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Bosnia-Herzegovina

Honouring the ghosts: confronting impunity for "disappearances"

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Summary

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"Srebrenica is also a name for a post-traumatic syndrome, the syndrome displayed by the women, children and old people who did not die and who, ever since July 1995, six years now, still have no news of their husbands and sons, fathers, brothers, uncles, grandfathers. Thousands of amputated lives six years later, robbed of the affection and love of their kin now reduced to ghosts who return to haunt them day after day, night after night."

(ICTY Judge Almiro Rodrigues, announcing the verdict in the trial of Bosnian Serb General Radislav Krstić, 2 August 2001)

Conservative estimates put the number of persons remaining unaccounted for after the end of the war in Bosnia-Herzegovina at over 17,000. Many of these people "disappeared" after having last been seen in the hands of armed forces of one of the opposing sides. Most are now believed dead, after having been extrajudicially executed and buried in mass graves, or otherwise disposed of. The gradual progress which has been achieved over the years in the exhumation and identification of bodily remains recovered from mass graves indicates that the true number of missing persons in the end will be much higher.

However, "disappearances" should not just be seen in terms of a huge humanitarian problem. They also constitute one of the most serious human rights violations, recognized by international standards and case law of international and regional human rights bodies as being a continuing violation, as long as the fate of the victim is not ascertained and the perpetrator brought to justice. In Bosnia-Herzegovina, the vast outstanding number of "disappearances" represent perhaps the most serious ongoing human rights violation in the country.

Paradoxically this violation has been increasingly written off as an inevitable by-product of war, and not as deliberate and grave crimes, committed and ordered by individuals who continue to enjoy impunity for their acts. In many cases, the victims of this human rights violation in Bosnia-Herzegovina were deliberately targeted on account of their ethnic origin, or their social or political status in the local community, and as such their "disappearance" formed part of a larger pattern of persecution. Many of the victims were known to have been

illegally detained, tortured (including by rape) or otherwise ill-treated before they "disappeared".

The long and harrowing tale of human rights abuses inflicted upon large parts of Bosnia's population is gradually and painstakingly being verified and written down into history at the International Criminal Tribunal for the Former Yugoslavia (Tribunal) as trials progress of those indicted for war crimes, crimes against humanity and genocide. Yet, "disappearances" have been conspicuously absent so far from the account, despite the scale and seriousness of the violation. If the comprehensive, lengthy and costly process of reform of the Bosnian judiciary is to result in any truly functioning system, capable of commanding the trust of society at large, then these cases of grave and serious human rights violations must come before the courts. Thorough and impartial investigations by dedicated and professional police and judicial investigators and prosecutors must be carried out to form the basis of effective prosecutions. The international community, notably the Office of the High Representative and the European Union Police Mission have a major role to play in ensuring that the structural changes which were achieved since the end of the war, translate into a decisive battle to end the pervading impunity for this human rights violation. To leave the massive human rights violations of Bosnia's recent past unaddressed, after having invested years of money and resources in rebuilding and reforming the police and the judiciary, will mean a triumph of form over substance.

So far, police and judicial investigations have been opened in only a handful of cases – and only after persistent pressure by the international community. These few positive examples, however, have consistently been marred by continuing obstruction and delays. The lack of meaningful cooperation between the police, the military and the judiciary on virtually every level (between and inside entities, between the states of the former Yugoslavia) is another serious obstacle to ensuring that investigations and prosecutions are carried out effectively.

The time has come for the Bosnian authorities to address the issue of the "disappeared" comprehensively, and with the political will, commitment and dedication necessary to ensure that justice is done for the victims and their relatives. The ongoing comprehensive process of legal reform in the country, coupled with the establishment of new mechanisms to prosecute violations of international law during the war, present an excellent opportunity to introduce legislation which will criminalize all acts of "disappearances", so that courts will be able to bring all those involved in these violations to justice.

Apart from the issue of redress for the immediate victims of "disappearances", the relatives of the "disappeared", who continue to live in anxiety and anguish, are similarly affected by this human rights violation. Seven years after the end of the war most of them still do not know what happened to their loved ones, are unable to obtain closure, mourn their deaths or dignify their memory by burying them in proper graves. Indeed, the loss of their family members goes beyond the severe emotional suffering and trauma for many of those left in the long wake of the "disappearance", given the fact that the overwhelming majority of the victims were the male breadwinners of their families. The social and economic impact of the "disappearance" on the relatives of the victims - many, if not most, of whom remain displaced as they are unable, or unwilling to face return to their pre-war communities – is such that many face mounting poverty and exclusion.

Amnesty International believes that resolving outstanding "disappearances" is a prerequisite in order to achieve reconciliation and heal a fragmented society. This admittedly daunting task will require political will and moral courage from the authorities and must be seen as a continuing priority by the international community. It should be undertaken as an inclusive and multi-faceted process, not subjected to arbitrary deadlines, and should combine

the efforts of the police and judicial bodies, other state and entity officials, the relatives, organizations and individuals working on their behalf, and dedicated and qualified human rights experts in the international community.

This report summarizes a 63-page document (20856 words): *Bosnia-Herzegovina, Honouring the ghosts: confronting impunity for “disappearances”*, (AI Index: EUR 63/004/2003) issued by Amnesty International in March 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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