

KOSOVO

A mission to assist with field and laboratory work for the International Criminal Tribunal to the former Yugoslavia in its investigation into human rights violations in Kosovo.

Between April and November 2000, four members of EAAF, Anahi Ginarte, Silvana Turner, Luis Fondebrider, and Dario Olmo, were hired to participate in the investigative work conducted by the International Criminal Tribunal for the former Yugoslavia (ICTY) in Kosovo.

Team members have participated in a number of missions to the former Yugoslavia. In 1992 EAAF was invited to work with an international forensic team coordinated by the Boston-based Physicians for Human Rights (PHR). This international team was working for a UN Commission of Experts on the conflict in Yugoslavia. In 1993, the UN created the International Criminal Tribunal for the Former Yugoslavia (ICTY), which replaced the commission of experts. EAAF participated in three subsequent missions organized by PHR for the ICTY. In 1997 the ICTY organized its own forensic team, and EAAF members participated in its investigations in Bosnia during 1997, 1998 and 1999.

On this most recent occasion, the investigation was related to the crimes committed by Serbian forces under the leadership of Slobodan Milosevic against the Kosovar Albanian population during 1999-2000. Members of EAAF, together with 60 scientists from different parts of the world, participated in the exhumation and analysis of the remains of people killed during the episodes mentioned above. During the entire process of the investigation, more than 1000 bodies were exhumed and analyzed. No further

information can be released about our specific work in the region until the Tribunal authorizes it.

The International Criminal Tribunal for the former Yugoslavia was formed in 1993 through UN Security Resolution 808. The ICTY has a mandate to investigate war crimes committed by all parties during the conflicts in the territory of the former Yugoslavia. Trial proceedings began in The Hague on May 6th, 1996. In 1999, the ICTY extended its jurisdiction over human rights violations and other crimes committed in Kosovo.

HISTORICAL BACKGROUND

Since the disintegration of the Ottoman Empire in the Balkans, following the Serbian seizure of Kosovo during the first and second Balkan Wars in 1912 and 1913, antagonisms between Serbs and Albanians have been part of Kosovo's history. The historical patterns of violence and injustice that accompany this conflict have also been similar. Subsequent to the first Balkan War, massive recriminations against local Muslim Albanians took place, including the burning of villages and forced conversions to Christianity by the Serbs. An estimated 20,000 Kosovar Albanians were killed. At the time, Serbs made up about 25% of a population of about 300,000; most of the rest of the residents of Kosovo were Muslims who identified themselves as either Turks or Albanians.





Near Pristina, Kosovo - March 23, 1999 A Serbian policeman patrols an Albanian village laid waste in the fighting.
photo by Srdjan Ilic/Associated Press in The New York Times, March 30, 1999.

Albania became independent from the Ottoman Empire during this same period, although its borders with Yugoslavia were not agreed upon until 1926. This border separated over half a million Albanians in Kosovo and Macedonia from what they perceived to be their homeland. It also led to a situation where one-third of the Albanian people lived outside the borders of the Albanian state, often vulnerable ethnically and in terms of religion, language and culture. Between 1926 and 1941, more than half of all Kosovars—ethnic Albanians—may have emigrated, primarily to Albania and Turkey, as Serbs began to gradually return to the area.

Under Serb rule, periodic revolts by Albanian guerillas broke out. The government confiscated land for Serb settlers, many of whom formed armed bands to fight the Albanians.¹ Around 70,000 Serbs settled between the wars; nearly 100,000 Kosovar Albanians were driven out. When Italy and Germany occupied Kosovo in 1941, the Albanians, armed by the fascists, forced out at least 40,000 Serbs and Montenegrins. Shortly thereafter, armies under Tito took over the province in the process of suppressing a Kosovar Albanian rebellion that left as many as 10,000 Albanians dead. Under Tito, Kosovo became one of 8 federal units that comprised Yugoslavia and was granted autonomy in 1974; after this, harassment of Serbs increased and perhaps as many as 50,000 fled.²

Following Tito's death in 1980, there were gradual signs of the dissolution of Yugoslavia. In the Kosovar capital of Pristina on March 11, 1981, a small university demonstration turned into a general plea for democracy and Albanian nationalism, probably influenced by the recent rise of the Solidarity movement in Poland. On March 26, students and police clashed leaving 37 injured. High school students and factory workers joined the protest, demanding either the independence of Kosovo or a union with Albania. Shortly thereafter, Yugoslav police tanks entered Pristina and opened fire. The Yugoslav government claims that only 11 people died and 57 were injured in the violence that followed. Other reports put the death toll at hundreds. After the protests were broken up, thousand were arrested and put on trial.

THE RECENT CONFLICT

In 1987, in a speech that propelled him to prominence as a Serb nationalist, Slobodan Milosevic declared to the Serb minority in Kosovo while on camera, “no one should dare



to beat you.” As Serbia's president, Milosevic revoked Kosovo's autonomy in 1989 and ethnic Albanians, though they made up 90% of the population, were denied basic rights. Schools, colleges, and universities were closed and tens of thousands of Albanian workers were replaced with Serbs. Unemployment among Albanians reached 87%.³



Pristina - March 31, 1999. Albanian Kosovars being forced out of their homes by Serbian security forces. photo by Afrim HAJRULLAHU/Contact Press Images

When Kosovar Albanians took to the streets to protest, Serbs responded with brutal military displays. This period was followed by an Albanian boycott of official institutions and services and the creation of a parallel government with its own health, taxation and education systems.

In 1990, Kosovar Albanians established a parallel gov-

ernment and declared their independence from Serbia, advocating peaceful resolutions to the conflict with Serbia. The self-proclaimed republic of Kosovo held elections in December of 1992 and non-violent Albanian writer Ibrahim Rugova of the moderate Democratic League of Kosovo entered office. Later that year, the first attempt at

negotiation took place between Serb and Albanian Kosovar leaders. In these talks, Kosovar Albanians asserted that Kosovo, like all former constituent units of Yugoslavia, had the right to independence after the disintegration of the Soviet Yugoslav Republic. Their claim to the territory was based on the right to self-determination. Kosovo had a mostly ethnic Albanian population, and Albanians had lived in the region for centuries.

Serbs approached these negotiations claiming that Kosovo was the “cradle” of their nation. It was the birthplace of the Serbian Orthodox Church and Kosovo Polje, (The Field of the Blackbirds) just outside the provincial capital of Pristina, was the site of a famous battle in 1389, in which the Ottoman Turks defeated Serbian Prince Lazar, establishing Turkish rule in the region. At the center of the conflict was Serb insistence that Kosovo was to remain a part of Serbia. The problem of the status of Kosovo was considered an internal matter that would duly be solved through dialogue between representatives of Serbia and the FRY (Federal Republic of Yugoslavia) and the representatives of the Albanian “national minority.” These dialogues, according to the Serbs, would proceed as long as the Kosovar Albanians agreed to accept the existing uniform constitutional system, recognize the territorial integrity of the Serbian state, and participate in the political institutions of Serbia and FRY. These unsuccessful talks eventually culminated in massive nonviolent student demonstrations in Pristina from October through December 1997, in which students demanded that their right to education be respected.

Although Rugova called for peaceful resistance to Serbian rule under Milosevic, his failure to win concessions led to the emergence and growing popularity of the Kosovo Liberation Army (KLA), dedicated to Kosovo independence through warfare since 1996. Originally a small splinter group funded primarily by Kosovar Albanians living in the West,⁴ the KLA grew into a major force to be reckoned with. By February 1998, they began to fight against Serb Yugoslav authorities. The Serbs responded with increasing-

As a result of wide-scale human rights abuses, more than 800,000 Kosovars fled as refugees, and perhaps 500,000 more people were displaced within Kosovo. The death count was later established to be somewhere in the area of 10,000 people.

ly brutal force. In September, a lone survivor emerged from a massacre in which 14 Albanian men between the ages of 18 and 35 were reportedly shot and killed in a garden in his hometown of Golubovac. On the same day, 18 members of the Deliaj family were reportedly killed in a forest in the village of Drenica, 4 miles away, where they had sought refuge after their village, Donja Obrinja, was shelled during a Serbian offensive.⁵ According to Human Rights Watch observers who arrived at the scene shortly after the killings, all of the victims were shot in the head at close range, apparently while attempting to flee the attack.

Starting in October, OSCE (Organization for Security and Cooperation in Europe) human rights monitors were stationed in Kosovo under the aegis of the Kosovo Verification Mission (KVM) authorized by UN Security Council Resolution 1199.⁶ The agreement at the root of the KVM was signed on October 16, 1998 by the Federal Government of Yugoslavia and the OSCE, ending the previous eight months of internal conflict. The monitors were meant to monitor cease-fire compliance and investigate violations of it, look into unwarranted road blocks, keep a check on army and police movements, trail military convoys and watch their exercises and operations, and assist in democratizing measures that could eventually lead to elections. While the monitors were not able to force soldiers to keep to their barracks they were allegedly somewhat successful in negotiating local ceasefires.

On January 15, 1999, a massacre of 45 Albanian civilians, including many elderly and one child reportedly took place at Racak. International monitors called it an act of revenge for a KLA attack on police vehicles on January 8th.⁷ By March, Serbian forces and paramilitaries had implemented a systematic campaign to ethnically cleanse Kosovo. Aspects of this campaign included the forcible displacement of Kosovar Albanians civilians, the looting of homes and businesses, the widespread burning of houses, the use of human shields, and summary executions among other severe violations.

Some 1400 human rights monitors were evacuated from



Gornji Obrinje - September 29, 1999. A villager from Gornji Obrinje in Kosovo covered the body of a girl before carrying her to a burial site. Fifteen members of the Deliaj clan, including children and the elderly, were killed in a massacre on September 25 by Serbian forces. There was another massacre that day a few miles away. photo by Wade Goddard in The New York Times, September 30, 1999.

Kosovo on March 19th after the Rambouillet Conference - last minute negotiations to avoid NATO action- failed. Journalists were expelled at gunpoint a week later by the Serbs, and telephone lines were cut. In response to the atrocities, the attempts to cut Kosovo off and the failure of Rambouillet, the NATO air raid on Kosovo began on March 24, 1999. Within four days after the commencement of the bombings, one European diplomat commented, "we have to confront the possibility that the air campaign, by forcing the independent observers and Western journalists out of Kosovo, has given the Serbs a sense that they can do whatever they can do without anyone being able to prove that they did it."⁸

Indeed, in the immediate aftermath, Serb actions against Albanians unfortunately increased in number and intensity. In Bela Crkva, a farming village in western Kosovo, 65 people were reportedly killed on the morning of March 25th. On March 28th, Liri Losci, a Kosovar journalist, made a videotape of a massacre in the village of Izbica, where 127 ethnic Albanians were allegedly killed. The tape was matched with aerial images of Izbica, where NATO had reported sighting mass graves.⁹ On March 30, more than 60,000 ethnic Albanians were forced from Kosovo in one day under threat of death, crossing the borders to Albania, Macedonia and Montenegro. As a result of wide-scale human rights abuses, more than 800,000 Kosovars

fled as refugees, and perhaps 500,000 more people were displaced within Kosovo.¹⁰ The death count was later established to be somewhere in the area of 10,000 people.¹¹ Tens of thousands of homes in at least 1200 cities, towns, and villages were reportedly damaged or destroyed.¹²

Some argued that this displacement and destruction as well as the civilian casualties resulting directly from the bombing might have been avoided if ground troops had been placed in Kosovo in addition to the air attack.¹³ The decision to conduct the air raid bombings over Kosovo and later, Serbia, remained controversial: it was not discussed by the UN Security Council, nor was it unanimously supported by the international community or UN member nations. Debates around the NATO air strike in Kosovo covered a range of positions, from humanitarian intervention to a criminal act of US imperialism. First considered as a way to force Milosevic to accept NATO peacekeeping forces in Kosovo, US President Clinton later claimed that the purpose of the bombing was to boost NATO's credibility and to deter Milosevic from continuing and escalating his attacks there.¹⁴ This, he argued, was a humanitarian

mission to halt a murderous campaign against innocent ethnic Albanians.¹⁵ Some supported the bombing as a last minute resource to stop the killing, even though they may not agree on the way negotiations were conducted. Clinton was accused of speaking loudly while carrying a little stick by one journalist among those who felt that the bombings were too much, too late and not very well thought out.¹⁶

The bombings were denounced by several nations as well as some human rights organizations. Some argued that the NATO air strike was illegal because NATO was violating the boundaries of a sovereign state - Kosovo was part of the new Greater Serbia called Yugoslavia, while Susan Sontag argued that with the NATO bombings, (t)he Milosevic government had "finally brought upon Serbia a small portion of the suffering it has inflicted on neighboring peoples" as large-scale killings such as those perpetrated against Bosnians in particular were avoided.¹⁷

During the bombing and in its immediate aftermath, NATO allied itself with the KLA, whose goals, in addition to independence, also included the expulsion of the Serbs. NATO reportedly received strategic information from the



Batajnica, Serbia - March 1999. NATO released this photo showing allied damage to an aviation repair base. photo in New York Times, March 27, 1999

KLA and bombed Serbian targets on the KLA's behalf.¹⁸ The bombings were extended into Serbia with a first assault occurring in Belgrade on April 3rd.¹⁹ Human Rights Watch calculated that approximately 500 civilians in Kosovo were killed in over ninety incidents during the bombings and that more than half of these deaths were avoidable.²⁰ At the same time, according to the New York Times, press and eyewitness accounts as well as satellite photographs provide credible details of a project of destruction of evidence by Serb forces throughout Kosovo and even in Serbia in an apparent effort to evade prosecution for war crimes.²¹ The New York Times also reported that in some cases, villagers were ordered to dig up the bodies in mass graves and bury them individually. In other cases, villagers reported that Serbian troops were reburying bodies from mass graves themselves.²²

THE ICTY AND FORENSIC INVESTIGATIONS IN KOSOVO

The Military Technical Agreement calling for the deployment in Kosovo under UN auspices of effective international civil and security presences was signed by KFOR (the NATO transitional force) and the governments of the Federal Republic of Yugoslavia and the Republic of Serbia on June 9, 1999. The UN Security Council placed Kosovo under temporary UN civil and military administration (UNMIK) on June 10th, following the end of the 78-day NATO air attack. The KLA was disarmed and demilitarized under KFOR. Shortly thereafter, forensic experts with the International Criminal Tribunal for former Yugoslavia (ICTY) began work at Velika Krusa, Kosovo where killings took place on March 25th and were videotaped by a villager.²³ Seven other places believed to be sites of massacres cited in the war crimes indictment against Milosevic were also to be investigated immediately. As journalists Colin McMahon and Charles Madigan reported, "The remains of the dead, many with gunshot wounds to the head, will play their...significant role in the case against Milosevic."²⁴ Between mid-June and the beginning of August 1999, the withdrawal of the Yugoslav forces and the installation of the UNMIK, almost 90% of the Kosovar Albanians who had fled the province - mostly to neighboring countries - since March 1998, returned to Kosovo. Also in June 1999, the Serbian ministry shuttled approximately 2000 Kosovar

Albanians across the border from Kosovo to Serbia, delivering them to Serb jails. Most of the accused had been arrested by Serb forces during the air campaign and charged with terrorism and sedition for allegedly having assisted the Kosovo Liberation Army (KLA).

Following the withdrawal of Serbian forces in June, Kosovo saw manifestations of a new set of human rights problems. These include acts of retribution by Kosovar Albanians against the Serb minority and Roma, who were believed to have aided in the atrocities of earlier months. Nine-tenths of Serb civilian Kosovars fled (mostly to central Serbia). According to the Lawyers Committee for Human Rights delegation, they were not welcomed, and many were actually forced back into Kosovo.²⁵

KFOR, the Kosovo Force assigned to peacekeeping, found that the hardest part of their job when they first arrived was coping with "the overwhelming popular desire for vengeance among the Kosovars driven out and persecuted by the Serbs during NATO's bombing campaign."²⁶



Qirez, Kosovo - June 21, 2000. Carla del Ponte, prosecutor of the war crimes tribunal, watched as workers exhumed the dead at a grave in Qirez, Kosovo. (first right) EAAF member, Anahi Ginarte.

photo in New York Times, June 22, 2000.



Hundreds of license plates lying by the side of the road, just on the Kosovo side of the border with Albania. Serb border police had stripped them from the vehicles of fleeing refugees as part of a systematic effort to destroy their proof of Yugoslav citizenship. photo courtesy of Joanne Mariner/Human Rights Watch. (next page) "Unidentified" grave. photo courtesy of Fred Abrahams/Human Rights Watch.

Some thought that KFOR did not do enough to prevent acts of pillage directed towards Serb-owned business, houses and churches.²⁷ Others felt that KFOR forces were indulging in selective peacekeeping at the expense of Serbs and Roma.²⁸ Much violence and many crimes in the aftermath of the war in Kosovo were attributed to the KLA. Whether or not the KLA was directly responsible, in March 2001 ICTY Chief Prosecutor Carla Del Ponte announced that the ICTY would investigate the role of "unidentified armed Albanian groups in Kosovo" for offenses committed since June 1999.²⁹ This investigation was made possible by classifying Kosovo as an area of international conflict for the period following the NATO bombing, giving the tribunal jurisdiction over new war crimes cases.³⁰

On November 19, 1999, Del Ponte told the UN Security Council that her office had received reports of 11,334 killed in 529 reported mass graves in Kosovo. She added that her office had exhumed 2108 bodies from 195 of the 529 known mass graves.³¹ Following 17 months of relative lawlessness since the end of the conflict, Kosovo held the first free municipal elections

in June 2000. Ibrahim Rugova and the Democratic League of Kosovo emerged as the clear leader in a contest that included two other parties that had their origins in the KLA. Although some claim he had discredited himself by allegedly appearing on Serbian television discussing peaceful solutions for Kosovo with Milosevic while Kosovar Albanians were being rounded up and killed,³² Rugova's victory was read by others as signaling Kosovars intentions to try the peaceful route to independence once again.³³ It also pointed to their increasing disillusionment with the KLA, who's reputation disintegrated rapidly in the post-war period due to a perceived overlap between its political leadership and organized crime.³⁴ Nevertheless, violence, especially targeted toward minorities, continues. According to UN High Commission on Refugees (UNHCR) and the Organization for Security and Cooperation in Europe (OSCE) reports for the year 2000, patterns of violence have continued since the municipal elections, with Roma and Kosovo Serbs figuring disproportionately as victims of ethnically motivated crimes.



MILOSEVIC ON TRIAL

The ICTY indicted Slobodan Milosevic on May 27, 1999 for crimes against humanity and violations of the laws and customs of war committed in the conflict in Kosovo. It was the first time ever that a serving head of state was accused of the most serious crimes under international law. Four other members of the Yugoslav leadership were also charged with murder, deportations, and persecutions as crimes against humanity. The indictment did not represent all of the charges that may result from continuing investigations.

In June 2000, according to Human Rights Watch, the Clinton administration, together with some NATO allies and Russia, explored the possibility of letting Milosevic leave office with guarantees that he would not be legally pursued, a move that angered human rights organizations.³⁵ Del Ponte refused to withdraw the indictment against Milosevic and remained deeply opposed to any plan that let him escape justice, arguing “There will not be stability in the Balkans if Milosevic is not brought to justice in The Hague.”³⁶

Milosevic was seized by Yugoslav authorities in April 2001 and transferred to the ICTY in The Hague on June 28, 2001. He refuses to recognize the legitimacy of the ICTY. As a result, he currently has no legal counsel and has pleaded not guilty to all counts against him.

FOOTNOTE

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3. “Comment: Wars and the Man” by William Finnegan, *The New Yorker*, April 19, 1999
4. *Kosovo and Beyond*, by Timothy Garton Ash in *The New York Review of Books*, May 27, 1999
5. Human Rights Watch, September 29, 1998 and *New York Times*, October 2, 1998
6. “The Failure of Diplomacy”, May 9, 1999 by Rollie Keith, from *The Democrat*, the newspaper of the New Democratic Party, British Columbia, Canada.
7. *New York Times*, January 22, 1999
8. *New York Times*, March 29, 1999
9. *New York Times*, May 20, 1999
10. *Kosovo: Protection and Peacebuilding*, Lawyers Committee for Human Rights, August 1999
11. See “Kosovo: A Case Study” by Dr. Jennifer Leaning, Crimes of War Project, 1999
12. Ibid.
13. “Kosovo and Beyond” by Timothy Garton Ash, *New York Review of Books*, June 24, 1999
14. *New York Times*, March 28, 1999
15. Ibid.
16. “Kosovo and Beyond” by Timothy Garton Ash, *New York Review of Books*, June 24, 1999
17. *Why are we in Kosovo?* by Susan Sontag, *The New York Times Magazine*, May 2, 1999.
18. *New York Times*, March 28, 1999
19. *New York Times*, April 3, 1999
20. *Civilian Deaths in the NATO Air Campaign*, Human Rights Watch, February 7, 2000
21. *New York Times*, May 18, 1999
22. Ibid.
23. *New York Times*, June 25, 1999
24. *The Chicago Tribune*, September 5, 1999
25. *Kosovo Protecting and Peacebuilding*, Lawyers Committee for Human Rights, August 1999
26. “Will There be a War in Kosovo?” by Tim Judah, *New York Review of Books*, May 14, 1999
27. Ibid.
28. “KFOR Forces should live up to Responsibility to Protect all Inhabitants of Kosovo”, Amnesty International, June 25, 1999
29. “The ICTY to Investigate Crimes Committed by Albanians” by Anthony Deutsch, Associated Press, March 21, 2001
30. Ibid.
31. *New York Times*, November 19, 1999
32. *Kosovo and Beyond*, by Timothy Garton Ash, *New York Review of Books*, June 24, 1999, BBC News, April 1, 1999
33. “Analysis: Kosovo Chooses Normality” by Tim Judah, BBC News, October 30, 1999
34. Ibid.
35. “No Amnesty for Milosevic” Human Rights Watch, October 5, 2000 “Analysis: Kosovo Chooses Normality” by Tim Judah, BBC News, October 30, 1999
36. *New York Times*, June 22, 2000