, fathers, mothers and cousins whose fates are unknown. Amnesty International delegates have conducted two missions to Bosnia-Herzegovina to talk to relatives of the “missing.” In the scores of interviews conducted with individuals approached randomly, the organization has never

¹Rifet Mujić, displaced from Srebrenica in July 1995, interviewed by Amnesty International in April 1996.

²Amnesty International uses the term “disappeared” to cover people who have been taken into custody by government forces and subsequently “disappeared”, whether in armed conflict or not, and the term “missing” to cover persons who are “missing” following abduction by non-governmental entities.

spoken to any Muslim displaced from Srebrenica in 1995 who did not know personally someone now among the "missing," the vast majority being immediate relatives. The personal testimonies included in this paper are representative of many Srebrenican Muslims.

This paper summarizes the events surrounding the capture of the Srebrenica enclave, incorporating information released since September 1995. In doing so, the emphasis is on the relatives of the "missing" of Srebrenica, in particular the feelings and wishes of the relatives of the more than 6,000 estimated people still unaccounted for. Srebrenica, because it was a UN protected "safe haven" until July 1995, occupies a special place in the concern of the international community. The "missing" of Srebrenica, however, comprise only a fraction of the more than 27,000 people estimated unaccounted for following the conflicts in Bosnia-Herzegovina, and this paper also outlines Amnesty International's concerns and recommendations for the resolution of the issue of "disappeared" and "missing" persons from all areas of former Yugoslavia.³

How many missing from Srebrenica

The International Committee of the Red Cross (ICRC) has received tracing requests for approximately 6,000 people who are unaccounted for from Srebrenica, approximately 1,500 of whom are "missing" from Poto_ari. The ICRC has warned, however, that this number may not accurately reflect the total number of people missing. Approximately 8,000 Srebrenicans had reported persons missing after an initial survey of the displaced persons in 1995, and a formal tracing process was only initiated later. By that time, however, the displaced Muslims from Srebrenica were dispersed throughout Bosnia-Herzegovina and internationally, and there may be some who never filled out formal requests for their family members. As an additional complication, some people who later safely arrived in Bosnian Government territory may not have reported their whereabouts to the ICRC. Also, formal tracing requests may only be filed by immediate family members, and some non-governmental organizations (NGOs), such as the Women of Srebrenica, have objected that there are some missing from Srebrenica who no longer have immediate family members who could report them missing. The ICRC renewed its call in June 1996 for relatives of those unaccounted for to complete tracing requests, and has agreed that in September 1996 it will allow people who are not immediate family members of the missing from Srebrenica also to submit tracing requests for them.

The flight from Srebrenica

From 6 to 9 July 1995, the BSA began an offensive from south-east of Srebrenica enclave, also shelling Srebrenica. By Sunday 9 July UNPROFOR checkpoints in the south of the enclave had been overrun, some Dutch UNPROFOR soldiers had been taken captive, and the BSA was two kilometres outside Srebrenica town. On Monday 10 July the BSA attacks on Srebrenica intensified. Dutch UNPROFOR was informed by the BSA that UNPROFOR and the civilians had 48 hours to

³ Report submitted by Mr. Manfred Nowak, expert member of the Working Group on Enforced or Involuntary Disappearances, responsible for the special process, pursuant to paragraph 4 of Commission resolution 1995/35, 4 March 1996, UN Doc. E/CN.4/1996/36, para. 1. See also the Amnesty International reports: 'An unknown destination' - 'Disappeared' in former Yugoslavia: Case sheets (AI Index: EUR 05/08/95); 'Destination unknown' - 'Disappeared' in former Yugoslavia: Recommendations (AI Index: EUR 05/06/95); *Bosnia-Herzegovina: The missing of Srebrenica* (AI Index: EUR 63/22/95).

leave the enclave as from 6am on Tuesday 11 July. Air strikes were ordered, but only two BSA tanks were targeted.⁴

“We never thought that Srebrenica could fall. UNPROFOR said ‘protected, protected,’ but come on. Nothing there was protected. Nothing.” Mila Ahmetovi_ (b. 1969) lived in the village of Su_eska, near the front lines, with her husband and three small children. On 10 July, when she heard that the enclave would be evacuated, she parted ways with her husband Behadel Ahmetovi_ (b. 1959) and her brother Vedrin Bekri_ (b. 1974). She has not seen either man since then. The two men were among 15,000 people, primarily those who had served with the Bosnian Government Army but also some women and other civilians, who did not trust the Bosnian Serbs to evacuate them. They gathered on the Šušnjari hill outside Srebrenica, departing on foot across the forested and mountainous terrain to try to reach Bosnian Government territory, approximately 50 km to the north-west. The approximately 25,000 remaining civilians went to Poto_ari, an industrial town four kilometres north of Srebrenica where UNPROFOR had its main base in the enclave, to await evacuation to Bosnian Government territory.

The trek through the forests

Those departing from Šušnjari left in a column several kilometres long, with armed Bosnian Government soldiers at the head and rear. The column was shelled, ambushed and thus broke up into smaller groups within the first 10 kilometres of the trip. All those describing the trek to Amnesty International stated that a considerable number of people were killed during these attacks. Rifet Muji_, a locksmith in a factory in Srebrenica before the war and his 43-year-old brother Ahmo Muji_, were among those who travelled with this group to Bosnian Government territory. As they were being attacked in the forest, the two brothers shared a last piece of bread together. They decided to split up and travel separately, so that there would be a better chance that at least one of them would make it to Bosnian Government-held territory. Shortly afterwards, they reached the road leading from Konjevi_Polje to Bratunac via Kravica, which forms a thumb-like junction near Nova Kasaba where it transects the route from Kušlat to Mili_i, leading to Bosnian Government territory. The BSA, using stolen UN uniforms and equipment, set up positions along these roads, and called to the Muslims to surrender. Most of those who did so were never heard from again; Rifet Muji_ believes that his brother was among them.

“They called to us from across the road at Konjevi_Polje, and at first no one crossed.... [The BSA] had captured one of our men [earlier], who had climbed up on a UNPROFOR transporter, and trucks. ‘Come on’, he said, ‘Surrender, so we can take you where the women went’. I saw 1,500 people go forward immediately. I didn’t want to. I told people, ‘Wait, don’t go. You don’t know who you’re surrendering to’, but that was our man on the transporter. They had captured him and he had to say what they told him to. And none of those who surrendered have been seen since then.”

Men were also captured while attempting to cross the road. Vahid Sulejmanovi_ (b. 1966), from Urkovi_i village last saw his brother-in-law Mehrudin Ali_ (b. 1974) near the same road.

⁴Letter from the [Dutch] Minister of Defence to the Lower House of Parliament (no. D101/95/19818), 30 October 1995.

"The last time I was with him we started moving towards that road; the groups started breaking up in different ways to be able to cross, because [the BSA] were waiting for us. From then he disappeared. I tried to find him briefly, but couldn't wait any longer because it wasn't safe to hang around there."

The crossing point mentioned by Rifet Muji_ and Vahid Sulejmanovi_ is only one of the places where men were captured. UNPROFOR staff who travelled on the road on 12 July reported that the BSA were positioned every 10 to 20 metres along the road from Bratunac to Nova Kasaba and from Nova Kasaba to Mili_i, thus confirming the likelihood of reports from others who travelled through the woods that men were captured by, or surrendered to, the BSA in numerous places along it.⁵ A Serb cameraman filmed events around the fall of Srebrenica, including Muslims taken captive by the BSA who were being marched along a path.⁶ His material includes a brief interview with a prisoner who is clearly unarmed, and describes himself as a civilian. This man, later identified as Ramo Aganovi_, is among those still "missing".

Many of those in the forest report seeing groups of captured Muslims under guard by the Bosnian Serbs. One such group was observed by Vahid Sulejmanovi_ at a sports field near Nova Kasaba, on the north side of the "thumb."

"Kasaba. That's [the] place, Kasaba, not far from Konjevi_Polje. There is a playing field there, for sports. I saw them take maybe 300 to 350 people [there] that day. All day they took people to that field and in the evening, trucks came, and started to take them away in large groups, without their equipment. They stripped them there, got them ready, as if they were going to take them to free territory. [But] from there they were taken [in the other direction] towards Zvornik and Karakaj."

On 13 July a number of Dutch soldiers were forced to spend the night in Nova Kasaba. At approximately 2.30am that night, "continuous shots from hand-held weapons were heard coming from the direction of the football pitch. The shooting lasted for three-quarters of an hour to one hour."⁷ The site is among those mass graves identified in aerial photographs made public by US Intelligence (see below).

Those who survived the journey began to arrive in Bosnian Government territory on 18 July, in large groups, and although the flow slowed as time passed, reports of the arrival of isolated groups who had been surviving in the woods continued as late as April 1996.

Evacuation from Poto_ari

On Tuesday 11 July UNPROFOR withdrew its staff in Srebrenica town to the main base at Poto_ari, and approximately 25,000 people, primarily women, children and the elderly, but also some draft-age men, accompanied them, filling the compound where UNPROFOR had its camp as

⁵Report based on the Debriefing on Srebrenica, p. 59.

⁶Panorama, BBC, 11 March 1996.

⁷Report based on the Debriefing on Srebrenica, p. 50.

well as the surrounding factories. That day BSA troops entered Srebrenica town, commanded by General Ratko Mladić. The troops then continued towards Potočari.

UNPROFOR troops have reported serious human rights violations in the enclave, included suspected deliberate and arbitrary killings.⁸ On 11 July a soldier manning a checkpoint at the border of the enclave near Bratunac reported seeing two trucks driven by the BSA carrying 40-50 men. Shortly after the trucks passed out of sight, the Dutch soldier heard rounds of shots. On 12 July soldiers at Potočari witnessed BSA soldiers leading five men into a factory opposite the UN compound, and afterwards heard 5-6 shots. On 13 July Dutch soldiers observed nine bodies found near a stream west of the entrance to the UNPROFOR compound who appeared to have been shot in the back the previous night. The same day a Dutch soldier saw four BSA soldiers take a local resident from a group of other Muslims and shoot him dead in the back of the head or neck. Another soldier heard shots and saw two men fall to the ground after they had tried to flee when disembarking from a BSA minibus.

Originally from Karađević, Sevdina Latifović (b. 1976) went with her family to Potočari to be evacuated. Her father, Ramo Zukić, had worked in the post office for UNPROFOR, and believed that UNPROFOR would guarantee his and his family's safety. Bosnian Serb soldiers accosted and took away Ramo Zukić and his 17-year-old son Jasmin Zukić while they were going to inquire about their evacuation. "Jasmin was pretty tall, with a dark complexion. They asked him how old he was. He said 17 but they didn't believe him. And so he tried to explain but they just swore and grabbed him and led him away." Sevdina becomes tearful when she recalls her brother. "He had dark hair, small eyes, a fine face, and he was tall. He parted his hair on one side....He liked to be alone. He was always alone, reading something. He didn't like to just hang out in the town, but would rather be alone or with his two best friends."

*Sevdina Latifović and her son
Sanel*

The day after her father and brother were abducted Sevdina reports seeing bodies lying in a field with their throats slit.

"Two UNPROFOR soldiers] stood there... There was water there, a little further in a stream. We went to get some water and they didn't let us pass. And I thought, if they'd let me go up there, that I'd go see if my father and brother were there among those slaughtered people. Because I

⁸The following incidents were reported in *Report based on the Debriefing on Srebrenica*, p. 47-51.

knew that the night before they had taken away my father and brother, and in the morning I went to get water but they wouldn't let us approach the dead people lying in the field."⁹

By Wednesday 12 July the BSA had surrounded the area where the evacuees were located. General Mladi_ came to Poto_ari on 12 July and dictated the method of evacuation to the Dutch UNPROFOR commander, supplying buses to take the Muslims to front lines near Bosnian Government-held territory at Kladanj.

Halil Mehi_ was 17 years old in July 1995. He initially decided to make his way through the forest, but could not find his brothers in the crowd at Šušnjari, the departure point. Halil had no food, his shoes were in poor condition, and he doubted he would be able to make the strenuous journey. He wanted to surrender to the Bosnian Serb Army, but was afraid to cross unknown areas on his own because of minefields. He therefore went back to Poto_ari, where he found his female relatives. He was present when General Mladi_ addressed the Muslims at Poto_ari.

"Then the leader came, that Ratko Mladi_. He ordered that men be led off to the side, for safety, so that children didn't get smothered, so that they weren't all crammed into each other's spaces. 'Men,' he said, 'to one side' and then they took them to another place. Where that other place was, I don't know."

The video footage filmed by the Serb cameraman shows Ratko Mladi_ promising the Muslims at Srebrenica that all those who want to be evacuated will be, with women and children going first, and calling on them not to be afraid as no one will harm them.¹⁰

Many of the men who were separated from the women and children at Poto_ari were detained in the buildings of the factories, and reports indicate they were then transported in the direction of Bratunac. Sevdina Latifovi_ recalls seeing her father's cousin being led into such a building.

"And there was one building, I saw them lead one of my father's cousins, how they took him into that building. Before, in peacetime, it was a slaughterhouse for cattle, and they took the men there now. They took that cousin of my father and behind him followed another _etnik¹¹ with a big knife. And before that they had collected two buses full of men from that building and taken them in the direction of Bratunac."

⁹The location Sevdina Latifovi_ describes corresponds to the area where UNPROFOR reported finding nine people who had been shot dead. As Sevdina Latifovi_ was not able to actually approach the bodies, it is possible she inaccurately determined the number (she estimated seeing 20 people in response to further questions) and method of death, and that those she reports seeing were the same as reported by the Dutch soldiers.

¹⁰*Panorama*, BBC, 11 March 1996.

¹¹_etniks were royalist, anti-communist Serbian guerillas during the Second World War. Today some Serbian paramilitary groups have revived the title, but the term is most often used pejoratively by Croats and Muslims to refer to Serbian fighters.

Not trusting the Bosnian Serbs, Halil Mehi_ dressed up as a woman and taking his sister's baby in his arms, he managed to board a truck going to Bosnian Government territory. His sister's father-in-law, 67 year-old Mujo Ati_, however, was taken from the truck before the family was evacuated. Halil Mehi_ recalls:

"The [Bosnian Serb soldier] asked 'Were you in the army?' He answered 'I wasn't in the army, I'm 67 years old, I'm not in condition for the army, and anyway, what do you want to do with me, I'm old.' The [soldier] replied, 'Well, nevertheless, even if you're old, you better come with us.' And they took him by the arm, and he couldn't even stand because of his fear and because of his age."

Mujo Ati_ is not the only elderly man reported taken from Poto_ari. Mila Ahmetovi_'s father-in-law, Ibrahim Ahmetovi_ (b. 1939), was also taken off the buses, as was Selim Mehmedovi_, (b. 1923) from Cerska-Rovaši, in Vlasenica municipality. In addition, at least one handicapped person, a deaf young man, was taken away before boarding the buses; his mother showed Amnesty International delegates all that she has left to prove he existed: his diploma from a high school for the deaf in Serbia.

Halil Mehmedovi_, whose brother Selim Mehmedovi_ was prevented from boarding the buses at Poto_ari

The buses and trucks evacuating the civilians from Poto_ari travelled along the same road through Bratunac, Kravica and Nova Kasaba where men who had made their way through the forest were captured or surrendered. Many of those who were able to see out of bus windows or from the back of the truck report seeing groups of captured men who were either being forced to march along the road or detained under guard in fields. Halil Mehi_, leaning out of the truck, saw his cousin Kadrija Halilovi_ along the route, at a sports field which may have been the one in Nova Kasaba mentioned by Vahid Sulejmanovi_.

"I heard someone yell 'faster, faster,' and curse them... and I thought that it was the people from Poto_ari who had been taken away, but actually it was the soldiers who had gone through the forest, they had been captured and made to stand at the edge of the playing field. They all held their hands behind their necks, and there were a lot of them. There was about 500 in the group I saw."

The evacuation from Poto_ari was completed by the end of the day on Thursday, 13 July, and the ICRC estimated that 23,000 people had been transported by bus to Bosnian Government territory. Once they crossed into Bosnian Government territory, the displaced persons were accommodated primarily in the Tuzla area, where they awaited anxiously for their relatives who had gone through the forest, and for news of those abducted at Poto_ari. On 21 July UNPROFOR

left the enclave. By 4 August 35,632 people from Srebrenica were registered as displaced persons by the UN in Bosnian Government controlled areas; it therefore appears that at least 13,000 men successfully made their way through the forest.¹²

"Missing" from the medical convoy

Those who were hospitalized during or because of the attack on the enclave were evacuated by special convoy, escorted by UNPROFOR. Some were evacuated on 12 July, although those who were not capable of walking the several kilometres through the front lines to Bosnian Government territory by foot were transported back to Bratunac. Another convoy was conducted by the ICRC on 17 July, including those at Bratunac and more of the wounded still at Poto_ari; there are some indications that some who had been left behind for further treatment may be among the "missing". Seven others were designated by the BSA as prisoners of war. On 18 July, while a Dutch doctor monitoring the group was away from the makeshift clinic, they disappeared, and when he inquired about their whereabouts, he was told that "such questions were bad for his health." They have not been heard from since.¹³

Women among the "missing"

Although not nearly as systematic or comprehensive as the abductions of men, Amnesty International has received numerous reports of the abduction of young women from Poto_ari or the convoys leaving Poto_ari. However, most of these accounts were not based on firsthand information, and of the approximately 6,000 tracing requests submitted to the ICRC for people from Srebrenica, only 27 were women, some of whom may have travelled through the forest. Some NGOs which work with women in Bosnia-Herzegovina, however, claim to have additional information indicating that the abduction and rape of women from Srebrenica was more widespread. Due to the social stigma attached to rape, it is possible that women may not have come forward to Amnesty International who have done so in the more protected environment of therapy.

A man evacuated with the medical convoy on 12 July told Amnesty International delegates in July 1995 that one of the nurses accompanying the convoy had been taken away by BSA soldiers for questioning, and when she returned, she reported that she had been beaten and raped. The name of the nurse is known to Amnesty International, and the Gynaecological Department of Gradina Hospital in Tuzla confirmed that a woman by this name had received medical treatment after reporting rape, and that medical examination revealed signs of recent sexual activity.

Reports of deliberate and arbitrary killings

Over the months following the Bosnian Serb capture of Srebrenica, increasing evidence has emerged pointing to the mass execution of thousands of the "missing" of Srebrenica. Very few of those who were known to be in captivity are accounted for, and although relatives cling to the hopes and rumours that their family members are in detention or hiding in the forest, there is little hard evidence to suggest that many of the "missing" are alive. An enormous number of the men

¹²Annex 4 to the letter from the [Dutch] Minister of Defence to the Lower House of Parliament (nr. D101/95/19818), dated 30 October 1995.

¹³Report based on the *Debriefing on Srebrenica*, p. 59.

separated from the civilians at Poto_ari or captured while fleeing through the wilderness were killed. This is the inescapable conclusion of most observers, based on evidence including the testimony of those who claim to have survived the executions, witnesses' testimonies, a confession from a BSA soldier who claims to have participated in mass executions, on-the-spot investigations by journalists, preliminary exhumations, and photographic evidence from United States intelligence sources. The killings, in what appears to be an extensive BSA operation, took place either at the site of capture, while prisoners were temporarily detained in one of many improvised centres, or after they were transported to one of various sites used for mass executions.

Witnesses to the Executions

A handful of Bosnian Muslims who claim to have survived executions have come forward, and the testimony of some of them corroborates the findings from aerial photographs. They allege that hundreds of captives were executed at two sites at Karakaj including an aluminum-oxide factory and further hundreds in a warehouse in Kravica, that 25-30 were executed near Zabrdje, 21 more were executed near Raši_a Gaj, and 16 men on the banks of the Jadar river in Kušlat.¹⁴

Hurem Sulji_ is a 55-year old man whose statements have appeared widely in the press. He reports that he was separated from other civilians at Poto_ari on 12 July. Later that evening he was taken with others in two buses to Bratunac, to an agricultural warehouse where he was forced to spend the night. During the night some of the detainees were beaten; he also reports executions during the night. The next day, 13 July, he and other detainees were loaded onto buses and taken through Zvornik to Karakaj to a compound with a sports field. They were detained there in a long building, and on 14 July he was blindfolded and loaded onto a truck with others into groups of 20-30. The truck drove about 10 minutes to a field near a factory and railroad tracks. The men were taken out and lined up in four rows. There was a burst of automatic gunfire but he was not wounded, and he managed to conceal himself under the bodies of the dead. That night, after the guards had left, he called out to see if anyone else had survived. Mevludin Ori_, aged 24, who had been captured while travelling through the woods, responded and the two escaped. The next day they found another survivor, 63-year-old Smail Hod_i_, who had also been captured in the woods and together the three men made their way to Bosnian Government territory.¹⁵ The site where the men claim to have survived execution was filmed by a TV crew in the early spring of 1996, and skeletal remains are clearly visible in the muddy field.¹⁶

In March 1996 a BSA soldier confessed to two journalists that he had participated in the mass execution of an estimated 1,200 Muslim male prisoners at Pilice, a village approximately 25 kilometres north of Zvornik. In this interview given in the Federal Republic of Yugoslavia (FRY), Dra_en Erdemovi_, a 25-year-old Bosnian Croat from Tuzla who served with the BSA, described how one morning he and seven colleagues were ordered to report to the military police in Zvornik

¹⁴Reported by David Rohde, *The Christian Science Monitor*, 2 October 1995.

¹⁵Reported by David Rohde, *The Christian Science Monitor*, 2 October 1995; Michael Dobbs and Christine Spolar, *The Washington Post*, 26 October 1995, and others.

¹⁶*Panorama*, BBC TV, aired on 11 March 1996.

and from there sent to a state farm near Pilice with orders to "liquidate" Muslim prisoners.¹⁷ From one of the prisoners he learned that these were apparently men who had been captured by the BSA after taking refuge with the women at Poto_ari. Shortly after the soldiers arrived at the farm, a bus drove up. "There were about 60 men in it. All were in civilian attire, some were only 17 to 18 years old."¹⁸ The first 10 prisoners were taken out to a field in front of one of the farm hangars where they were lined up with their backs to the soldiers. Dra_en Erdemovi_ and his colleagues fired on them until they had all fallen to the ground and then shot in the head those who still showed signs of life. As the next 10 prisoners were brought out for execution, they begged to be spared, promising that their relatives abroad would send money, - but to no avail. Buses continued to arrive throughout the day, until 3.30pm; Dra_en Erdemovi_ estimated that between 15 to 20 bus-loads of prisoners were massacred that day. "There was a rotation from Zvornik with always the same five buses. The Serb bus drivers were terrified, but [the commander] forced them to shoot at least one Muslim each, so they wouldn't be tempted to give testimony later."¹⁹ After his interview with the journalists, Dra_en Erdemovi_ was arrested by the FRY authorities and handed over to the Tribunal. On 29 May 1996 he was charged by the Tribunal with crimes against humanity and violation of the law or customs of war; he has pleaded guilty.

In addition, some Bosnian Serb residents of the areas surrounding the enclave have reported that detention and mass execution took place there. Bosnian Serb residents of Bratunac interviewed by journalists across the Drina river in the Serbian village of Ljubovija reported in July 1995 that massacres were taking place in that town. According to one resident, the local authorities issued an open invitation to all Serbs who had lost relatives in raids conducted by Srebrenican Muslims to report to the local playing field "to avenge themselves".²⁰ The locations of the

Ruins of the mosque in central Srebrenica, destroyed after Bosnian Serbs took control of the town in July 1995

executions described by the Bratunac residents include the sports field in Bratunac, a nearby school, and a camp in Batkovi_i. A priest confirmed to the *New York Times* that schools in Bratunac had

¹⁷The following account is compiled according to articles by Vanesa Vasi_-Janekovi_, *Naša Borba*, 13 March 1996, and Renaud Girard, *Le Figaro*, 8 March 1996. In those interviews, the date of the executions was given as 20 July. However, Dra_en Erdemovi_ pleaded guilty before the Tribunal to charges of "participating personally in the summary execution of hundreds of unarmed Bosnian Moslem male civilians...on or about July 16, 1995." Jennifer Scott, *Reuters* news agency, 29 May 1996.

¹⁸Renaud Girard, *Le Figaro*, 8 March 1996.

¹⁹*ibid.*

²⁰Robert Block, "Mass slaughter in a Bosnian field knee-deep in blood" *The Independent*, 21 July 1995.

been used to imprison Muslims and that the prisoners had been shot.²¹ A woman who claimed to have seen the execution site at the sports field spoke of a field "knee-deep in blood," but herself was disgusted by the killings: "It is terrible what they are doing. If I could, I would kill the people of Bratunac for this."²² UNPROFOR soldiers confirmed seeing buses containing male Muslims, and also heard a "great deal of shooting in Bratunac, for example from the direction of the so-called stadium."²³

It appears that the Bosnian Serb authorities have taken steps to prevent the truth from coming out. On 20 May 1996 the US paper *The Boston Globe* reported that residents there were hesitant to talk to journalists out of fear of reprisals by Bosnian Serb authorities; one person who had spoken to the journalists reportedly received a death threat the day after his interview.²⁴ David Rohde, a journalist for the US newspaper *The Christian Science Monitor*, was arbitrarily detained by Bosnian Serbs on 29 October, allegedly on charges of altering his press credentials and taking photographs in illegal areas.²⁵ At the time he was following up on earlier investigations in which he had visited a suspected mass grave site and found human remains, as well as objects belonging to some of the "missing" Muslims.

Photographic evidence

The United States released aerial photographs of the greater Srebrenica area of possible sites of mass execution on 10 August 1995. US Ambassador to the United Nations Madeleine Albright, showing the photographs to a closed session of the UN Security Council on that day, claimed that there was evidence of six sites in two locations in the Nova Kasaba/Konjevi_Polje area, and in the Karakaj area. It was made known on 29 October 1995 that further sites had also been found from the photographs. On that day, however, American intelligence sources also indicated that Bosnian Serbs may have poured corrosive chemicals on the bodies and scattered corpses buried in mass graves in an attempt to destroy the evidence.²⁶

Because of fear that disclosure of the sites might encourage Bosnian Serbs to destroy the evidence, the locations of all the sites have not been made public, although they have been passed to the Tribunal. Of the photographs which have been made available, a photograph of a sports field in Nova Kasaba taken sometime around 13 July shows a large number of people, estimated at around 600, standing in the field with vehicles parked nearby. Another picture, taken of a site which in earlier photographs showed an area of undisturbed earth about one kilometre from the sports field,

²¹*The New York Times*, 29 October 1995.

²²Robert Block, *The Independent*, 21 July 1995.

²³*Report based on the Debriefing on Srebrenica*, p. 58.

²⁴Elizabeth Neuffer, *The Boston Globe*, 20 May 1996.

²⁵See "Arbitrary Detention, David Rohde, journalist, US national", Urgent Action 134/95, (AI Index: EUR 63/26/95), 7 November 1995.

²⁶Tim Weiner, *The New York Times*, 30 October 1996.

shows freshly dug earth and tracks of heavy vehicles, but no industrial or agricultural activity in the area.

Exhumations

The Tribunal has begun exhumations of some of the sites surrounding Srebrenica in order to collect evidence to bring those responsible for the executions to justice. Sites have been examined around Karakaj, Pilice, Kravica, Nova Kasaba, and Konjevi_Polje and on 29 May 1996 excavations began at Cerska. On 5 June 1996 a site at Nova Kasaba was unearthed, and forensic experts, showing reporters the corpses of six bodies, confirmed officially the existence of a mass grave.²⁷

Where is the truth: resolving cases of the "missing" and "disappeared"

The evidence so far collected provides only a partial view of BSA activities after the capture of Srebrenica enclave. More evidence, from survivors, other participants in the executions, and from the Serb residents of the areas in the vicinity will undoubtedly emerge in the coming months, filling in the picture of not only what happened to the "missing" of Srebrenica, but also who they were. However, such evidence, inevitably fragmentary, will not be enough to form a true and full picture of these events. While important for the prosecution of those responsible, the mere confirmation that mass executions took place is of little solace to the family members who want to know what happened to particular individuals: to be reunited if they are alive, and to have a place to mourn if they are among the dead. Although some of the grave sites may have been irrevocably tampered with and thus a comprehensive picture may never be possible, until all detention centres have been reported and the mass graves are exhumed, it will be impossible to satisfy the wishes of the relatives to know what happened to the individuals who comprise the estimated more than 6,000 unaccounted for Srebrenicans.

Many people still hope that there are survivors from Srebrenica still to be found in Bosnian Serb territory. Rumours persist that there are secret detention centres, for example in Srebrenica's silver mine, where the "missing" of Srebrenica are allegedly being kept incommunicado. However unlikely, the possibility remains that some of the "missing" may have survived, either hiding in the forest or pretending to be Serbs in the area. Mila Ahmetovi_ was told by a prisoner exchanged early in 1996 that a prison guard had told him that her husband Behadel had been sighted by a Serbian family friend. Allegedly, the Serb had gone out feed his pigs, and found Behadel Ahmetovi_ in the barn. His former friend was surprised to see him; he said that even though he would like to, he could not protect Behadel but gave him the stale bread he had intended to feed the pigs. When the Serbian man again returned to feed the pigs, Behadel was gone. Mila clings to this rumour as evidence that her husband is still alive.

Such hopes are kept alive by the periodic arrival, many months later, of Srebrenicans. On 18 November 1995, eight Muslim men crossed the front lines to Bosnian Government territory. Besir Johi_ and his brother Omer were among them, and said that they had been hiding in an abandoned mill in Cerska, living on apples, snails, mushrooms and nettles.²⁸ As time passes the

²⁷Mark Heinrich, *Reuters* news agency, 6 June 1996.

²⁸Emma Daly, *The Independent*, 27 November 1995.

hopes wane, but on 6 April 1996, six more people crossed to Bosnian Government territory. Amnesty International delegates in Tuzla at the time spoke to Fatima Husejnovi_, the president of an NGO, Women of Srebrenica, which campaigns on behalf of the "missing". She said that those arrivals made hope surge in the hearts of the tens of thousands of women whose relatives are still missing. "We are aware, all our women are aware, that many of the people who were captured are no longer among the living, but we hope that nevertheless we'll find someone, that there are living left too."

On 15 April 1996, three people who claimed to have been hiding in the forest since July 1995 crossed into the FRY at U_ice, where they were registered by representatives of the United Nations High Commissioner for Refugees (UNHCR). Many people hope that their "missing" relatives are in the FRY. A total of 796 people who fled into the the FRY from Srebrenica and _epa enclaves were registered by UNHCR and ICRC and either resettled in third countries or were repatriated to Bosnia-Herzegovina. More may have entered the FRY without making their whereabouts known to the UNHCR, or were made to "disappear" by the Serb authorities before they could do so. According to the Helsinki Committee of Sand_ak (HCS), an area of the FRY with a large Slavic Muslim community, many of whom are strongly sympathetic to the Bosnian Muslims, 95 refugees who had come from Srebrenica and _epa "disappeared" after they had arrived in the FRY, and were not among the 796 registered by the UNHCR.

The Srebrenicans who "disappeared" in the FRY may well have been sent back to Bosnian Serb territory. The HCS has reported that in addition to the 95 "disappeared," seven people are known to have been sent back, as at least one of them was later exchanged from Fo_a prison for a Bosnian Serb prisoner of war. Amnesty International opposes the return of refugees to territories where they are at risk of severe human rights violations, and calls on the FRY to respect its obligations under the 1951 Convention Relating to the Status of Refugees, which states that "no Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

Amnesty International is concerned at reports of ill-treatment and torture of prisoners, including Srebrenicans, detained by the Bosnian Serbs. On 10 May 1996 seven men who claimed to have been hiding in the forest around Srebrenica presented themselves to a United States unit of IFOR, but were turned over to the Bosnian Serb authorities. UN personnel who later interviewed the men in Zvornik and Bijeljina documented that the men had been severely beaten, reportedly to force them to "confess" to the murder of Serb civilians. The men had also been denied access to a lawyer. IFOR has denied that any wrongful activity took place in the transfer of the detainees to the Bosnian Serbs because under Article 1 of Annex 11 of the Framework Agreements, law enforcement authorities of the entities are responsible for maintaining civilian law enforcement duties, and the police announced their intention to investigate members of the group in connection with crimes committed a few days earlier.

However, IFOR may have been under no specific obligation to turn the seven men immediately over to the Bosnian Serb authorities. Before transferring anyone to the custody of authorities in Bosnia-Herzegovina, IFOR should receive adequate assurances that he or she will not be tortured or ill-treated and that he or she will be guaranteed a fair trial; furthermore, the safety of such persons should be guaranteed by ensuring that the transfer takes place under the supervision of

international monitors such as the International Police Task Force, the Organization for Security and Cooperation in Europe (OSCE) Mission human rights monitors, or the ICRC.²⁹ Ensuring that these guarantees are provided is consistent with the International Covenant on Civil and Political Rights (ICCPR), to which the United States is a party, and which is binding upon states exercising jurisdiction in territories where their armed forces are exercising authority, such as IFOR.³⁰ IFOR exercises virtually plenary authority in all parts of Bosnia-Herzegovina.

If not reappearance, then at least the truth

Finding out the truth about the "disappeared" and "missing" is a crucial component of the future stability of the region. Fatima Husejnovi_ told Amnesty International:

“For the people of Podrinja,³¹ for the women of Podrinja, the war isn’t over yet. In our hearts there is still war. Because until we know the fate of the last of our disappeared from all of the Podrinja, from the exodus of Srebrenica, until we all go back to our own homes, something the Dayton Agreements enabled and promised, until that is carried out, in our hearts it is still war.”

Far too often, even the enormity of a tragedy such as this one cannot prevent the issue from slipping off the international agenda for action. With the passage of years, a feeling of resignation sets in among members of the international community about the fate of the “disappeared” or “missing”. The failure to achieve any progress in such cases leads to a sense of fatalism and defeat. More immediate human rights crises engage the attention of both politicians and activists, and the victims and their families are left feeling frustrated and abandoned. A world which once proclaimed its outrage about their plight suddenly no longer seems to remember or to care that these families are effectively stranded in time - unable to move forward with their lives.³² The only thing Mila Ahmetovi_ has from her husband now is a photograph which she and her sister-in-law both treasure. She is still waiting for her brother, husband, and father-in-law to appear.

“I’d be lost if [I didn’t find out the truth]. I hope that they’ll come out of somewhere. Every day it’s easier, but really harder. I always think that I’ll hear something about them, when I go anywhere I think I’ll meet them, or that least someone will tell me something about them. I don’t know if I could, whether I could survive, really, if I was told that I’d never know.”

²⁹For Amnesty International’s further criticisms and recommendations for international organizations implementing the peace agreement in Bosnia-Herzegovina, see *Bosnia-Herzegovina: The international community’s responsibility to ensure human rights* (AI Index: EUR 63/14/96), June 1996.

³⁰Article 7 of the ICCPR states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 14 of the ICCPR states that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

³¹The area of eastern Bosnia-Herzegovina bordering the Drina river.

The Expert on missing persons has explained: “Fifteen years of experience of the Working Group on Enforced or Involuntary Disappearances show that the relatives of the missing persons constantly keep up the hope that their loved ones are alive until it has been proven beyond a reasonable doubt that they have died.” Report of the Expert on missing persons, UN Doc. E/CN.4/1996/36, para. 78.

Families need to learn the fate of their loved ones. The terrible emotional and psychological effects on a family waiting for some conclusive information about the fate of their relative need to be acknowledged through a clear commitment of political will and financial resources from the international community and regional authorities. The resolution of cases of "disappearance" and "missing persons" must be viewed as a long-term project. Persistence must be an absolutely essential component of the international community's approach to this matter. It is also important to emphasize that the actual physical reappearance of an individual is not the only objective here. Although physical reappearance may be a realistic goal in only a limited number of cases, obtaining the simple truth about the fate of the individual and pressing for those responsible for "disappearances" to be brought to justice are equally important motives for concerted action by regional authorities and the international community. Moreover, there is an increasingly pressing need for the international community to document in careful and exhaustive detail the fate of as many of the "disappeared" and "missing" as possible in the light of the recent emergence of those who deny that these and other grave crimes were committed or who trivialize their extent. The Tribunal has the primary task of bringing to justice individuals rather than providing a comprehensive historical record. It cannot - and should not - be expected to document the fate of all those who are "disappeared" or missing.

Recovering the physical remains of the relatives is an important element that will permit lives to continue. In the context of Srebrenica, some relatives who have accepted the fact that their loved ones are dead still cannot imagine returning to Srebrenica without a place to mourn. Halil Mehi_ feels in this way about his two brothers, who are still unaccounted for from the wilderness.

Halil Mehi_

"I would want to go back [to Srebrenica] only if it were possible to find somewhere the bones of my brothers, to bury them. Otherwise, I wouldn't. Otherwise I'd never go back. Only if it were possible to somehow find some piece of their bodies. Otherwise, no, I wouldn't want to be alone there."

The international community's efforts to resolve the cases

Although a significant proportion of the 27,000 estimated missing persons from all sides in Bosnia-Herzegovina may have been casualties of armed conflict rather than victims of violations or abuses of international human rights or humanitarian law, there is considerable evidence to indicate that large numbers of them were victims of deliberate or arbitrary killings. There are reports of the existence of up to 3,000 grave sites in Bosnia-Herzegovina, of which an estimated 300 are believed to be mass grave sites with large numbers of bodies. More than 10 sites have already been determined as probably containing those killed after the BSA took the Srebrenica enclave, and indications point to the existence of many more. The large number of reported or confirmed sites in itself represents an enormous problem, but one which can and must be solved. In contrast to the enormous scale of the problem, few

dedicated resources have been made available by the international community for the resolution of cases of "disappeared" or "missing" persons.

Amnesty International believes that it is essential for the international community to devise a long-term action program as a matter of priority which will ensure that both the humanitarian needs of the relatives and the requirements of the Tribunal are addressed, without prejudice to either. The international community has recognized the urgent need to resolve the fate of the "disappeared" and "missing", by exhumation if necessary, but has failed to provide more than a tiny fraction of the funding, staff and equipment needed.

For many months now, Amnesty International has been campaigning vigorously for a commitment by the international community to extend all necessary financial and political support to efforts by the UN to exhume mass graves and conduct proper autopsies. The organization has also campaigned for the return of victims' remains to their families for burial, and intends to continue to press the international community and its constituent governments on this point. Amnesty International has frequently cited the 1994 report on a visit to the former Yugoslavia by a member of the UN Working Group on Enforced and Involuntary Disappearances (WGEID), where a delegate noted that

"for the purposes of clarifying the cases of 'missing persons', all bodies must be exhumed and if possible identified. Apart from manifold sensitivities - political will must be unconditional - such an undertaking would be a Herculean task. The UN should seek to establish such a forensic enterprise under its auspices, help to find available experts and procure funds, if need be from private sources."³³

Amnesty International believes that the international community must position itself squarely behind such a proposal, and ensure that this public commitment to a comprehensive program of *ante-mortem* data collection, excavations, identification of bodies and return of remains to families is communicated effectively to relatives, NGOs, and others concerned.

Structure

The main international body responsible for investigating such cases in the former Yugoslavia is WGEID, which normally does not address "disappearances" occurring in situations of armed conflict or abductions by groups not connected with a government. Therefore, in 1994, the UN Commission on Human Rights established a "special process on missing persons in the territory of the former Yugoslavia" (Special Process).³⁴ The mandate of this new UN mechanism covers all cases of "disappeared" and "missing persons" in the territory of the former Yugoslavia, regardless of whether the victim was a civilian or a combatant or whether the perpetrators were connected to a government or not.³⁵

³³UN Doc. E/CN.4/1994/26/Add.1, para. 111.

³⁴Res. 1994/39, para. 23; Res. 1994/72, para. 24.

³⁵Report submitted by Mr. Manfred Nowak, member of the Working Group on Enforced or Involuntary Disappearances, pursuant to paragraph 24 of Commission resolution 1994/72, para. 10.

The Special Process was set up as a joint mandate of the UN Special Rapporteur on the former Yugoslavia and the WGEID - and was defined by the latter in its January 1995 report as having a "strictly humanitarian and non-accusatory nature".³⁶ An Expert on missing persons, Manfred Nowak, nominated by the Chairman of the WGEID, was appointed to carry out the work of this Special Process. The sole responsibility of the Expert on missing persons is to determine the fate and whereabouts of "disappeared" and "missing persons", and does not extend to identifying who was responsible.

Since his appointment and until very recently, the work of the Expert on missing persons has been greatly hampered by a chronic lack of adequate resources, logistical obstacles to travel and information-gathering in the region (especially in Bosnia-Herzegovina), and the refusal of all cooperation on the part of the FRY government authorities. In its 1995 international action on "disappeared" and "missing persons" in the former Yugoslavia, Amnesty International expressed great concern that the current level of resources made available by the UN for the Special Process was clearly inadequate to the task. The organization called on the international community, through member states of the UN, to provide whatever resources were required - whether it was a question of funding, staffing, or logistical help and political support - to ensure that the Special Process was a genuinely concerted and comprehensive effort to document and resolve the cases of thousands of "disappeared" and "missing persons" in the former Yugoslavia. Amnesty International also called on all parties to the conflict to cooperate with the Special Process to trace "disappeared" and "missing persons", making records available and permitting access to territories under their control.³⁷

The lack of any clear direction or a sense of determination regarding the resolution of cases of "disappeared" and "missing persons" in the Framework peace agreement of December 1995 was also a considerable disappointment. No clear role was spelled out for the Special Process or for the parties to the agreement to clear up the many thousands of such cases. Between the beginning of March 1996 and the end of April 1996 when the UN Commission on Human Rights addressed the situation, however, there were a number of positive developments which at least pointed the way toward a comprehensive strategy for the resolution of cases of "disappeared" and "missing persons" in all parts of the former Yugoslavia. Nevertheless, the political will and financial support of UN member states - as well as the full cooperation of regional governments - are still lacking. It should be emphasized here that for many relatives of the displaced, finding out where their loved ones are is a precondition before they will willingly return to their homes. Sevdina Latifovi_ stated, "I would want to go back [to Srebrenica] if my brothers and father came back alive, or if they didn't, at least to be able to visit their graves. If it is possible somehow and sometime to find at least their graves, so I can know where they are."

³⁶*Ibid.*

See Amnesty International, 'Destination Unknown' - "Disappeared" in Former Yugoslavia (AI Index: EUR 05/06/95), at 6-7.

On 1 March 1996 an Expert Group on Exhumation and Missing Persons (Expert Group) was established to coordinate the different activities related to exhumation and missing persons. The Expert Group is chaired by a representative of the High Representative, who is to be the focal point for the Expert Group, and consists of representatives of the Tribunal, the Expert on missing persons, the UN Special Rapporteur on the former Yugoslavia, the ICRC, Physicians for Human Rights, IFOR and the International Police Task Force (IPTF).³⁸

The proposed guidelines of the Expert Group state that the primary objective of the Expert Group is to coordinate activities related to exhumation of suspected mass grave sites and exhumation of mortal remains and the collection of *ante-mortem* data to facilitate the identification of individual victims. The Expert Group has the "humanitarian goal of determining the fate of the missing and informing the families of their findings". In line with this goal, priority is given to tracing missing persons by collecting information through both public and confidential approaches. Thus,

"exhumations for purposes of identification should occur after other means of identification have proven unsuccessful or when there is reason to believe that exhumation, because of the particular circumstances involved, will provide an efficient mean[s] for resolving cases which are unlikely to be solved by other means. In all circumstances, exhumation of grave sites should be performed in accordance with international[ly] recognized standards, including the recognition of the right to decent burial, for both identified and unidentified remains. The Group agrees that the collection of *ante-mortem* data is, in principle, necessary before any exhumation for identification purposes."

In the Srebrenica context, reports from witnesses and survivors indicate that there was no attempt to identify or document those who were executed. Except for the acquaintances survivors saw killed, there may be no way, other than identification from exhumations, of finding out whose bodies lie in the mass graves. IFOR is providing logistical support and security for Tribunal investigators to visit grave sites and other locations, as well as aerial surveillance of grave sites, but it has not agreed to provide round-the-clock security for all grave sites. It is essential for IFOR and the international community to ensure that there is adequate security for grave sites, other physical evidence, and witnesses.

The Expert Group has agreed that any exhumations performed by local authorities should be performed professionally in accordance with international standards under the supervision of international experts and that local authorities should be encouraged to focus on information gathering. The responsibilities of the focal point attached to the Office of the High Representative include enhancing cooperation "through suggesting sequencing of efforts, advising Members concerning conflicts or overlaps in their work . . . identifying possibilities for additional information sharing" and coordinating fundraising efforts. The Expert Group gives special attention to

The Expert Group is not to be confused with a separate Working Group on Missing Persons established under the chairmanship of the ICRC on 1 March 1996 in Sarajevo, in accordance with the peace agreement, which has a mandate to trace missing relatives. See Bildt report, UN Doc. S/1996/190, paras 75-76. The Expert on missing persons is an observer and the parties to the peace agreement participate in the Working Group.

organizing training of local experts, providing information to families on actions being taken to determine the fate of the missing, supporting local NGOs and determining the preferences of the parties and families concerning burial.³⁹

As of the beginning of June 1996, the investigation and prosecution requirements of the Tribunal have priority over other issues relating to cases of "disappeared" and "missing persons". Given the need to focus its work very precisely in order to proceed as swiftly as possible with indictments and prosecutions and its severely limited resources, it is unlikely that the Tribunal will be able to pursue a program of excavation of more than a handful of suspected mass grave sites in Croatia and Bosnia-Herzegovina this year. Although sites around Srebrenica are among them, the selection of these sites will naturally be determined by the needs of the criminal investigations currently under way, and these excavations will be carried out chiefly for the purposes of collecting evidence for indictments and prosecutions. The identification of *all* "disappeared" or "missing" persons and the return of the remains of those identified in the course of the excavations are considered to be matters outside the remit of the Tribunal.

However, it is apparently the intention of the Expert Group to pursue a broader agenda once the immediate needs of the Tribunal have been sufficiently met. This broader agenda would focus on the identification of individual victims - made possible by a large-scale operation to collect all available information about physical characteristics, health histories, etc; from families and relatives of the "disappeared" or "missing". The setting up of additional field offices of the High Commissioner (especially in Tuzla, where most of the relatives of the "missing" of Srebrenica are located) is essential.

Such an operation will require considerable resources to fund both the *ante-mortem* data collection project in the field and the exhumations themselves. The Expert on missing persons, therefore, requested the UN Commission on Human Rights at its 18 March to 26 April 1996 session to "authorize the necessary resources from the regular budget or establish a special voluntary fund" to which governments could make contributions specifically for this purpose.

The UN Commission on Human Rights, unfortunately, did not call for IFOR to provide adequate security for grave sites, but it did urge the Expert on missing persons to cooperate with the members of the Expert Group to prepare a comprehensive plan for exhumations and underlined the need for the establishment of an *ante-mortem* data base.⁴⁰ Amnesty International is dismayed that the UN Commission on Human Rights did not call for the allocation of the necessary resources to meet this pressing human need. Instead, it simply requested the Expert on missing persons "to assume responsibility for securing appropriate support, including financial assistance, for the activities of the Expert Group, . . . request[ed] the international community to make available the necessary means for this undertaking" and recommended that the High Commissioner "provide,

This account of the work of the Expert Group is based on a copy of its proposed guidelines dated 3 April 1996 obtained by Amnesty International and other sources. It is believed that the guidelines accurately represent current practice and policy of the Expert Group.

UN Commission on Human Rights Resolution adopted on 23 April 1996, UN Doc. E/CN.4/1996/L.11, para. 34 (a) - (b).

through existing voluntary funding mechanisms, means to assist the expert for the special process to secure the necessary financial assistance".⁴¹ Putting the entire responsibility on the Expert on missing persons to seek the necessary funding is in marked contrast to the normal funding arrangements for thematic mechanisms. For example, the UN Commission on Human Rights urged the Secretary-General, "from within existing resources, to make all necessary resources available for the Special Rapporteur [on the former Yugoslavia] to carry out her mandate successfully and in particular to provide her with adequate staff based in those territories to ensure effective continuous monitoring of the human rights situation there and coordination with other United Nations bodies involved".⁴² In contrast, the Expert on missing persons has been left to go hat in hand from government to government to raise the funds himself.

After consulting the Expert Group, the Expert on missing persons prepared a budget totalling \$ 6,120,000 to provide for the compilation of *ante-mortem* data on 8,000 missing persons and the exhumation and identification of the mortal remains of 1,000 persons over one year. On 22 May 1996, he appealed to the international community to provide the Special Process and the Expert on missing persons "with either qualified forensic scientists, logistical donation or financial contribution in order for them to carry out their mandate with a view to alleviating the suffering of the families who are seeking the truth about the fate of their beloved ones".⁴³ He then convened a meeting in Geneva on 30 May 1996 of more than 30 government representatives to present the budget. Although there were no formal pledges made at this meeting, the comments by government representatives were generally positive.

In these circumstances, Amnesty International is calling on the international community to make firm commitments to the establishment of a comprehensive program aimed at the identification of individuals buried in mass graves in Bosnia-Herzegovina and their return in dignity for burial. The program will need the full support of the Special Process, the Tribunal, ICRC, the office of the High Representative, IFOR and NGOs, as well as states acting through the General Assembly and Commission on Human Rights and through donations to existing voluntary funds. To ensure effective leadership, such a program should be developed by a single international body which would have to maintain close contacts with other institutions, in particular the Special Process, ICRC and the Tribunal. Amnesty International believes that the Expert on missing persons would be the appropriate institution to carry out, in close cooperation with the Expert Group, such a program. The one-year program proposed by the Expert on missing persons,

Ibid., paras 36-37. The High Commissioner has opened a sub-account of the trust fund for the activities of the Centre for Human Rights, destined to support the activities of the Expert on missing persons with regard to exhumations and the identification of mortal remains. Letter to Permanent Representatives to the UN in Geneva dated 22 May 1996 from the Expert on missing persons.

Ibid., para. 46.

Letter to Permanent Representatives to the UN in Geneva dated 22 May 1996 from the Expert on missing persons. The itemized budget attached to the letter makes clear that significant cost reductions in administrative, logistical and other support have been achieved as a result of the willingness of a number of organizations, including the Office of the High Representative, the ICRC and IFOR to support the Special Process without charge.

although an important first step, must be only the initial part of a comprehensive program to resolve cases of the "disappeared" and "missing".

The program could draw on the numerous forensic experts around the world who have volunteered their expertise.⁴⁴ It would also need to work closely with the authorities and the relatives of the victims, particularly for the purposes of gathering accurate *ante-mortem* data and also pay particular attention to ensuring that the relatives were properly informed so as to work towards realistic expectations on all sides. The program would also need to be carried out over a long time span as the sheer scale of the problems mean that work may have to continue over several years, but the UN General Assembly has made clear that the obligation to investigate cases of "disappearance" continues until the case is clarified, the victims or their families compensated and those responsible brought to justice.⁴⁵

Governments would have the primary responsibility to implement such a program, but the Special Process would supervise the *ante-mortem* data collection, monitor excavations to ensure that they are carried out in a professional and impartial manner in accordance with international standards, taking into account the needs of the families of the victims and the Tribunal. If governments were unable or unwilling to carry out the excavations in the manner required, the Special Process would carry out the excavations itself.

Regardless whether the prime objective of any individual exhumation is obtaining evidence to be used in any prosecution or the identification of victims, it is vital that all work is carried out to the highest professional standards so as to ensure that mistakes are avoided in identifications and that all evidence is of a quality that can be presented in the Tribunal or any national court. Similarly, all exhumations, whether by the Tribunal or the Special Process, should be carried out in accordance with international standards, including the UN Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres, the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the UN Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol) and

⁴⁴The UN Centre for Human Rights has compiled a list of forensic experts who have volunteered to undertake such tasks. See UN Commission on Human Rights Res. 1996/31, adopted 19 April 1996, UN Doc. E/CN.4/1996/L.11/Add.1; Res. 1994/31, adopted 4 March 1994; Report of the Secretary-General on human rights and forensic science, UN Doc. E/CN.4/1996/41; Report of the Secretary-General on human rights and forensic science submitted pursuant to Commission Human Rights resolution 1992/24, UN Doc. E/CN.4/1993/20.

⁴⁵An investigation in accordance with international standards "should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified". UN Declaration on the Protection of All Persons from Enforced Disappearance, Art. 13 (6). "The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation." *Ibid.*, Art. 19. "Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified." *Ibid.*, Art. 17.

the UN Model Autopsy, which provide safeguards to ensure that the interests of the relatives are fully represented in the course of such exhumations.⁴⁶

Recommendations:

- 1) **Accurate information about the arrest of any person and about his or her place of detention, including transfers and releases, should be made available promptly to relatives, lawyers and the courts. Governments should ensure that prisoners are held only in publicly recognized places of detention, and up-to-date registers of all prisoners should be maintained in every place of detention and centrally. All those in detention, must be registered and reported to an international organization, such as the IPTF or the ICRC.**
- 2) **Much of the truth about the events surrounding Srebrenica lies with Serbs who were in the area at the time. Those responsible for grave breaches of humanitarian law must be brought to justice, so that those witnesses who have information about the fate of the "missing" can come forward without fear of persecution by those who themselves are trying to escape prosecution.**

IFOR should immediately respond positively to the Tribunal's request for adequate security to be provided around-the-clock for all grave sites.

- 3) **The Expert on missing persons, in coordination with the Expert Group should develop, in cooperation with relevant organizations, a program of action to resolve all cases within three years and return bodies which can be identified to families or communities. The program of action should include establishment of a comprehensive *ante-mortem* data collection project.**

The program of action must ensure that both the pressing and legitimate needs of the Tribunal to gather admissible evidence and the humanitarian concerns of relatives are met without harming either. The program of action should ensure good communications with the

⁴⁶These and other international standards are included in *Guidelines for the conduct of United Nations inquiries into allegations of massacres* (Office of Legal Affairs, United Nations, New York 1995). Principle 16 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions requires that

“[f]amilies of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased immediately informed. The body of the deceased shall be returned to them upon completion of the investigation.”

Paragraph D (13) of the Minnesota Protocol states that “families of the deceased and their legal representatives shall be informed of, and have access to, any hearing and to all information relevant to the investigation, and shall be entitled to present evidence. This particular emphasis on the role of the family as a party to the proceedings implies the specially important role the family's interests play in the conduct of the investigation.”

families of the “disappeared” and “missing” about the scope and pace of the excavations and identification.

The High Representative and the High Commissioner should call upon the international community to provide the necessary staff, equipment and funding to carry out this program as a matter of priority and should ensure that the parties to the peace agreement cooperate fully with the Expert on missing persons.

The international community should provide the necessary staff, equipment and funding to carry out this program as a matter of priority.