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NATO/FEDERAL REPUBLIC OF YUGOSLAVIA

"COLLATERAL DAMAGE" OR UNLAWFUL KILLINGS?
Violations of the Laws of War by NATO during Operation Allied Force



Fire fighters remove a body from the structure of the Serbian state television after NATO air strikes, 23 April 1999. © Reuters

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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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From 24 March to 10 June 1999 the North Atlantic Treaty Organization (NATO) conducted an air campaign against the Federal Republic of Yugoslavia (FRY), codenamed Operation Allied Force. The civilian death tolls given in detailed FRY government accounts range from 400 to 600. NATO has not released official estimates of civilians or FRY combatants killed. No NATO forces were killed in hostile action during the air campaign.

Amnesty International believes that in the course of Operation Allied Force, civilian deaths could have been significantly reduced if NATO forces had fully adhered to the laws of war. These rules are designed to protect -- to the maximum extent possible -- civilian lives and objects. The rules include a prohibition on any direct attacks against civilians or civilian objects. The rules also include prohibitions on attacks which do not attempt to distinguish between military targets and civilians or civilian objects and attacks which, although aimed at a legitimate military target, have a disproportionate impact on civilians or civilian objects.

This document examines a series of attacks during the air campaign indicating that NATO did not always meet its legal obligations in selecting targets and in choosing means and methods of attack. On the basis of available evidence, including NATO's own statements and accounts of specific incidents, Amnesty International believes that -- whatever their intentions -- NATO forces did commit serious violations of the laws of war leading in a number of cases to the unlawful killings of civilians. In one instance, the attack on the headquarters of Serbian state radio and television (RTS), NATO launched a direct attack on a civilian object, killing 16 civilians. Such an attack was a war crime. In other attacks, including the Grdelica railroad bridge, the automobile bridge in Lužane, and Varvarin bridge, NATO forces failed to suspend their attack after it was evident that they had struck civilians. In other cases, including the attacks on displaced civilians in Djakovica and Koriša, there were other failures to take sufficient precautions to minimize civilian casualties.

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NATO has no mechanism to ensure a common interpretation of the rules of war that reflects the highest standards of international humanitarian law. NATO's command structure also appears to contribute to confusion over legal responsibility. Decision making processes on target selection and assignment indicate that disagreements over the lawfulness of certain attacks did not prevent such attacks from taking place. Also, aspects of the Rules of Engagement, specifically the requirement that NATO aircraft fly above 15,000 feet to provide maximum protection for aircraft and pilots, made full adherence to international humanitarian law virtually impossible. According to NATO officials, changes were made to the Rules of Engagement, including lifting the 15,000 feet rule, following certain attacks which killed civilians. However, Amnesty International believes that these were basic precautions that should have been undertaken from the start of the bombing.

Amnesty International urges NATO to publicly commit itself to abide by the highest standards of international humanitarian law, including the 1977 Protocol I Additional to the Geneva Conventions of 12 August 1949 (Protocol I) and to ensure a common interpretation of such standards among its members. France, Turkey and the United States should ratify, without reservation, all relevant international humanitarian treaties, including Protocol I. NATO should clarify its chain of command so that there are clear lines of responsibility for each state and each individual involved in military operations conducted under its aegis. NATO must ensure that its Rules of Engagement fully comply with the highest standards of international humanitarian law and are common to all member states, and made public to the maximum extent possible.

Amnesty International urges NATO to establish a body to investigate credible allegations of violations of international humanitarian law, including the cases in this report, and ensure that victims of violations receive adequate redress. NATO members states must bring to justice any of their nationals suspected of being responsible for serious violations under international humanitarian law, in particular grave breaches of Protocol I. Other states and the International Criminal Tribunal for the former Yugoslavia should also investigate allegations of serious violations of international humanitarian law during Operation Allied Force.

KEYWORDS: NATO1 / INDISCRIMINATE KILLINGS1 / IMPUNITY1 / GENEVA CONVENTION1 / ARMED CONFLICT / DISPLACED PEOPLE / WAR CRIMES / WEAPONS OF WARFARE / MILITARY / JOURNALISTS / COMPENSATION / HUMAN RIGHTS INSTRUMENTS

This report summarizes a 65-page document (26,494 words), *NATO/FEDERAL REPUBLIC OF YUGOSLAVIA"COLLATERAL DAMAGE" OR UNLAWFUL KILLINGS?, Violations of the Laws of War by NATO during Operation Allied Force* (AI Index: EUR 70/18/00) issued by Amnesty International in June 2000. 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: **http://www.amnesty.org/news/emailnws.htm**

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Violations of the Laws of War by NATO during Operation Allied Force

1. Introduction

From 24 March to 10 June 1999 the North Atlantic Treaty Organization (NATO) conducted an air campaign against the Federal Republic of Yugoslavia (FRY), codenamed Operation Allied Force. NATO aircraft conducted over 38,000 combat sorties, including 10,484 strike sorties, against targets in the provinces of Kosovo and Vojvodina, Serbia proper and the Republic of Montenegro.[1] Yugoslav media have stated that thousands of civilians were killed in NATO air raids. However, the civilian death tolls given in detailed FRY government accounts range from 400 to 600.[2] NATO has not released official estimates of civilians or FRY combatants killed. No NATO forces were killed in hostile action during the air campaign.

NATO is an alliance of 19 nations from Europe and north America, founded in 1949 with the aim of providing a mutual commitment to collective defence in the event of one or more of these nations coming under attack by another party. NATO took military action against the FRY following a breakdown in negotiations between several of its member states and the FRY over the situation in Kosovo, where FRY forces were engaged in an armed conflict with the Kosovo Liberation Army (KLA) characterized by gross human rights abuses, and the future status of the province. NATO stated several aims for its military intervention, including ending the human rights violations perpetrated by FRY

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[1] Lord Robertson, Secretary General of NATO, *Kosovo One Year On: Achievement and Challenge*, March 2000.

[2] Official FRY sources are inconsistent on the number of civilian deaths. The FRY Ministry of Foreign Affairs has claimed in its "Provisional Assessment", issued 1 July 1999, that "several thousands" were killed, but specifically mentions about 600 civilian deaths. But the same Ministry of Foreign Affairs' more detailed account of the damage inflicted in the campaign, *NATO Crimes in Yugoslavia (The White Book)*, listed around 400 civilians killed in over 40 incidents of bombings. It seems clear from the text of *The White Book* that it does not represent a complete list of all civilians killed in the NATO bombing. Human Rights Watch, which visited the sites of many of the bombings, estimates that about 500 civilians were killed in approximately 90 incidents.

forces against ethnic Albanian civilians; ensuring the withdrawal of all FRY forces from Kosovo and their replacement with an international force; and ensuring the return of Kosovar refugees and internally displaced to their homes.

NATO has claimed that its air campaign against the FRY was the "most precise and lowest-collateral damage air campaign in history."[3] However, Amnesty International has serious concerns about the extent to which NATO forces participating in Operation Allied Force adhered to the rules of international humanitarian law on the conduct of hostilities, specifically those laid down to protect civilians and civilian objects. On the basis of available evidence, including NATO's own statements and accounts of specific incidents, Amnesty International believes that -- whatever their intentions -- NATO forces did commit serious violations of the laws of war leading in a number of cases to the unlawful killings of civilians.

In one instance, the 23 April 1999 attack on the headquarters of Serbian state Television and Radio (RTS), NATO launched a direct attack on a civilian object, killing 16 civilians. In other attacks, including the 12 April bombing of Grdelica railroad bridge, which killed 12 civilians, and the missile attack on Varvarin bridge on 30 May, which killed 11 civilians, NATO forces failed to suspend their attack after it was evident that they had struck civilians. In other attacks, including those which resulted in the highest number of civilian casualties (the attacks on displaced ethnic Albanians near Djakovica on



[3] Joint Statement on the Kosovo After Action Review, Secretary of Defense William S. Cohen and General Henry H. Shelton, Chairman of the Joint Chiefs of Staff, before the United States Senate Armed Services Committee, 14 October 1999.

14 April, and in Koriša on 13 May, whose combined death toll exceeded 120) NATO failed to take necessary precautions to minimize civilian casualties. A detailed examination of these and other attacks is included in this report.

Concern about the rising level of civilian casualties grew over the course of Operation Allied Force. On 23 April 1999, for example, the International Committee of the Red Cross (ICRC) said:

> "During the first week or so of airstrikes, the number of civilian casualties did in fact appear to be low. As the air campaign intensified, however ... both a corresponding rise in the number of Serbian civilian victims and increased damage to civilian objects have been observed.... Major incidents involving civilians have been the destruction of a passenger train on a bridge and the attack on civilian vehicles in Kosovo. Both resulted in deaths and injuries."[4]

On 4 May, Mary Robinson, United Nations High Commissioner for Human Rights, was quoted as saying:

> "If civilian casualties can be avoided, they obviously must be and it is down to judgments that must be made...If it is not possible to ascertain whether civilian buses are on bridges, should those bridges be blown? These are very important questions because people are not collateral damage, they are people who are killed, injured, whose lives are destroyed, and we are very concerned that [sic] the way that civilians are so much in the forefront of modern warfare, of modern conflicts."[5]

Over the course of Operation Allied Force, Amnesty International wrote repeatedly to NATO's Secretary General Javier Solana in connection with specific attacks, raising concerns as to whether NATO was taking sufficient precautions in selecting targets, in choosing the timing of attacks, in the manner in which these attacks were being executed, and whether civilians were being given advance warning when possible. Amnesty International expressed concern that several of the attacks that had resulted in civilian deaths may have indicated that NATO was not taking all precautions necessary to protect civilians because priority was being given to ensuring pilots' safety.

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[4] "The Balkan conflict and respect for International Humanitarian Law", Statement by the International Committee of the Red Cross, 23 April 2000. (www.icrc.org/eng)

[5] "NATO Warned on War Crimes," by Steve Boggan, *The Independent*, 5 May 1999.

In its replies to Amnesty International's inquiries, NATO gave general assurances that every possible effort to avoid civilian casualties was made but did not provide AI with substantive answers to questions on specific incidents, or any indication of whether investigations were being conducted. Amnesty International did not receive relevant details of the Rules of Engagement from NATO, despite having repeatedly requested them in order to allow an independent assessment of whether they complied with international humanitarian law.

This report relies to a large extent on NATO's own public statements and reports (and those of member governments) of how it conducted the air campaign, including its accounts of particular incidents and general explanations of operational practices. The organization met with a delegation of NATO officials at the alliance's headquarters in Brussels on 14 February 2000 to discuss its concerns about the bombing campaign. The NATO delegation was headed by Dr Edgar Buckley, Assistant Secretary General for Defence Planning and Operations, and included NATO spokesperson Dr Jamie Shea; Mr Pieter Feith, Director, Crisis Management and Operations Directorate; Mr Baldwin De Vidts, NATO's Legal Adviser; and Lieutenant General O.L. Kandborg, Director, International Military Staff. Amnesty International's delegation included two members of the staff of the International Secretariat, accompanied by Professor Dr Horst Fischer, Academic Director of the Institute for International Law of Peace and Armed Conflict, Ruhr-Universität Bochum Germany and Professor of International Humanitarian Law at Leiden University, Netherlands; and Dr Lieutenant Colonel (ret.) Pekka Visuri, visiting researcher at the Finnish Institute of International Affairs and Adjunct Professor at the National Defence College in Helsinki.

Background: Human Rights Violations in Kosovo

Over the past 10 years, Amnesty International has extensively documented and campaigned to put an end to human rights violations perpetrated by the FRY authorities against ethnic Albanians in Kosovo. (See: *Kosovo: a decade of unheeded warnings*, volume one, AI Index: EUR 70/39/99, April 1999). During this time, ethnic Albanians living in Kosovo were the victims of unlawful killings, torture and ill-treatment. Many political prisoners, including prisoners of conscience, were convicted by courts in proceedings which failed to meet international standards of fairness.

In 1998 there was an increase in human rights violations perpetrated by FRY security forces and paramilitaries in Kosovo (See*: Kosovo: a decade of unheeded warnings*, volume two, AI Index: EUR 70/40/99, April 1999). Armed conflict erupted between members of the KLA, which had formed to fight for an independent Kosovo, and FRY forces, Serb police and paramilitary groups operating in the region. The vast majority of victims in Kosovo during the period of the armed conflict were ethnic Albanian civilians.

However, Serbs also suffered human rights abuses, such as abductions, beatings and executions, at the hands of armed ethnic Albanian groups some of whom represented themselves as the KLA.

In February and March 1999, the international community exerted intense diplomatic pressure on the FRY authorities, accompanied by threats of military action. The failure of efforts to broker an agreement between the FRY and representatives of Kosovo's ethnic Albanians in a series of meetings at Rambouillet, in France, led to the eruption of an international armed conflict. In March, NATO commenced a bombing campaign against FRY forces, Serb police and paramilitaries with the declared aim of preventing a human rights catastrophe in Kosovo. However, human rights abuses by FRY forces, Serb police and paramilitary groups increased and hundreds of thousands of ethnic Albanians and members of minority communities fled Kosovo into the neighbouring states of Albania and Macedonia or were displaced inside Kosovo. (See: *Former Yugoslav Republic of Macedonia: The protection of Kosovo Albanian refugees*, AI Index: EUR 65/03/99, May 1999; *Federal Republic of Yugoslavia (Kosovo): Smrekovnica Prison--a regime of torture and ill-treatment leaves hundreds unaccounted for,* AI Index: EUR 70/107/99, October 1999).

In June 1999, NATO ceased its bombing campaign after concluding a Military Technical Agreement with the FRY authorities. Under this agreement all FRY forces, Serb police and paramilitary groups left Kosovo and a NATO-led military force named Kosovo Force (KFOR) took control of Kosovo. The United Nations Interim Administration in Kosovo (UNMIK) was also established to administer the territory. Amnesty International has continued monitoring and campaigning against human rights abuses in Kosovo under the administration of UNMIK (See: *Federal Republic of Yugoslavia (Kosovo): Amnesty International's recommendations to UNMIK on the judicial system*, AI Index: EUR 70/06/00, February 2000, and *Federal Republic of Yugoslavia (Kosovo): Setting the standard? UNMIK and KFOR's response to the violence in Mitrovica*, AI Index: EUR 70/13/00.)

Amnesty International takes no position on the political issues surrounding the status of Kosovo. The organization does not judge whether recourse to force by anyone is justified or not and therefore takes no position on the legal or moral basis for NATO's military intervention against the FRY. Amnesty International focuses strictly on the conduct of such intervention in light of the rules of international humanitarian law.

2. The Laws of War and the Protection of Civilians

Not all civilian deaths in wartime are unlawful. In the euphemistic terms of military spokespersons, "collateral damage"[6], including civilian casualties, is to be expected in war. But there are clear rules that set limits on the conduct of hostilities and in particular outlaw the use of certain means or methods of warfare. These rules are designed to protect -- to the maximum extent possible -- civilian lives and objects. The rules include a prohibition on any direct attacks against civilians or civilian objects, including reprisals directed at them. But they also include prohibitions on attacks which do not attempt to distinguish between military targets and civilians or civilian objects and attacks which, although aimed at a legitimate military target, have a disproportionate impact on civilians or civilian objects. Finally, the rules make clear the narrow circumstances in which civilians or civilian objects lose their protection – for example, when a civilian object is used for military purposes.

The fullest statement of the rules governing the conduct of hostilities in international armed conflict is in Protocol I Additional to the Geneva Conventions of 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I). This Protocol, which was adopted in 1977, has been ratified by over 150 states.[7] Three of NATO's 19 members are not parties to Protocol I: France (Amnesty International understand that it intends to ratify it in the near future); the United States (although key provisions of Protocol I are reflected in its military code); and Turkey. The fundamental provisions of this Protocol, including all the rules on the conduct of hostilities cited in this report, are considered part of customary international law and are therefore binding on all states.

2.1 The prohibition of direct attacks against civilians and of indiscriminate attacks

One of the cornerstones of international humanitarian law is the principle that all possible measures must be taken to distinguish between civilian persons and objects, and military

[6] "Broadly defined, collateral damage is unintentional damage or incidental damage affecting facilities, equipment or personnel occurring as a result of military actions directed against targeted enemy forces or facilities. Such damage can occur to friendly, neutral, and even enemy forces." (US Air Force Pamphlet 14-210, February 1998). It is not a term used in international humanitarian law.

[7] According to the International Committee of the Red Cross (ICRC), the organization primarily responsible for monitoring compliance with international humanitarian law, there are 156 States Parties to Protocol I as of January 2000. (See: http://www.icrc.org/eng)

objectives. Article 48 of Protocol I sets out the "basic rule" regarding the protection of civilians (often referred to as the principle of distinction):

> "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives."

Regarding objects, Article 52 (2) defines military objectives as "those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage." Article 51(2) of Protocol I spells out unambiguously that "the civilian population as such, as well as individual civilians, shall not be the object of attack."

In addition to prohibiting direct attacks on civilians, international law also prohibits indiscriminate attacks. In the language of Article 51(4) of Protocol I, indiscriminate attacks are those "of a nature to strike military objectives and civilians or civilian objects without distinction." They include:

> "(a) those which are not directed at a specific military objective;
> (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
> (c) those which employ a method or means of combat which cannot be limited as required by this Protocol".

Article 51 (5) includes two other types of attack which are considered as indiscriminate:

> "(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
> (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."

Indiscriminate attacks occur when armed forces disregard the principle of distinction and attack a military target without regard to the likely consequences for civilians. They might use weapons which are not capable of hitting a military target with precision -- either by their nature or as a result of the circumstances in which they are employed. Or their tactics or method of attack might show a disregard for civilian lives.

2.2 Precautionary measures

Although international humanitarian law is not necessarily violated whenever civilians are killed or injured, the laws of war require that military forces make all feasible efforts to avoid inflicting civilian casualties. Under Protocol I, "In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects." (Article 57). Where it is unclear whether a target is used for military purposes, "it shall be presumed not to be so used" (Article 52(3)).

Article 57 (2) specifies precautionary measures required:

"With respect to attacks, the following precautions shall be taken:

(a) those who plan or decide upon an attack shall:

(i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;

(ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;

(iii) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

(b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

(c) effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit."

2.3 Human shields

In the aftermath of several NATO attacks that resulted in civilian casualties, NATO suggested that civilians were being used as human shields by the Yugoslav military.[8] Protocol I prohibits the use of such tactics. Article 51(7) provides:

> "The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations."

Further, Article 58 obliges parties to a conflict to take all necessary precautions to protect civilians under their control against the dangers resulting from military operations, including by removing civilians from the vicinity of military objectives and avoiding locating military objectives within or near densely populated areas.

However, Article 51(8) makes clear that even if one side is shielding itself behind civilians, such a violation of international law "shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in Article 57."

Furthermore, Article 50(3) of Protocol I provides:

> "The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character."

2.4 Legal responsibility for violations of international humanitarian law

State responsibility

Article 85 of Protocol I defines certain "grave breaches" of the Protocol. These are war crimes and include -- when they are committed wilfully and cause death or serious injury --

[8] For example, after NATO's bombing of Koriša , Pentagon spokesperson Ken Bacon said: "It may be that as many as half, or certainly a third of the people who may have been killed in NATO attacks, were put there specifically by Milošević as human shields." US Department of Defence (USDoD) News Briefing, 17 May 1999.

"making the civilian population or individual civilians the object of attack" and "launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects" which would be excessive in relation to the concrete and direct military advantage anticipated. Other war crimes, for example those listed under Article 8,2,b of the 1998 Rome Statute of the International Criminal Court, include " [I]ntentionally directing attacks against civilian objects".

Article 86 requires that "Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the [1949 Geneva] Conventions or of this Protocol which result from a failure to act when under a duty to do so." Under Article 88, "Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches".

Article 91 makes clear that each party to the conflict "shall be responsible for all acts committed by persons forming part of its armed forces". Accordingly, a "Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation."

Individual criminal responsibility

Individuals, whether civilians or military, regardless of rank, can be held criminally responsible for serious violations of international humanitarian law. Commanders can be held responsible for the acts of their subordinates if they knew or had reason to know that their subordinates were committing or were about to commit a breach and they were in a position to prevent or suppress such breaches and failed to do so. In the words of Article 86(2) of Protocol I:

> "The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach."

Article 87 specifies the duty of commanders "with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol." The principle of command responsibility is reflected also in the Statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the

International Criminal Court, as well as in the Draft Code of Crimes against the Peace and Security of Mankind (Draft Code of Crimes) adopted by the International Law Commission in 1996.

Superior orders cannot be invoked as a defence for violations of international humanitarian law although they may be taken into account in mitigation of punishment. This principle has been recognized since the Nuremberg trials which followed World War II and is now part of customary international law. It is reflected in the Statutes of the ICTY and the International Criminal Court, and the Draft Code of Crimes.

Responsibility of NATO Alliance Members

Operation Allied Force was fought by a coalition of NATO member states in the name of the alliance as a whole. The initial decision to resort to force was made collectively, as were subsequent decisions about escalating the air campaign. At no point during the air campaign did any alliance member publicly repudiate any of the attacks carried out by NATO forces. Therefore each NATO member may incur responsibility for the military actions carried out under the NATO aegis.

Jurisdiction over serious violations of international humanitarian law

In line with the common provisions of the 1949 Geneva Conventions, each state party undertakes "to enact legislation necessary to provide effective penal sanctions" for persons involved in grave breaches. In addition, the principle of universal jurisdiction applies to such war crimes. Therefore, each state party:

> "shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts."

The Geneva Conventions allow a party, if it prefers, to hand such persons over for trial to another state party, and require that, "in all circumstances, the accused persons shall benefit by safeguards of proper trial and defence". The Conventions do not exclude the surrendering of such persons to an international criminal court. The provisions relating to grave breaches of the Conventions apply also to grave breaches of Protocol I.

In addition to being obliged to exercise universal jurisdiction for grave breaches, states are permitted to exercise universal jurisdiction for other war crimes. If, following an investigation, there is sufficient admissible evidence and the suspect is within their

jurisdiction, states should prosecute, in a fair trial, or extradite the suspect to another state willing and able to hold a fair trial.

With regard to Operation Allied Force, in addition to the jurisdiction of the national courts of any state, there is the concurrent jurisdiction of ICTY. According to ICTY's Statute, the Tribunal has jurisdiction over grave breaches of the Geneva Conventions (Article 2) and other violations of the laws and customs of war (Article 3) committed since 1991 in any part of the former Federal Republic of Yugoslavia (Article 1) by any person regardless of that person's nationality. As repeatedly confirmed, ICTY has full jurisdiction over any possible violations of international humanitarian law committed during Operation Allied Force by NATO and any other party.

With regard to the substantive scope of ICTY's jurisdiction, the Appeals Chamber in *Prosecutor v. Tadić* recalled the intervention of the United States at the UN Security Council debate on this issue in 1993, pointing out that this declaration was not contested:

> "... it is understood that the 'laws and customs of war' referred to in Article 3 include all obligations under humanitarian law agreements in force in the territory of the former Yugoslavia at the time the acts were committed, including common article 3 of the 1949 Geneva Conventions, and the 1977 Additional Protocols to these Conventions".[9]

3. Operation Allied Force and the Protection of Civilians

3.1 Approach to the laws of war and their interpretation

During Operation Allied Force NATO never made clear exactly which standards of international humanitarian law were being applied by its forces or how it maintained a coherent interpretation of these rules during the campaign. The alliance's members do not share the same treaty obligations. The United States, for example, whose aircraft flew nearly 80 per cent of NATO strike-attack sorties during the campaign[10], has not ratified Protocol I, neither have France or Turkey. NATO spokesperson Jamie Shea repeated throughout the campaign that alliance forces were respecting the laws of war to an

[9] *Prosecutor v. Tadić*, Judgment, Case No. IT-94-1-AR72 (Appeals Chamber 2, October 1995), Para. 88.

[10] Military Readiness Subcommittee of House Armed Services Committee, Hearing on the Readiness Impact of Operations in Kosovo, 25 October 1999.

unprecedented extent. But in public statements during the campaign no explicit reference was made to Protocol I which is by far the most comprehensive codification of the law on the conduct of hostilities. At a NATO background briefing on 18 May 1999, the Spokesperson Jamie Shea elaborated on the alliance's adherence to the laws of war:

> "The principle of discrimination is one of the most fundamental components of the law of armed conflict. This principle was reflected as early as the 1899 Hague Convention requirement that combatants wear a fixed, distinctive emblem recognisable at a distance and carry their arms openly. Customary international law requires that combatants shall 'at all times distinguish between the civilian population and combatants and shall direct their operations only against military objectives.' There is absolutely no question that is exactly what NATO is doing; it is distinguishing between civilian and military objectives and in fact I would argue just as a scholar of the laws of war that you cannot find another armed conflict in the history of modern warfare where there has been more discipline and care taken to comply with the laws of war and to make that distinction than in the targeting exercise of the NATO Alliance."

NATO officials met by Amnesty International in Brussels insisted that NATO members would respect Protocol I. At the same time, they stated that NATO is not a party to conventions of international humanitarian law. Baldwin de Vidts, NATO's Legal Adviser, emphasized that it is the individual member states who have legal obligations. States' own legal officials must ensure their participating forces' compliance with international law. In other words, NATO does not have a mechanism to enforce compliance of a common set of standards, or to ensure a common interpretation of such standards. These remain prerogatives of each state member, leading to inconsistencies in the application of the rules.

The fact that NATO is an alliance need not preclude it from ensuring in practice that, when acting under the NATO aegis, its forces are bound by the highest standards of international humanitarian law, including Protocol I, beyond the individual states' treaty obligations and existing domestic laws. The accession to Protocol I by all NATO members would also give the clearest signal that NATO is indeed bound by the highest international standards.

3.2 Target selection

With regard to target selection and assignment, NATO officials at the Brussels meeting explained to Amnesty International that under the system that was in use in Operation Allied Force, NATO members were given a bombing assignment by NATO staff but could refuse it on the grounds, for example, that in their view the target was illegitimate or that the attack would otherwise violate international law and possibly their national law. If a target were refused because the assigned country had deemed it unlawful, NATO officials said that they would not reassign the target to another member. However, it is unclear to what extent this actually happened in practice. In at least one instance, the attack on the headquarters of Serbian state television and radio (RTS), it appears that the attack was carried out despite disagreement among NATO members as to its lawfulness.

Lieutenant General Michael Short (US Air Force), Commander of Allied Air Forces, Southern Europe, reflected -- from an operational perspective -- on the legal dilemmas of waging coalition warfare.

> "We need to understand going in the limitations that our coalition partners will place upon themselves and upon us. There are nations that will not attack targets that my nation will attack. There are nations that do not share with us a definition of what is a valid military target, and we need to know that up front...You and I need to know that all aircraft based in the United Kingdom are subject to rulings by the United Kingdom government about whether we are about to strike a valid target or not."[11]

At its meeting with Amnesty International, NATO officials said that, in some cases, not all NATO members (even those participating in an attack in a support capacity) would be informed about what the target or the means and method of attack may be. This means that a member state may be incurring legal responsibility for an attack the details of which it did not know.

French officials, including the Foreign Minister Hubert Védrine, have alleged that the US military were supplementing the airstrikes conducted under the NATO umbrella with attacks of their own. "All the countries in the Atlantic Alliance acted as part of NATO with full discussion about what to target. But the USA was also carrying out a separate American operation," the Foreign Minister told a BBC documentary about Operation Allied

[11] Remarks by Lieutenant General Michael C. Short at the Air Force Association's Air Warfare Symposium, 25 February 2000.

Force. "They deployed national forces with a national decision-making mechanism commanded from the US. And the European allies did not know about these actions." NATO has denied this allegation.[12]

3.3 Rules of Engagement

On several occasions during the air campaign, Amnesty International wrote to NATO's Secretary General to express concern that specific attacks may have breached international law and to seek clarification of the Rules of Engagement adopted by NATO.

In response to specific questions by Amnesty International, NATO stated repeatedly in general terms that it was committed to international humanitarian law and was making "every possible effort to avoid collateral damage during the air operation against the Federal Republic of Yugoslavia". The letters from NATO stated that its pilots operated under "strict Rules of Engagement", but did not disclose any details of the rules or the principles underlying them. They did not answer specific questions Amnesty International raised about specific incidents, making it difficult to form a view as to whether the Rules of Engagement themselves complied with international humanitarian norms.

At the Brussels meeting with Amnesty International, NATO officials shed some light on aspects of the Rules of Engagement and what changes were made to them in the course of the war. Amnesty International learned that each member state was entitled to choose what aspects of NATO-proposed Rules of Engagement it would adopt. Amnesty International was also told about changes in the altitude requirements for NATO pilots (see below). However, a comprehensive assessment of the Operation's compliance with the laws of war would require NATO to make available more information on its Rules of Engagement.

3.4 Precautionary measures

NATO spokesperson Jamie Shea claimed that "there has never been an air campaign in history that has been discriminating against the military but in favour of civilians as this one even if we haven't been able to achieve -- nobody can, nobody ever will -- 100 per cent

[12] "Moral Combat - NATO at War", broadcast on BBC2 on 12 March 2000. On the same televison program General Wesley Clark, NATO's Supreme Allied Commander, Europe (SACEUR), denied the French allegation of a separate American operation: "That's incorrect ... I commanded all assets."

perfection."[13] This point was underscored repeatedly in NATO press briefings. General Walter Jertz told journalists that NATO was conducting "the most accurate bombing campaign in history."[14]

Few would dispute NATO's assertion that it is impossible to achieve "100 per cent perfection" in fighting a war. However, in some incidents it appears that NATO did not take all precautions necessary to protect civilians primarily because priority was given to ensuring pilots' safety. As R. A. Mason, a retired Royal Air Force (RAF) Vice Marshall, said: "It [the conduct of the war] gave the impression to the world at large that an unfortunate minimum of civilian casualties was an unavoidable and acceptable feature of a war waged for humanitarian causes, but the loss of professional military aircrew was not."[15] Force preservation is a crucial concern for the military. But can this consideration take precedence over legal obligations to protect civilians?

Concern about whether NATO took necessary precautions to protect civilians has arisen with regard to the choice of certain methods of attack such as the practice of high-altitude bombing and a consistent failure to give effective warning to civilians.

According to NATO, initially aircraft were restricted to flying above 15,000 feet to protect their aircraft and pilots from the FRY air defences. This ceiling was relaxed during the second half of the air campaign, with some planes flying as low as 6,000 feet. Officials have conceded that high-altitude bombing reduced the overall effectiveness of the air campaign, but have denied that it resulted in increased civilian casualties. They said that many attacks were aborted if a target could not be positively identified so as to spare civilians.

In Brussels, NATO officials told Amnesty International that an aircrew flying at 15,000 feet would be able only to identify whether the objective was the intended one according to the planning preparations, but would be unable to tell whether, for example, civilians had moved within its vicinity. The 15,000-feet rule thus effectively made it impossible for NATO aircrew to respect the obligation to suspend an attack once circumstances had changed on the ground rendering the objective no longer legitimate. They told Amnesty International that following the bombing of civilians in a convoy at

[13] Press Conference, Jamie Shea and Major General Walter Jertz, Brussels, 3 May 1999

[14] Press Conference, Jamie Shea and Major General Walter Jertz, Brussels, 27 May 1999

[15] James A. Kitfield, "Another Look at the Air War that Was", *Air Force Magazine*, October 1999.

Djakovica, the Rules of Engagement were amended to require visual confirmation that there were no civilians in the target area.

In an interview for a BBC television documentary General Michael Short spoke about what happened at Djakovica on 14 April 1999 and explained the impact the height requirement was having on pilots' ability to distinguish between military objectives and civilians or civilian objects:

> "They came back to me and said, 'We need to let the forward air controllers go down to 5,000 feet. We need to let the strikers go down as low as 8,000 feet and in a diving delivery, to ensure that they verify their target, and then right back up again to 15,000 feet. We think that will get it done. We acknowledge that that increases the risk significantly, but none of us want to hit a tractor full of refugees again. We can't stand that'."[16]

Unfortunately this additional precaution, as well as changes reportedly instituted after the 7 May attack on Niš (when the US reportedly stopped using cluster bombs) and the 30 May attack on Varvarin Bridge (when NATO decided to avoid attacking certain objectives, such as bridges, when many civilians were likely to be in the vicinity), were not sufficient to stop further civilian deaths. The changes that NATO says were made were basic precautions that should have been incorporated from the start of the campaign in order to ensure that NATO's Rules of Engagement did not allow for breaches of the laws of war.

One way to balance the risks to civilians with those to the attackers is illustrated by A.P.V. Rogers, former Director of the UK Army Legal Services:

> "If the target is sufficiently important, higher commanders may be prepared to accept a greater degree of risk to the aircraft crew to ensure that the target is properly identified and accurately attacked. No-risk warfare is unheard of. Risks may be taken, for example, to rescue pilots who have been shot down or in deploying forces on reconnaissance or target identification missions in enemy-held territory.
>
> However, if the target is assessed as not being worth that risk and a minimum operational altitude is set for their protection, the aircrew involved in the operation will have to make their own assessment of the

[16] "Moral Combat - NATO at War", broadcast on BBC2 on12 March 2000.

> risks involved in verifying and attacking the assigned target. If their assessment is that (a) the risk to them of getting close enough to the target to identify it properly is too high, (b) that there is a real danger of incidental death, injury or damage to civilians or civilian objects because of lack of verification of the target, and (c) they or friendly forces are not in immediate danger if the attack is not carried out, there is no need for them to put themselves at risk to verify the target. Quite simply, the attack should not be carried out."[17]

NATO forces are also under a legal obligation to warn civilians of imminent attacks whenever possible. According to Additional Protocol I: "Effective warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit." (Article 57, 2(c)). Yet NATO officials told Amnesty International in Brussels that as a general policy they chose not to issue warnings, for fear that this might endanger the crew of attacking aircraft. Given all the other measures taken in order to avoid NATO casualties (including high-altitude bombing), one might question whether sparing civilians was given sufficient weight in the decision not to give warnings. Nor does the consideration of pilot safety explain why there was no warning to civilians when Cruise missiles were used in attacks.

3.5 The use of specific weapons

Civilian casualties have also been caused by the decision to use certain types of weapons. For example, the use of cluster bombs near civilian concentrations, as was done in the bombing of Niš on 7 May (see below), appears to be an example of failure to take proper precautions in choice of weapons.

On the question of cluster munitions, deputy NATO spokesperson Peter Daniel said,

> "Cluster bombs are valid munitions which are very effective against forces on the ground. Sometimes cluster munitions are not effective and so we use other munitions. ..[W]e take every precaution to avoid unintended damage when we use cluster munitions at all. In fact, ... we prefer precision guided munitions any time we can use them. This is in keeping with our aim to avoid collateral damage as much as possible."[18]

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[17] "Zero-casualty warfare", A.P.V. Rogers, *International Review of the Red Cross* No. 837, 31March 2000.

[18] NATO press conference, 15 May 1999.

Cluster weapons are not banned under international law, but they do present a high risk of violating the prohibition of indiscriminate attack. In addition, cluster weapons present a humanitarian issue due to their high dud rate (NATO officials acknowledged to AI that the rate is approximately five per cent). This means that unexploded sub-munitions are a continued threat to anyone who comes into contact with them. According to some press accounts, thousands of unexploded canisters are still, one year after the conflict, left on the ground in Kosovo alone. Many of these bomblets are embedded beneath the surface of the soil and are not easily detected. Between June 1999 and mid-March 2000, 54 people reportedly had been killed in Kosovo by unexploded cluster bomblets and landmines.[19]

Another munition used by NATO which appears to pose a long-term threat to civilians and the environment is depleted uranium (DU) ordnance. NATO officials told Amnesty International in Brussels that NATO aircraft, in particular A-10 Warthog ground-attack aircraft, fired 31,000 DU rounds during the campaign. Some studies suggest that DU dust, which remains in the vicinity of targets struck by DU ordnance, poses a significant health risk if inhaled or ingested.[20]

The use of depleted uranium munitions is not prohibited by international law and Amnesty International does not oppose their use *per se*. However, pending conclusive studies on the long-term health and environmental effects of the deployment of this weapon, Amnesty International is concerned about the possible health risks of an indiscriminate nature which DU munitions may in fact pose. Article 35 (3) of Additional Protocol I prohibits "methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment." Also, Article 35 (2) prohibits the use of "weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering." Furthermore, according to Article 36, "In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party."

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[19] "Death Lurks in the Fields" by Jonathan Steele, *The Guardian*, 14 March 2000.

[20] See, for example, *Depleted Uranium, a Post-War Disaster for Environment and Health*, Laka Foundation, May 1999. For news reports on the use of DU in Kosovo see, "The Trail of a Bullet" by Scott Peterson, *The Christian Science Monitor*, 5 October 1999 and "Exposed: The Deadly Legacy of NATO Strikes in Kosovo" by Robert Fisk, *The Independent*, 4 October 1999.

3.6 Intelligence and the principle of distinction

The ability to discriminate successfully between military objectives and civilians or civilian objects is crucial in complying with the requirements of international humanitarian law. Accurate intelligence is critical if civilian casualties are to be minimized, especially in the case of a campaign fought from the air at high altitudes and using long-range weapons.

Unfortunately, NATO appears to have focussed on the planning phase, almost as if it assumed that circumstances would not change or that a change in circumstances (for example, civilians coming near the target) need not be taken into account. In some instances, mistakes were made even in the planning phase. When the means of attack preclude confirmation by the attacking force that the intended target is indeed a military objective, reliance on faulty or old intelligence can have lethal consequences. Two such examples which resulted in civilian deaths are examined in some detail below: the 13 May bombing of displaced Kosovar Albanians in Koriša (Korishë) and the 8 May attack on the Chinese Embassy in Belgrade.

A particularly striking NATO intelligence failure occurred on 21 May when NATO aircraft bombed an army barracks Košare (Koshare) in western Kosovo, close to the Albanian border, killing and wounding a number of KLA fighters (the KLA reported that seven had been killed and 25 injured.) The KLA had captured the barracks from the Yugoslav Army a few weeks before the NATO attack.

In the NATO press conference on 22 May, NATO spokesperson Jamie Shea stated the following with regard to this incident:

> "It was until very recently in the hands of the Yugoslav army but it appears that it was then subsequently taken over by the UÇK [KLA]. So I am now aware, I have seen reports, but I can't confirm any number of casualties. But let me be clear, if we had known in a very dynamic situation, particularly where the UÇK is extremely active in that part, that it had been captured by the UÇK then it would have been taken off the target list."

However, the KLA had a very active presence in the Košare area at this time, and had captured the barracks several weeks before. This fact had been reported in the international press[21], and a number of reporters and television crew had visited the building

[21] See "A Fighting Chance", by Massimo Calabre and James L. Graff, *Time* Magazine, 17 May 1999.

under KLA escort. In addition, it appears that NATO had already been informed of the position on the ground. A journalist who had recently visited Košare wrote:

> "For more than a month beforehand, regular reports on who controlled which bits of this mountain were fed to NATO on a satellite fax link from the rebels based at Košare.
>
> It also appears that international officers with a nearby observation point of the Organisation for Security and Cooperation in Europe (OSCE) sent the same reports. NATO acted on these reports, bombing Serb units just outside the rebel enclave to help the KLA push its units further into Kosovo. NATO yesterday refused to comment on how one part of the organisation could have had this knowledge and not passed it to another part, something they said would be 'tightened up' following the Chinese embassy bombing[...] Visiting Košare two days before, I was told by KLA officers that they frequently sent NATO targeting information on Serb units opposing them."[22]

Although the Košare barracks clearly was not a civilian object, the fact that NATO had not removed it from the target list following its capture by the KLA, despite published reports about its new status, casts doubt on the alliance's ability to properly identify targets, discriminate between military objectives and civilians and civilian objects and take account of any changes in the status of a targeted military objective.

After the end of the bombing campaign, as the FRY forces withdrew from Kosovo and NATO forces entered, questions were immediately raised about the accuracy of NATO intelligence even in relation to the military objectives it said it had successfully attacked. International reporters who visited Kosovo during and after the bombings have suggested that NATO significantly over-estimated the extent of the damage it had inflicted on the FRY military. In Djakovica, for example, many of the damaged military vehicles left at an army base were found to have been discarded old wrecks: "NATO's warplanes had not destroyed Yugoslavia's front-line fighting vehicles, but rather a junkyard," reported Steven Lee Myers of *The New York Times* on 28 June1999.

Journalists also reported that NATO had hit a lot of dummy targets across Kosovo. Richard Norton-Taylor wrote in *The Guardian* (London) on 30 June that far from having destroyed the 300 FRY tanks it had originally claimed, NATO was now not contradicting the FRY government assertion that only 13 tanks had been destroyed: "NATO soldiers

[22] "NATO appears to blunder along with eyes closed", Chris Stephen, *The Irish Times*, 24 May 1999.

found huge numbers of dummy tanks made of wood, as well as fake bridges and false roads made of black plastic. Despite repeated attacks on Priština's airfield, MIG21s were unscathed, hidden in underground hangars."

After the withdrawal from Kosovo of FRY forces, NATO maintained that it had destroyed 110 tanks, 210 armoured fighting vehicles, 449 pieces of artillery and mortar equipment. NATO has subsequently concluded that it destroyed 93 Serb tanks (only 26 of this total were physically located and documented by NATO's Kosovo strike assessment team), 153 armoured personnel carriers, 339 military vehicles and 389 artillery and mortar pieces. [23]

Press accounts, however, suggested that far less military hardware and weaponry had been destroyed than even NATO's reduced claims. Robert Fisk of *The Independent* reported that NATO officers were "astonished that thousands of Yugoslav tanks, missile launchers, artillery batteries, personnel carriers and trucks have been withdrawn from the province with barely a scratch on them."[24]

The US magazine *Newsweek* reported, in its 15May 2000 issue, that Pentagon officials had suppressed a US Air Force (USAF) damage report that found that the number of Serb targets verifiably destroyed was a fraction of those claimed by NATO. The USAF investigators who reportedly spent weeks in Kosovo are said to have found that NATO aircraft had destroyed 14 tanks, 18 armoured personnel carriers, and 20 artillery pieces.

The picture that has emerged in the aftermath of the air campaign thus raises questions about the accuracy of NATO intelligence and the extent to which NATO bombing in fact achieved its stated aim of degrading the FRY military capacity. It reinforces the questions that Amnesty International had already put to NATO -- in the context of civilian casualties -- about its selection and vetting of targets. For it now appears that despite its rhetoric, NATO was, in some instances, not able to assess whether it was attacking genuine military targets or not, and that some of its own assessments of battle damage were erroneous. In such a context, the risk of indiscriminate attack against civilians becomes all the greater, and the need for more effective safeguards to be instituted in any future campaign becomes all the more important.

[23] Press Conference on the Kosovo Strike Assessment, General Wesley K. Clark, Supreme Allied Commander, Europe (SACEUR) and Brigadier General John Corley, Chief, Kosovo Mission Effectiveness Assessment Team, 16 September 1999.

[24] Robert Fisk, "Serb army 'unscathed by NATO'", *The Independent*, London, 21 June 1999.

3.7 NATO and the media: rhetoric vs reality

During the air campaign, at daily press briefings at NATO headquarters in Brussels, NATO continued to stress that it made every possible effort to avoid civilian casualties, that it concentrated only on legitimate military objectives and used high-precision weaponry to ensure accuracy. Numerous air strikes had been aborted and planes had returned to base, NATO said, on the basis of pilots' assessments that civilians were at risk. Yet despite the safeguards against civilian casualties that NATO said were in place, incidents continued to be reported in which large numbers of civilians were killed.

In some cases, NATO admitted that it had made mistakes, but always said that it had not intentionally targeted civilians. It attributed some mistakes to faulty intelligence; others it blamed variously on bad weather and poor visibility, faulty weapons which had missed their targets, mistakes by pilots in deciding whether vehicles were military or civilian in nature, and the use of human shields by the FRY authorities to create civilian casualties when facilities were bombed. NATO's admissions of "mistakes" were almost always presented in the context of the gross human rights violations committed by FRY forces in Kosovo, which had precipitated the NATO campaign in the first place.

NATO spokesperson Jamie Shea insists that NATO's policy was to be as open as possible with the press. "We didn't try to evade responsibility. We owned up pretty quickly to our mistakes," he told Amnesty International in Brussels. But in many instances, no clear answers about troubling incidents were forthcoming.

The French magazine *le Nouvel Observateur* reported that an unnamed NATO General explained that NATO had a policy of deliberately withholding relevant information. "For dealing with unfortunate mistakes, we employed a fairly effective tactic." the General reportedly said. "Most often we knew the precise causes and consequences of these errors. But in order to quiet public opinion we would say that we were conducting an inquiry, that there were several possible explanations. We would only reveal the truth two weeks later, when it no longer interested anyone. Public opinion needs to be worked on, as well."[25]

In addition, NATO attempted to present its "mistakes" as being very few in number, given the overall scale of what it projected as an otherwise highly successful, well-targeted campaign to significantly weaken FRY military capacity. At the US Department of Defence (USDoD) briefing of 2 June 1999, US Major General Chuck Wald said: "Of all the bombs we've dropped, 99.6 percent have actually hit the target out of the 20,000 bombs."

[25] Rien ne s'est passé comme prévu", Vincent Jauvert, *le Nouvel Observateur* (N° 1808), 1 July 1999.

This statement was criticized by military analysts such as Anthony Cordesman, of the Center for Strategic and International Studies in Washington, DC. He pointed out that General Wald's figures take into account only a handful of incidents involving politically-sensitive "collateral damage" such as the bombing of the Chinese Embassy in Belgrade.[26] NATO has since referred to Human Rights Watch's estimate of 90 incidents in which civilians were killed. That figure too only represents a fraction of the number of attacks that went astray but did not end up killing civilians.

It has been reported that only about one-third of the weapons used in the air campaign were precision-guided munitions.[27] NATO officials in Brussels told Amnesty International that about 70 per cent of the precision-guided weapons used by its forces struck the desired point of impact.

3.8 Investigation and redress for victims

Amnesty International wrote to NATO during Operation Allied Force and asked that it investigate several attacks detailed in this report. The organization received no information from NATO about investigations. When asked during the February 2000 meeting whether NATO ever conducted investigations, officials in Brussels told Amnesty International that internal investigations of several attacks had been pursued. However, they added that they did not consider it "useful" to disclose their findings or release details of the forces involved. They added that no criminal or disciplinary measures were taken against those involved in the attacks that were investigated. The US Central Intelligence Agency (CIA) subsequently disclosed, in April 2000, that several CIA officials were disciplined for their role in misidentifying the location of the Chinese Embassy in Belgrade, resulting in the killing of civilians.

NATO has stated that they do not have access to Serbia and therefore have not been able to conduct reviews of civilian casualties caused by the bombings. But this has not impeded other types of reviews of the effects of the bombing such as the US Department of Defence's Kosovo After Action Report. And it does not explain why investigations akin to that conducted into the bombing of the Chinese Embassy in Belgrade were apparently not conducted into other, less politically sensitive instances of civilian deaths caused by NATO attacks.

[26] Anthony Cordesman, *The Lessons and Non-Lessons of the Air and Missile War in Kosovo*, the Center for Strategic and International Studies, Washington, DC, September 1999.

[27] Anthony Cordesman, *The Lessons and Non-Lessons of the Air and Missile War in Kosovo*, the Center for Strategic and International Studies, Washington, DC, September 1999.

NATO members are under an obligation to redress any violations of the laws of war that its forces have committed, including by paying compensation to the victims as required by Article 91 of Protocol I. As NATO does not appear to have made a serious effort to investigate possible violations, victims have not received redress. In the case of the Chinese Embassy, the US government paid compensation to the victims and their families, and to the Chinese government for the damage to the embassy building, but without acknowledgement of legal liability. This remains to date the only instance in which any form of compensation has been paid.

4. Conclusions and Recommendations

Amnesty International believes that in the course of Operation Allied Force, civilian deaths could have been significantly reduced if NATO forces had fully adhered to the laws of war.

NATO did not always meet its legal obligations in selecting targets and in choosing means and methods of attack. In one instance, the attack on the headquarters of Serbian state radio and television (RTS), NATO launched a direct attack on a civilian object, killing 16 civilians. Such attack breached article 52 (I) of Protocol I and therefore constitutes a war crime. In other attacks, including the Grdelica railroad bridge, the automobile bridge in Lužane, and Varvarin bridge, NATO forces failed to suspend their attack after it was evident that they had struck civilians, in contravention of Article 57 (2) (b) of Protocol I. In other cases, including the attacks on displaced civilians in Djakovica and Koriša, insufficient precautions were taken to minimize civilian casualties.

Although both NATO and its member states have declared their commitment to the rules of international humanitarian law, France, Turkey and the US are not yet parties to Protocol I and NATO has no mechanism to ensure a common interpretation of such rules that reflects the highest standards of international humanitarian law. NATO's command structure also appears to contribute to confusion over legal responsibility.

Decision making processes on target selection and assignment indicate that disagreements over the lawfulness of certain attacks did not prevent such attacks from taking place. Also, aspects of the Rules of Engagement, specifically the requirement that NATO aircraft fly above 15,000 feet, made full adherence to international humanitarian law virtually impossible. According to NATO officials, changes were made to the Rules of Engagement, including lifting the 15,000 feet rule, following the 14 April 1999 attack near Djakovica and the 30 May 1999 bombing of Varvarin Bridge. These changes were a recognition that existing precautions did not afford sufficient protection to civilians. But by 30 May hundreds of civilians had been killed in NATO air raids. NATO was under a legal

obligation to implement fundamental precautions from the start of the campaign, rather than prioritizing the safety of its aircraft and pilots over protecting civilians, including those civilians on whose behalf it said it was intervening.

The use of certain weapons, particularly cluster bombs, may have contributed to causing unlawful deaths. Similarly, the apparent preeminence given by NATO to intelligence in the planning phase rather than throughout the conduct of an attack, and serious mistakes in intelligence gathering, seem to have led to unlawful deaths.

The confidential nature of any investigation and the reported absence of measures against any NATO personnel cast doubt on NATO's commitment to getting to the bottom of specific incidents in accordance with international law. In one case only, the bombing of the Chinese Embassy in Belgrade, were the results of an investigation disclosed, compensation paid and disciplinary measures taken against those found to be responsible. The impression that these measures were taken in that instance primarily because of political reasons is inescapable.

Waging a coalition war is a complex endeavour and the judgments required of military planners and soldiers engaged in combat are particularly difficult. NATO must draw lessons from Operation Allied Force that go beyond what new weapons their arsenals require and provide guidance on how to maximize the protection of civilians, as required by international humanitarian law. The most powerful military alliance in the world cannot afford but to set the highest standard of protection in this regard. In light of the above, Amnesty International makes the following recommendations:

Ratification and interpretation of international humanitarian law standards

1. NATO should publicly commit itself to abide by the highest standards of international humanitarian law, including the 1977 Protocol I Additional to the Geneva Conventions of 12 August 1949, and to ensure a common interpretation of such standards among its member states which would provide maximum protection for civilians against the effects of conflict.

2. NATO and its member states should institute or maintain effective training programs for their military forces in the practical observance of the highest standards of international humanitarian law, in particular the obligations set out in Protocol I .

3. France, Turkey and the United States should ratify, without reservations, all relevant international humanitarian law treaties, in particular Protocol I. NATO member states already party to such treaties should withdraw any reservations they have made.

Command structure

4. NATO should clarify its chain of command so that there are clear lines of responsibility, known within and outside the organization, for each state and each individual involved in military operations conducted under its aegis.

Rules of Engagement

5. NATO's Rules of Engagement must ensure full compliance with the highest standards of international humanitarian law, in particular the obligations set out in Protocol I. The Rules of Engagement should be common to all member states and made public to the maximum extent possible.

Use of cluster weapons and depleted uranium weapons

6. NATO and its member states should ensure that cluster weapons are not used in the vicinity of civilian concentrations. As a humanitarian matter, NATO member states involved in KFOR should urgently assist the effort to clear unexploded sub-munitions from cluster weapons used in Operation Allied Force.

7. NATO and its member states should also investigate and cooperate fully with independent investigations of the possible long-term health and environmental risks posed by the use of depleted uranium weapons. They should also consider suspending the use of these weapons pending the outcome of such investigations.

Investigation and prosecution of violations of international humanitarian law

8. NATO should establish a body to investigate credible allegations of violations of international humanitarian law in the course of Operation Allied Force, including the cases in this report, as well as in any future military operation. In performing this task, NATO should consider calling on the services of the International Fact-Finding Commission established under Article 90 of Protocol I and provide it with all necessary assistance. The methods and findings of this investigation should be made public and used to assist any prosecution that may appear appropriate.

9. NATO member states must bring to justice any of their nationals suspected of being responsible for serious violations under international humanitarian law, in particular grave breaches of Protocol I, in line with international standards for fair trial and without the possibility of the death penalty. Those member states with inadequate national legislation

to ensure the full criminal enforcement of international humanitarian law should introduce such legislation without delay.

10. Other states should exercise their obligations to conduct criminal investigations of anyone suspected of grave breaches of international humanitarian law during Operation Allied Force. If there is sufficient admissible evidence and the suspect is within their jurisdiction, such states should prosecute or extradite the suspect to another state willing and able to hold a fair trial without the possibility of the death penalty.

11. The International Criminal Tribunal for the former Yugoslavia should investigate all credible allegations of serious violations of international humanitarian law during Operation Allied Force with a view of bringing to trial anyone against whom there is sufficient admissible evidence. States should surrender to the Tribunal any suspect sought for prosecution by the Tribunal.

Redress for the victims

12. NATO should ensure that victims of violations of international humanitarian law receive adequate redress, including compensation through a mechanism set up for this purpose. NATO member states should also ensure that their own national laws allow any such victim to seek redress through civil actions.

5. Case Studies

The precise number of civilians who died as a result of NATO air attacks is not known. Yugoslav estimates of civilian deaths are contradictory. Some official public estimates put the number of civilian deaths in "the thousands." *NATO Crimes in Yugoslavia (The White Book)*, published by the FRY Ministry of Foreign Affairs, is the most detailed official account of the damage caused by the NATO bombing. It lists around 400 civilians killed in over 40 incidents involving civilian fatalities, although it seems clear from the text of *The White Book* that it does not represent a complete list of all civilians killed in the NATO bombing. Reuters reported on 23 March 2000 a new FRY government estimate of 1,002 army and police known to have either died or gone missing. The government did not make clear whether this was only during the air strikes. According to Human Rights Watch, between 489 and 528 Yugoslav civilians were killed in 90 incidents.

NATO has not made public any estimate of civilian casualties. NATO officials told Amnesty International in Brussels that they could not assess the civilian toll because they do not have access to the FRY. But they have not disclosed any estimate of civilian casualties from NATO attacks in Kosovo either. NATO officials have characterized Human Rights Watch's figure of 90 incidents involving civilian deaths as reasonable and they have not disputed their estimate of 500 civilians killed.

In testimony to the US House of Representatives in July 1999, Assistant Secretary of Defence John Hamre referred to 30 incidents involving fatal "collateral damage", but did not give an estimate of civilians killed. In September 1999, General Joseph W. Ralston, Vice Chairman of the US Joint Chiefs of Staff, said: "Over Kosovo, only one side suffered. Despite the weight of bombs dropped, Serbian civilian casualties were amazingly light, estimated at less than 1,500 dead. More importantly, this was accomplished with near total impunity. Only two NATO aircraft were lost, and both pilots were quickly recovered."[28] He did not give any indication of how he arrived at that estimate of civilian deaths.

Many questions remain unanswered about the precise circumstances of many NATO attacks. NATO's refusal to reveal more details of its Rules of Engagement and its withholding of other crucial operational details also preclude a proper assessment of compliance with international law in specific incidents. For example, NATO has not released a complete list of attacks by its forces. And it has not disclosed information about specific attacks such as the type of aircraft, type of weapons and munitions, available intelligence, or the nationalities of attacking and supporting aircraft.

[28] "Aerospace Power and Military Campaigns", a speech delivered by General Joseph W. Ralston, Vice Chairman of the US Joint Chiefs of Staff, at the Air Force Association (AFA) Policy Forum, 14 September 1999.

Nevertheless, there are instances where sufficient information is available to conclude that violations did occur. In other cases, it remains an open question whether NATO adhered to its obligations under international humanitarian law.

The summaries of the incidents given below do not provide an exhaustive list of attacks which may have been unlawful or a complete list of attacks which resulted in civilian deaths. In many cases where Serb sources claimed that civilian targets had been hit, NATO simply denied that they had targeted such a site, or said that the facility had not been used only for civilian purposes. For example, in April 1999 reporters asked NATO to confirm that its forces had hit a number of factories which belonged to relatives of President Slobodan Milošević. NATO denied that it had selected any targets on this basis, saying either that it had no report of any such site having been hit, or that a cigarette factory, for example, was in fact producing "something having to do with ammunition".[29] In the absence of further information, Amnesty International cannot assess whether such facilities constituted legitimate military targets or not.

The cases included below, ordered chronologically, were selected because there is evidence that civilians were victims of either direct or indiscriminate attacks, in violation of international humanitarian law. These attacks do not amount to a comprehensive list of problematic incidents, but Amnesty International believes that they illustrate a broad range of concerns about NATO's conduct of the bombings.

5.1 Attack on Grdelica railroad bridge, hitting passenger train: 12 April

On 12 April, a civilian passenger train crossing a bridge in Grdelica, southern Serbia, was hit by two bombs. The attack took place in the middle of the day. At least 12 civilians reportedly died.[30] NATO admitted that its aircraft had bombed the bridge and hit the train, but said that the target had been the bridge itself and that the train had been hit accidentally. At a press conference on 13 April, General Clark, Supreme Allied Commander, Europe (SACEUR), explained that the pilot's mission had been to destroy the railroad bridge. He launched the weapon from a distance of several miles unaware that the train was heading towards the bridge:

[29] NATO press conference, 21 April 1999. A day previously, NATO spokesperson Jamie Shea had said at the press conference, "I'm generally not aware that NATO struck a cigarette plant, I haven't seen that on any of the reports on targets that we have struck."

[30] Human Rights Watch reports that 20 were killed, a figure which includes five persons whose remains were unidentified and three missing persons.

> "All of a sudden at the very last instant with less than a second to go he caught a flash of movement that came into the screen and it was the train coming in. Unfortunately he couldn't dump the bomb at that point, it was locked, it was going into the target and it was an unfortunate incident which he, and the crew, and all of us very much regret."

General Clark then gave the following account of how the pilot returned to drop another bomb on the bridge, striking the train again, even though he had realized that he had hit the train instead of the bridge in the first attack.

> "The mission was to take out the bridge.... He believed he still had to accomplish his mission. He put his aim point on the other end of the bridge from where the train had come, by the time the bomb got close the bridge was covered with smoke and clouds and at the last minute again in an uncanny accident, the train had slid forward from the original impact and parts of the train had moved across the bridge, and so that by striking the other end of the bridge he actually caused additional damage to the train."

The video of the cockpit view of both attacks was shown at the press conference on 13 April. Several months later it was reported in Germany's *Frankfurter Rundschau* newspaper that this video was shown at three times speed, giving the impression to viewers that the civilian train was moving extremely fast.[31] According to press reports, the US air force attributed the speeded-up film to a technical fault, which they discovered months after the videotape was shown but they did not consider it useful to publicly disclose this information after it was uncovered. Jamie Shea, NATO spokesperson, told Amnesty International in Brussels that, due to the volume of videotape that analysts had to review each day during the campaign, the tapes were speeded up to facilitate viewing. He said that the press office was at fault for clearing the tape for public screening without slowing it down to the original speed.

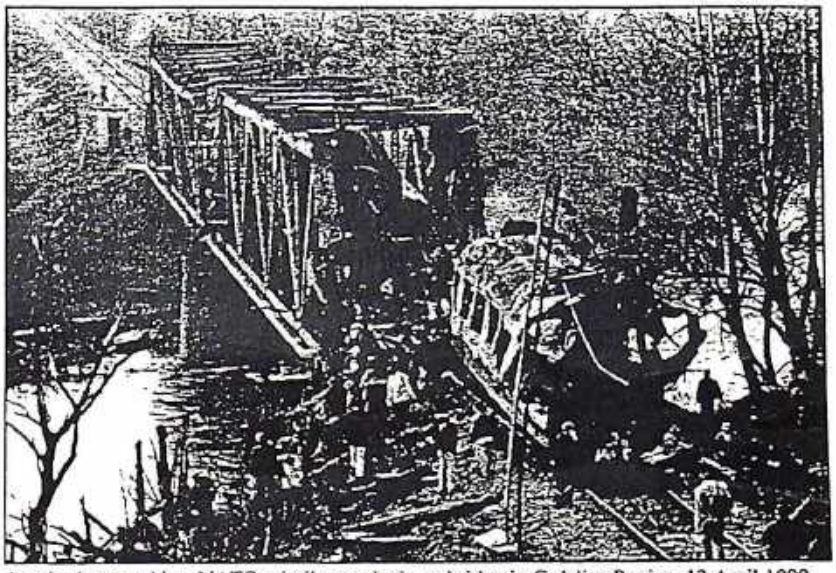
NATO's explanation of the bombing -- particularly General Clark's account of the pilot's rationale for continuing the attack after he had hit the train -- suggests that the pilot had understood the mission was to destroy the bridge regardless of the cost in terms of civilian casualties. This would violate the rules of distinction and proportionality.

Also, NATO does not appear to have taken sufficient precautionary measures to ensure that there was no civilian traffic in the vicinity of the bridge before launching the first attack. The attacking aircraft -- or another aircraft -- could have overflown the area to

[31] Agence France-Presse, 5 January 2000

ascertain that no trains were approaching the bridge. Had it done so, it might have been able to wait until the train had crossed before launching the attack.

Yet, even if the pilot was, for some reason, unable to ascertain that no train was travelling towards the bridge at the time of the first attack, he was fully aware that the train was on the bridge when he dropped the second bomb, whether smoke obscured its exact whereabouts or not. This decision to proceed with the second attack appears to have violated Article 57 of Protocol I which requires an attack to "be cancelled or suspended if it becomes clear that the objective is a not a military one ... or that the attack may be expected to cause incidental loss of civilian life...which would be excessive in relation to the concrete and direct military advantage anticipated. " Unless NATO is justified in believing that destroying the bridge at that particular moment was of such military importance as to justify the number of civilian casualties likely to be caused by continuing the attack -- an argument that NATO has not made -- the attack should have been stopped.



A train destroyed in a NATO missile attack sits at bridge in Grdelica Ravine, 12 April 1999. © Reuters

Further questions about this attack were raised in the *New York Times* on 14 April, which reported that while NATO officials had refused to name the type of weapon or aircraft involved, officials in Washington had said that the plane had been an American F-15E, firing an AGM-130 bomb. General Clark had only referred to the aircraft pilot as being involved, but the F-15E carries a crew of two: the pilot and a weapons officer who controls the bombs. According to this report, the AGM-130 is at first guided by satellite, but as it nears its target, the pilot or weapons officer can guide it, using a video image. One reporter's account cited witnesses as identifying the attacking aircraft as a Harrier jet, which

hovered within sight of the bridge before firing the second missile.[32] Other witnesses reported that two additional bombs were dropped on an adjacent highway bridge.[33] NATO has never mentioned that this attack struck the highway bridge.

On 15 April 1999 Amnesty International called on NATO to conduct an inquiry into this attack. NATO officials who met with Amnesty International delegates in Brussels said they were not aware of the second bomb being dropped by the pilot. Assistant Secretary General Buckley said that if General Clark's account is that the pilot fired a second time at the bridge, it must mean that there was an internal investigation and the pilot was cleared.

5.2 Attacks on a convoy of ethnic Albanians near Djakovica: 14 April

Over 70 ethnic Albanian civilians were reported to have been killed and as many as 100 wounded when NATO planes fired upon their convoy in the vicinity of Djakovica (Gjakovë), Kosovo, on 14 April. The circumstances surrounding the attack remain somewhat unclear. It appears that NATO aircraft dropped bombs on internally displaced persons at four different locations near Djakovica over a two-hour period. It took NATO five days to give their definitive account of what had happened and the handling of the public inquiries led to a revamping of the press operation at NATO headquarters with the support of media specialists mainly from the UK. Their final public version of the incident, however, still raises many serious questions about compliance with the rules of war.

Officials from the alliance initially attributed the incident to Serbian forces. A few hours after the incident, Pentagon spokesperson Kenneth Bacon referred to reports that Yugoslav aircraft had been used to attack convoys of internally displaced ethnic Albanians in Kosovo.

Then at the press conference in Brussels on the following day, 15 April, NATO General Marani admitted that NATO forces had been responsible for the attack on the convoy and expressed regret for the loss of life, but provided inconsistent information. It was suggested at the same time that one or two attacking aircraft were involved. At the press conference, NATO played an audio recording of an unidentified pilot's account of how he had dropped a bomb on what he believed to be a military vehicle. General Marani introduced the recording as a "tape [which] gives the description of what may be this

[32] Robert Fisk, *The Independent*, 7 February 2000.

[33] Ministry of Foreign Affairs of Federal Republic of Yugoslavia, *The White Book (vol 1)*.

incident." There was also confusion about the precise location of this attack, or even about whether more than one attack in different locations near Djakovica had taken place.

At NATO's press conference the following day, 16 April, NATO spokesperson Jamie Shea affirmed that there was only one incident which may have resulted in civilian casualties and that it had occurred north of Djakovica. He invited journalists to seek explanations from Belgrade with regard to other incidents near Djakovica on 14 April, the sites of which had been visited by international journalists the day after the attacks took place.

International journalists found physical evidence as well as eyewitness accounts which gave a different picture of the nature of the attack from that given by NATO. For example, it appeared that there had not been just one attack on one site, but attacks at up to four sites during the day. Eyewitnesses were reported describing several aircraft descending to bomb, circling, and then returning to dive-bomb again. Reporters also believed that some of the physical evidence at the sites indicated that cluster bombs had been used in the area.[34]

The victims were ethnic Albanians, many of whom had been forced from their homes by Serb forces, and who were trying to leave Kosovo. Tractors and wagons had been destroyed, and reports indicated that there was no evidence of any military vehicles having been among them. Survivors interviewed said they had no Serb escorts.[35] NATO suggested, however, that as reporters only visited the scene a day or two after the attacks took place, such evidence might have been removed.

At NATO headquarters on 17 April, General Marani refused to respond to questions about how many attacks NATO planes had carried out in the area concerned or how many bombs had been dropped, pending the completion of NATO's investigation of the matter. There was also confusion about how the account given in the audio recording of the pilot related to the attack or attacks in question. After a Pentagon spokesperson stated that the audio recording actually referred to an attack on a military vehicle and was not related to this attack which resulted in civilian casualties,[36] General Marani explained on 18 April that

[34] Paul Watson, "Cluster bombs may be what killed refugees", *Los Angeles Times* 17 April 1999,

[35] Robert Fisk, "This atrocity is still a mystery to NATO ...", *The Independent*, 17 April 1999; Paul Watson ("Searching for answers in a tragedy", *Los Angeles Times*, 16 April 1999) states "None of the survivors interviewed confirmed NATO's claim that military vehicles were trying to hide in their long convoy". Amnesty International's own information, obtained from witnesses, confirms this.

[36] Captain Pietropaoli, DoD News Briefing, Saturday, 17 April 1999.

the tape was played solely to provide an example of the type of procedures that a pilot goes through when making such an attack:

> "The pilot tape was brought here because the intention was to clarify what was the procedure of a pilot involved in an action of that type, what he was taking care of, what he was saying and because that tape was clear and was available it was brought to you to tell you what that type of attack was like."

NATO finally presented the results of its investigations to the press on 19 April. Brigadier General Daniel P. Leaf said that there had been two separate target areas which were hit. The first was northwest of Djakovica, where "NATO aircraft struck the ... target area with two bombs, and may have hit a civilian-type vehicle ... associated with the burning of houses". The second area was on the main road to the south east of Djakovica, towards Prizren, where "they struck the lead elements of the convoy". The vehicles had appeared to be military, but NATO said it was possible that there were civilian casualties at both locations.

The Brigadier General stated that several aircraft were involved, none of which descended to low altitude during their attacks. He said Serb anti-aircraft artillery with a range of 13,000 feet fired at the aircraft. He also said that all bombs used were GBU-12 laser-guided bombs.

Attack northwest of Djakovica

Rather puzzlingly in light of the comments that had been made in the previous days about the audio tape, Brigadier General Leaf said that the attack northwest of Djakovica was carried out by the pilot whose recording had been played to the press on 14 April, with a 500 pound GBU-12 laser-guided bomb. "From the altitudes [the pilot] was operating at [the vehicle which he witnessed setting houses on fire] appeared to be a military-style vehicle and matched those travelling with it as a small convoy". The Brigadier General then showed some video taken by an unmanned aerial vehicle (UAV) of the result of this attack (before the second pilot dropped his bomb) which showed the damaged vehicle and other vehicles and also a C-shaped building.

The second pilot then arrived and visually assessed the target area for over 10 minutes. He saw "what appeared to be large vehicles in the courtyard of the C-shaped complex and made the determination that they were likely to be military vehicles". He attacked them with a single bomb of the same type as used in the first attack. The Brigadier General pointed out a large secondary explosion evident on the video, indicative of a

flammable substance such as gasoline being present in the structure. He pointed out that there had been reports that Serbs had been hiding gasoline in their homes which they used to refuel their vehicles and burn Kosovar property. He then played the Serb TV video showing the destroyed trucks and "what appear to be tractor-type vehicles" in the vicinity of the C-shaped building. This attack ended, he said, about 45 minutes after it started. His assessment was that this attack struck "a valid military target ... a vehicle directly involved in the burning of houses".

The Yugoslav government *White Book* states that after the first missile was fired, the survivors in the column abandoned the vehicles and ran for refuge towards a nearby house. The NATO pilots then struck this house and its adjoining buildings, farm machinery and vehicles in the yard. More civilians were killed here and others fled to the woods.

This account is consistent with testimony taken by Amnesty International from survivors of the bombing near Meja, who had reached Albania. They indicated that the column involved in the Meja incident included people from the villages around Dobroš (Dobrosh) who had been forced to leave their homes by Serbian police the previous day, as well as others who had fled their homes earlier and had joined the column for security. At least one witness described the column that was hit as being between 200 and 300 metres long, but part of a far larger convoy made up of cars and tractors.

Although their accounts offer some conflicting details, none mention that there were military vehicles or police accompanying the column. Most recounted that, when they had reached Meja, a single bomb hit the first tractor in the column and its trailer, wrecking it and killing a number of people. Most of the witnesses described either hearing or seeing a high-flying aircraft at the time of the attack.

All agree that there was a police presence in Meja, and that within a few minutes of the first explosion a small number of police officers in uniform arrived. These officers told the people that NATO was attacking and told them to take shelter in a nearby house.

However, another witness reported that she had already taken her children to seek shelter in the house before the arrival of the police. The police then left and the people, who according to witnesses' estimates numbered between 100 and 300 people, remained inside or in the yard. The yard itself held about seven tractors but no one described seeing military vehicles in the area. Two of the witnesses claimed that the police had been stationed in the house, but others do not mention this.

After a period of between 10 and 30 minutes there was a second attack, described by one witness as "a harsh bombardment" during which more bombs fell on and near the house. Estimates of the number of those killed vary widely, with most people saying that

they themselves had seen five, eight or 10 bodies at this time, but believed that there were many more. Many people fled to the hills behind the house and took shelter there, returning to the road after an hour or two. More police officers had arrived in the meantime and collected the bodies of the dead and wounded, which the witnesses believed were transferred to hospital in Djakovica.

Attack southeast of Djakovica

Meanwhile, at the second site, according to Brigadier General Leaf's account, another pilot was investigating a large convoy of over 100 vehicles to establish whether or not it was military. He decided it was, on the basis that the first 20 vehicles were "uniform in shape and colour as seen from the air. They were maintaining a set spacing and pace, characteristics of military movement". The identification of the target was discussed with Airborne Command Control and Communications (ABCCC), and because of a risk that there might be internally displaced persons within the convoy, they "took additional precautions to validate their target" by means which Brigadier General Leaf did not disclose. NATO aircraft then dropped a series of bombs on the targets about half an hour after the end of the attack on the first site.

After several bombs had been dropped, ABCCC asked for the target to be verified again, because the combined air operations centre in Italy had pointed out that Serb forces did not generally travel in such large convoys. Further attacks were suspended after about 40 minutes while the verification was carried out by aircraft whose crew were able to view the site with binoculars. It was established that there were "definitely military vehicles in there", but that there were also multi-coloured and possibly civilian vehicles among them. The attack was thus terminated about an hour after it started.

In conclusion, the Brigadier General stated:

> "I cannot explain the bodies seen on Serb TV... we did not have observers on the ground or at the site... it's unlike in a peacetime environment where we have full access to the accident scene; we can only speculate on their association with our attacks. There may have been unforeseen casualties; however, the nature of our exhaustive process to positively identify targets and their association to military or repressive acts remains a key factor that led our pilots to conclude the targets were in fact contributing to Serb military or paramilitary activities."

He did, however, acknowledge that in this second incident NATO "may well have caused damage to a civilian vehicle and harm to civilian lives". But he added that "Serb

reports claimed 80-plus dead, but reporters saw only approximately 20 victims, many of whom did not appear to be victims of bombings".

He stated that there was evidence that the Serbs had attacked this column as well. In support of this he cited "numerous reports from the area of the large convoy [southeast] of Djakovica [which] showed [that] refugees died from machine gun and mortar wounds. He said also that "refugee interviews conducted by ... OSCE revealed [that] Serbian forces attacked a refugee convoy in the vicinity of Djakovica. The refugees reported attacks by low-flying MIG-type aircraft expending cluster munitions and grenades thrown from helicopters." But, he said, in this attack NATO aircraft did not fly at low altitude, expended no cluster munitions and used no helicopters.

He also referred to witnesses in the region who "relayed that they observed a refugee column being attacked by Serb mortars" at the same time as the second site was being attacked by NATO.[37] Some survivors interviewed several months afterwards persisted in their view that the attack was carried out by Serbs, because they could not believe that NATO would have attacked their convoy.[38] Human Rights Watch states that no evidence was produced to indicate Serb responsibility for any of the deaths.[39]

Brigadier General Leaf also referred to witnesses who believed that the Serbs had used the convoy as a human shield, positioning police and military vehicles at the front. Referring to the "government-sponsored media tour of the area southeast of Djakovica" which took place a full day later,[40] he stated that the 24-hour delay would have allowed sufficient time for Serb forces to remove any military vehicles or personnel from the area.

The Yugoslav government's *White Book* refers to attacks on the road south of Djakovica at Terzijski Most near the village of Bistražin (Bistrazhin), and at Gradiš (Gradishë) and some other locations, giving names and details of those killed and injured. A retrospective article written by a British journalist several months later after a follow-up

[37] Robert Fisk, "Convoy of the Damned", *The Independent*, 28 November 1999, states that these reports emanated from CNN, but that the people concerned were never interviewed live.

[38] Robert Fisk,"Convoy of the Damned", *The Independent*, 28 November 1999.

[39] Human Rights Watch, *Civilian Death in the NATO Air Campaign*, February 2000, p.22.

[40] But Paul Watson ("Searching for answers ...", *Los Angeles Times*, 16 April), states explicitly that his visits to the four sites – one northwest of Djakovica, at Meja on Wednesday afternoon 14 April, the same day as the bombing, and three southeast of Djakovica the next morning, Thursday 15 April, were neither escorted nor controlled by government officials.

visit to the area[41] refers to attacks at Bistražin and Gradiš . In the Yugoslav government's description of these attacks the weapons used are described simply as missiles launched from NATO planes. The notes of the inspection of the various sites, and the injuries on the bodies (shrapnel wounds and explosive injuries), do not give any clear indication as to whether cluster bombs were believed to have been used.

Reports also indicate that there may indeed have been military vehicles intermingled with the convoy; others go so far as to suggest that the convoy was being deliberately used as a human shield. An OSCE report is not conclusive in this respect:

> "Sometimes interviewees may have been used as human shields but did not recognize it from their perspective. Yugoslav authorities frequently accompanied convoys of IDPs [internally displaced persons] with military materiel and personnel, a practice which may have been motivated by the desire to protect such equipment during its movements. At times, NATO, when targeting such materiel and personnel, hit civilians instead. As was very widely publicized internationally, on 14 April NATO bombed convoys of IDPs at two locations close to Djakovica/Gjakova town (Meja/Meje and Bistražin/Bistrazhin). The presence of military vehicles accompanying the convoy at Meja may indicate that people in the convoy were being used as human shields.
>
> On that day, several villages in Djakovica municipality near the border zone were emptied by Serbian forces and the Kosovo Albanian population was escorted in convoys to Djakovica town. At the time, a convoy of Kosovo Albanians escorted at front and rear by military vehicles proceeded towards Djakovica. NATO observed the collections of displaced people and a series of burning buildings, and decided to fire on vehicles it thought carried those responsible for committing the acts. As recounted by an interviewee who had fled Paçaj [Počaj] village with his family when they saw other villages burning in the neighbourhood, he was at Meja when an explosive device hit a tractor. Following this event, some villagers were ordered back to their villages, but police ordered a group containing the interviewee into a large three-storey building nearby, using also its garage. After about 15 minutes this location was again targeted, and at least seven civilians were killed. It is possible the displaced people were intentionally herded into the building because the Serbian forces were aware that it could become the subject

[41] Robert Fisk, "Convoy of the Damned", *The Independent*, 28 November 1999.

> of an attack. Approximately one hour later, the convoy of refugees, possibly the one described above, was wrongly identified by NATO as being VJ and was fired upon twice near Bistražin, resulting in numerous casualties".[42]

A journalist who interviewed several witnesses and survivors some months later stated that one witness at that time recalled some army vehicles mixed up with the civilian convoy - "... The army were always moving. They were bound to get mixed up with the refugee convoys". Another stated "the [Yugoslav] army moved through convoys so NATO wouldn't hit them".[43]

Regardless of whether there were military vehicles within the convoy of ethnic Albanian civilians, the civilians in the convoy should have been protected. Article 50(3) of Protocol I provides, "The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character."

NATO's accounts do not suggest that its aircraft believed that the convoys of displaced civilians were being used to shield Serb military. Rather they mistook the convoy for a military column. The mistake stemmed from a failure to institute sufficient precautions to be able to distinguish between civilians and military objectives. The 15,000-feet rule effectively made it impossible for NATO aircrew to respect the fundamental rule of distinguishing between military objectives and civilians or civilian objects.

Despite NATO having previously said that the high altitude maintained by its pilots for their own protection did not affect the accuracy of their targeting, in this instance it was suggested that altitude had indeed been a factor in misidentifying the convoy in the second incident. During the 19 April press briefing, Brigadier General Leaf said:

> "as we watch these videos on the large display in the comfort of this room, it appears possible the vehicles are tractor type vehicles. As I reviewed the tapes with the pilots, they agreed. However, they were emphatic *from the attack altitude* to the naked eye they appeared to be military vehicles..." [emphasis added].

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[42] *An analysis of the human rights findings of the Kosovo Verification Mission: October 1998 to June1999*, Organization for Security and Cooperation in Europe (OSCE).

[43] Robert Fisk, "Convoy of the Damned", *The Independent*, 28 November 1999.

In an interview in a BBC television documentary General Michael Short elaborated on pilots' reactions to the Djakovica bombings:

> "They came back to me and said, 'We need to let the forward air controllers go down to 5,000 feet. We need to let the strikers go down as low as 8,000 feet and in a diving delivery, to ensure that they verify their target, and then right back up again to 15,000 feet. We think that will get it done. We acknowledge that that increases the risk significantly, but none of us want to hit a tractor full of refugees again. We can't stand that'."[44]

In the February 2000 meeting in Brussels with Amnesty International, NATO officials confirmed that following the Djakovica bombings aircrew were required to visually ascertain that there were no civilians in the vicinity before attacking a target of opportunity.

One obvious question is whether it is ever possible to distinguish reliably between a tractor and a military vehicle at a distance of 15,000 feet (5km/3 miles). Indeed, according to NATO's own account, the second attack was called off when the slower aircraft were able to view the site through binoculars -- which, it was implied, the faster bombers could not do. This suggests that NATO operational procedures may well have contributed to an indiscriminate attack, in breach of international humanitarian law. The fact that, in the wake of this incident, NATO said that it changed operational directives by ordering pilots to visually ascertain that no civilians are in the vicinity when identifying a target, raises the question of why such essential precautions were not implemented from the outset of the campaign.

5.3 Serbian state television and radio: 23 April

In the early morning of 23 April, NATO aircraft bombed the headquarters and studios of Serbian state television and radio (*Radio Televisija Srbije* -- RTS) in central Belgrade. There was no doubt that NATO had hit its intended target. The building was occupied by working technicians and other production staff at the time of the bombing. There were estimated to be at least 120 civilians working in the building at the time of the attack.[45] At

[44] "Moral Combat - NATO at War", broadcast on BBC2 on12 March 2000.

[45] Inter Press Service (IPS), "NATO and Serbian TV Accused of Rights Crimes", 19-26 October 1999.

least 16 civilians were killed and a further 16 were wounded. A news broadcast was blacked out as a result. RTS broadcasting resumed about three hours after the bombing.

At the press conference later that day, NATO's Colonel Konrad Freytag placed this attack in the context of NATO's policy to "disrupt the national command network and to degrade the Federal Republic of Yugoslavia's propaganda apparatus". He explained: "Our forces struck at the regime leadership's ability to transmit their version of the news and to transmit their instruction to the troops in the field." In addition to housing Belgrade's main television and radio studios, NATO said the building "also housed a large multi-purpose communications satellite antenna dish."[46]

On the day of the attack Amnesty International publicly expressed grave concern, saying that it could not see how the attack could be justified based on the information available which stressed the propaganda role of the station. The organization wrote to NATO Secretary General Javier Solana requesting "an urgent explanation of the reasons for carrying out such an attack." In a reply dated 17 May, NATO said that it made "every possible effort to avoid civilian casualties and collateral damage by exclusively and carefully targeting the military infrastructure of President Milošević". It added that RTS facilities "are being used as radio relay stations and transmitters to support the activities of the FRY military and special police forces, and therefore they represented legitimate military targets".

At the Brussels meeting with Amnesty International, NATO officials clarified that this reference to relay stations and transmitters was to other attacks on RTS infrastructure and not this particular attack on the RTS headquarters. They insisted that the attack was carried out because RTS was a propaganda organ and that propaganda is direct support for military action. The fact that NATO explains its decision to attack RTS solely on the basis that it was a source of propaganda is repeated in the US Defence Department's review of the air campaign, which justifies the bombing by characterizing the RTS studios as "a facility used for propaganda purposes." No mention is made of any relay station.[47]

In an interview for a BBC television documentary, UK Prime Minister Tony Blair reflected on the bombing of RTS and appeared to be hinting that one of the reasons the station was targeted was because its video footage of the human toll of NATO mistakes, such as the bombing of the civilian convoy at Djakovica, was being re-broadcast by Western media outlets and was thereby undermining support for the war within the alliance.

[46] NATO press conference, with Jamie Shea and Colonel Konrad Freytag, 23 April 1999.

[47] US DoD, *Kosovo/Operation Allied Force After Action Report*, submitted to Congress 31 January 2000.

"This is one of the problems about waging a conflict in a modern communications and news world...We were aware that those pictures would come back and there would be an instinctive sympathy for the victims of the campaign".[48]

The definition of military objective in Article 52(2) of Protocol I, accepted by NATO, specifies that

> "military objectives are limited to those objects which by their nature, location, purpose or use make an *effective contribution to military action* and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a *definite military advantage."* [emphasis added]

Amnesty International recognizes that disrupting government propaganda may help to undermine the morale of the population and the armed forces, but believes that justifying an attack on a civilian facility on such grounds stretches the meaning of "effective contribution to military action" and "definite military advantage" beyond the acceptable bounds of interpretation. Under the requirements of Article 52(2) of Protocol I, the RTS headquarters cannot be considered a military objective. As such, the attack on the RTS headquarters violated the prohibition to attack civilian objects contained in Article 52 (I) and therefore constitutes a war crime.

The authoritative ICRC *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* interprets the expression "definite military advantage anticipated" by stating that "it is not legitimate to launch an attack which only offers potential or indeterminate advantages."[49] More recently the commentary on the German Military Manual states, "If weakening the enemy population's resolve to fight were considered a legitimate objective of armed forces, there would be no limit to war." And, further on, it says that "attacks having purely political objectives, such as demonstrating military power or intimidating the political leaders of the adversary" are prohibited.[50]

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[48] "Moral Combat - NATO at War", broadcast on BBC2 on12 March 2000.

[49] ICRC *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, para 2209.

[50] Stefan Oeter, "Methods and Means of Combat" in *Handbook of Humanitarian Law in Armed Conflict*, Dieter Fleck, ed. Oxford University Press 1995.

British Defence doctrine adopts a similar approach: "the morale of an enemy's civilian population is not a legitimate target".[51]

It is also worth recalling in this context the judgment of the International Military Tribunal in Nuremberg in 1946 in the case of Hans Fritzsche, who served as a senior official in the Propaganda Ministry of the Third Reich, including as head of its Radio Division from November 1942. The prosecution asserted that he had "incited and encouraged the commission of War Crimes by deliberately falsifying news to arouse in the German People those passions which led them to the commission of atrocities." The Tribunal acknowledged that Fritzsche had shown in his speeches "definite anti-Semitism" and that he had "sometimes spread false news", but nevertheless found him not guilty. The Tribunal concluded its judgment in this case as follows:

> "It appears that Fritsche [sic] sometimes made strong statements of a propagandistic nature in his broadcasts. But the Tribunal is not prepared to hold that they were intended to incite the German People to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged. *His aim was rather to arouse popular sentiment in support of Hitler and the German war effort.*"[52] [emphasis added]

On the issue of the legitimacy of attacking a television station in general, reference has been made to a list of categories of military objectives included in a working document produced by the ICRC in 1956, the Draft Rules for the Limitations of Dangers incurred by the Civilian Population in Time of War.[53] In paragraph (7) the list included "The installations of broadcasting and television stations". However, the French text of the Draft

[51] Doubts about the lawfulness of attacking an object on propaganda grounds have been expressed, with specific reference to the RTS headquarters, by George Aldrich, who headed the US delegation at the diplomatic conference that led to the adoption of Protocol I: "[I]f the television studios ... were targeted merely because they were spreading propaganda to the civilian population, even including blatant lies about the armed conflict, it would be open to question whether such use could legitimately be considered an effective contribution to military action." See "Yugoslavia Television Studios as Military Objectives", in *International Law FORUM du droit international*, Volume I, No.3, September 1999, p.150.

[52] *American Journal of International Law*, Volume 41 (1947), p.328.

[53] See for example, Human Rights Watch, *Civilian Deaths in the NATO Air Campaign*, February 2000, p. 26. The list is referred to in the ICRC Commentary on the Additional Protocols, paragraph 2002, note 3.

Rules made clear that such installations must be of "fundamental military importance."[54] Also, Article 7 of the Draft Rules stated that even the listed objects cannot be considered military objectives if attacking them "offers no military advantage".

Whatever the merit of the Draft Rules, it is doubtful that they would have supported the legitimacy of the attack on the RTS headquarters. In any case the Draft Rules were discussed at the 1957 International Conference of the Red Cross, for which they had been prepared, but in the following years the approach of drawing up lists of military objectives was abandoned in favour of the approach eventually adopted by Protocol I in Article 52.

The attack on the RTS headquarters may well have violated international humanitarian law even if the building could have been properly considered a military objective. Specifically, that attack would have violated the rule of proportionality under Article 51(5)(b) of Protocol I and may have also violated the obligations to provide effective warning under Article 57(2)(c) of the same Protocol.

Article 51(5)(b) prohibits attacks "which may be expected to cause incidental loss of civilian life ... which would be excessive in relation to the concrete and direct military advantage anticipated." The ICRC Commentary specified that "the expression 'concrete and direct' was intended to show that the advantage concerned should be substantial and relatively close, and that advantages which are hardly perceptible and those which would only appear in the long term should be disregarded."[55] NATO must have clearly anticipated that civilians in the RTS building would have been killed. In addition, it appears that NATO realized that attacking the RTS building would only interrupt broadcasting for a brief period. SACEUR General Wesley Clark has stated: "We knew when we struck that there would be alternate means of getting the Serb Television. There's no single switch to turn off everything but we thought it was a good move to strike it and the political leadership agreed with us".[56] In other words, NATO deliberately attacked a civilian object, killing 16 civilians, for the purpose of disrupting Serbian television broadcasts in the middle of the night for approximately three hours. It is hard to see how this can be consistent with the rule of proportionality.

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[54] The text of this paragraph in French is "Les installations des stations de radiodiffusion et de télévision, les centres téléphoniques et télégraphiques d'intérêt essentiellement militaire." In the English version, a semi-colon was inserted after the word "stations": "The installations of broadcasting and television stations; telephone and telegraph exchanges of fundamental military importance."

[55] ICRC *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, para 2209.

[56] "Moral Combat - NATO at War", broadcast on BBC2 on 12 March 2000.

Article 57(2) (c) of Protocol I requires that "Effective warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit." Official statements, issued prior to the RTS bombing, on whether NATO was targeting the media were contradictory. On 8 April, Air Commodore Wilby stated that NATO considered RTS as a "legitimate target in this campaign" because of its use as "an instrument of propaganda and repression". He added that radio and television would only become "an acceptable instrument of public information" if President Milošević provided equal time for uncensored Western news broadcasts for two periods of three hours a day.[57] And on the same day, General Jean Pierre Kelche, French armed forces chief, said at a press conference, "We are going to bust their transmitters and their relay stations because these are instruments of propaganda of the Milošević regime which are contributing to the war effort."[58]

But at the NATO press conference on the following day (9 April), when asked by a reporter for a clarification of NATO's policy on media in the FRY NATO spokesperson Jamie Shea said: "...whatever our feelings about Serb television, we are not going to target TV transmitters directly...in Yugoslavia military radio relay stations are often combined with TV transmitters but we attack the military target. If there is damage to the TV transmitters, it is a secondary effect but it is not the primary intention to do that." Jamie Shea also wrote to the Brussels-based International Federation of Journalists on 12 April that "Allied Force targets military targets only and television and radio towers are only struck if they are integrated into military facilities...There is no policy to strike television and radio transmitters as such."

It appears that the statements by Wilby and Shea came after some members of the media had been alerted to the fact that an attack on the television station had already been planned. According to Eason Jordan, the President of CNN International, in early April he received a telephone call from a NATO official who told him that an attack on RTS in Belgrade was under way and that he should tell CNN's people to get out of there. Jordan told the official that loss of life at RTS would be significant and, given the short notice, unavoidable. The official persuaded NATO to abort the mission (apparently half an hour before the plane would have reached its target). Jordan believes that NATO's subsequent

[57] NATO press conference, 8 April 1999.

[58] Press conference of the (French) Minister of Defence and the Chief of Staff of the Armed Forces, 8 April 1999. (French original: "Et donc, nous avons décidé de nous en prendre aux relais radio, aux émetteurs radio, aux relais télévision, aux émetteurs télévision, car ces outils-là sont des outils de propagande de la part du régime de Monsieur Milošević, et qui vont dans le sens de la poursuite du combat.")

public threats against Serbian "propaganda" organs were made in order to minimize civilian casualties in a future attack.[59]

John Simpson, who was based in Belgrade for the BBC during the war, was among the foreign correspondents who received warnings from his headquarters to avoid RTS after the aborted attack. He believes that it was in response to the spreading of rumours about the aborted attack among the foreign media in Belgrade, that NATO issued the statements cited above.[60]

UK Prime Minister Tony Blair blames Yugoslav officials for not evacuating the building. "They could have moved those people out of the building. They knew it was a target and they didn't. And I don't know, it was probably for, you know, very clear propaganda reasons ... There's no point–I mean there's no way of waging war in a pretty way. It's ugly. It's an ugly business."[61]

Amnesty International does not consider the statement against official Serbian media made by Air Commodore Wilby two weeks before the attack to be an effective warning to civilians, especially in light of other, contradictory statements by NATO officials and alliance members. As noted above, Western journalists have reported that they were warned by their employers to stay away from the television station before the attack, and it would also appear that some Yugoslav officials may have expected that the building was about to be attacked.[62] However, there was no warning from NATO that a specific attack on RTS headquarters was imminent. NATO officials in Brussels told Amnesty International that they did not give a specific warning as it would have endangered the pilots.

Some accounts in the press have suggested that the decision to bomb RTS was made by the US government over the objections of other NATO members. According to the writer Michael Ignatieff, "within NATO command allies were at loggerheads: with British lawyers arguing that the Geneva Conventions prohibit the targeting of journalists and television stations, and the US side arguing that the supposed 'hate speech' broadcast by

[59] Communication to Amnesty International from Eason Jordan, President, CNN International, 8 March 2000.

[60] Amnesty International interview with John Simpson, 31 January 2000.

[61] "Moral Combat - NATO at War", broadcast on BBC2 on 12 March 2000.

[62] See:"Death of a Makeup Girl" by Julian Manyon, in *The Guardian*, 30 April 1999, and "Des victimes du bombardement de la television serbe par l'Otan se retournent contre Sobodan Milosevic", *Le Monde*, 1 November 1999.

the station foreclosed its legal immunity under the conventions." Due to the disagreement on the legality of the target "the British refused to take part in the bombing of the Serbian television station."[63] Others have reported French objections to the attack. Human Rights Watch has reported that an attack on RTS that was to take place on 12 April was postponed due to "French disapproval of the target."[64]

At the Brussels meeting a NATO official told Amnesty International that one nation judged RTS to be a legitimate target, without specifying the country in question. If this information is correct, it empties of all practical meaning NATO officials' assertion that a target deemed illegal by one nation would not be reassigned to another member. The case of RTS appears to indicate that NATO's way of dealing with such objections was to carry on bombing controversial targets without the participation of members who objected to the specific attacks. However, if in fact the UK or other countries did object and abstain from participating in this attack, they may not be absolved of their responsibility under international law as members of an alliance that deliberately launched a direct attack on a civilian object.

5.4 Civilian bus and ambulance hit at Lužane: 1 May

At about 1pm on Saturday, 1 May, a civilian bus was blown in half on a bridge in Lužane (Luzhanë), about 20 kilometres north of Priština, Kosovo. It was a scheduled bus service, running south from Niš to Priština. One half of the bus fell some 60 feet onto a riverbank below. Tanjug, Yugoslavia's official news agency, said that 40 people had been killed.[65] Two victims were dressed in military uniform, but the others appeared to be civilians, including children. The attack caused minimal damage to the bridge itself.[66]

The air raid continued after the bus had been hit. Ambulances which were returning from the wreckage of the bus towards Priština hospital were delayed when bombs exploded at the Jug Bogdan bridge about two miles away at 1.51pm, and then at a smaller, parallel bridge at 1.55pm. One ambulance reportedly was hit by shrapnel from the explosions; one

[63] Michael Ignatieff, "Virtual War", *Prospect*, April 2000.

[64] Human Rights Watch, *Civilian Deaths in the NATO Air Campaign*, February 2000, p. 26.

[65] The same figure is given in the news item issued by the Yugoslav Army Press Centre, 2 May 1999. A later assessment put out by the FRY Ministry of Foreign Affairs on 1 July put the toll at 60 deaths and 13 injured, but the *White Book (vol 2)* gives a figure of 39 killed and 13 injured.

[66] Paul Watson, "Nato bombs civilian bus, causing scenes of horror", *Los Angeles Times*, 2 May 1999.

of its medical crew was injured. These two further explosions were witnessed by a group of journalists.[67]

At the NATO press conference on 2 May Colonel Freytag said:

> "Unfortunately on one of our attacks on Saturday unintended damage occurred and NATO aircraft carried out one single attack against the Lusana Bridge north of Priština. This was a legitimate military target on a key north-south resupply route for the Federal Republic of Yugoslavia military and special police operations between Priština and Podujevo. ..."

Then, in a statement reminiscent of General Wesley Clark's description of the bombing on the Grdelica railroad bridge two weeks earlier, he said:

> "... Unfortunately, after weapons release a bus crossed in the bridge [sic] but was not seen by the pilot whose attention was focussed in his aim point during weapon trajectory. He did not target the bus and there was no intention to harm civilians, and any loss of innocent life is regretted."[68]

When asked about casualties, Colonel Freytag said

> "... when you see the hit of the bridge *and how the bus is running into it*, you must assume there were casualties if there were passengers on board that bus, at least the driver or some others but we do not have any evidence about the casualties, we have only seen the same pictures on TV as you have seen, ... that can only be verified on the ground." [emphasis added]

The bombing of these bridges again raises concerns that NATO did not take the precautionary steps necessary to avoid civilian casualties. The bridge at Lužane was on the main road between Niš, Serbia's second largest city, and Priština, the capital of Kosovo. Like the railroad bridge that had been attacked on 12 April, this road is regularly used by civilian traffic, yet the bridges were attacked in the middle of the day, when the likelihood of causing civilian injuries would be much greater. Furthermore, NATO gave no indication

[67] Paul Watson, "Nato bombs civilian bus, causing scenes of horror", *Los Angeles Times*, 2 May 1999.

[68] NATO Press Conference, 2 May 1999.

as to whether the pilots had attempted to ensure that no civilian traffic was in the area prior to launching the weapons.

Indeed, Colonel Freytag's statements suggest that the pilots have their eyes fixed on the target and if anything civilian gets in the way that is not their concern. When asked whether there is any way to undertake operations such as the destruction of bridges during the night so that buses and trains are not struck, he replied:

> "... we did not target the bus as we have not targeted earlier the train. We target bridges and I am sure that the Serb authorities know that these bridges are of extreme value to their lines of communications *and when they allow public traffic over these bridges, then they risk a lot of lives of their own citizens*." [emphasis added].

At the Brussels meeting in February 2000 with Amnesty International, NATO spokesperson Jamie Shea said that this incident is still very unclear. He said that there was fighting activity in the area of the bridge and that Serb forces may have somehow been involved in the damage to the bus. Shea said NATO was not certain that it had hit the bus, but if it did it was a mistake.

5.5 Market and hospital at Niš hit by cluster bombs: 7 May

At around mid-day on Friday, 7 May, cluster bombs landed in two residential areas of Niš in Serbia, around the market place near the centre of town and near a hospital several blocks away.[69] News reports at the time referred to two bombs which scattered bomblets (submunitions) over this wide area.[70] According to the FRY government's *White Book*, 14 people were killed, and about 30 injured. International correspondents who visited the scene saw unexploded cluster bomb submunitions still lying in the gardens of people's homes, posing a continuing threat to civilian lives.[71] The bombs fell on a busy part of town

[69] The distance between the market and hospital has been variously estimated at between 500 metres (official Web site of the city of Niš) to 1.5 kilometres (according to *The Independent*) to 4 kilometres (according to Human Rights Watch). Human Rights Watch has estimated that the distance from the airfield to the market place is more than 1.5 kilometres.

[70] Julian Manyon "NATO cluster bombs leave trail of death", *The Independent* 8 May 1999; CNN: "Yugoslavia says NATO cluster bombs kill 10 in Niš", 7 May 1999.

[71] "NATO bombs hit hospital", BBC News, 7 May 1999. Nearly 11 months after the bombing of Niš, Reuters reported that a 70 year old man was killed in Niš, on 4 April 2000, when a submunitions from a cluster bomb exploded while he was gardening.

at a time when people were out in the streets and at the market, not protecting themselves in the bomb shelters where they had spent the night. According to a Serbian news source, this was the 14th attack on Niš, the third within 10 hours, and the first to have taken place in daylight hours.[72]

On 8 May, at the daily press briefing NATO "confirmed that the damage to the market and clinic was caused by a NATO weapon which missed its target." It also confirmed that cluster bombs had been used in this attack. NATO said that the strike had been aimed at Niš airfield, to destroy Serbian aircraft parked there as well as air defence systems and support vehicles, these being "targets to which cluster munitions are appropriately suited". It expressed regret at the loss of civilian life.



A man screams in despair in front of his house after a NATO daylight air raid over the town of Niš, 7 May 2000. © Reuters

Responding to a journalist's question, Major General Jertz said that "cluster bombs are used in aerial targets where we know that collateral damage could not occur," a statement which belies the evidence in this instance. The General did not know why some of the clusters missed their target, speculating that there could have been a technical malfunction, "or they could have been inadvertently released".

At the Pentagon later that day, Kenneth Bacon, in response to a question, stated that "We believe it was a weapons malfunction, but we don't know the full details". He also stated:

> "After every attack and particularly after there's a, in this case, a bomb that landed where we didn't intend it to, there's a review that's completed. Very, very comprehensive. Takes a lot of time. ... So ... [t]hey've

[72] "Aggressor's atrocious crime", Serbia Info News, 7 May 1999

probably gone through the whole mission to make sure they understand why that happened, whether it would be a system error, whether it be a mechanical error, whether it be human error. And they will then do whatever they can to correct it, and they will get the word out to everybody else that flies in that mission. And they will change the way they deliver things, if they have to. I've seen things changed in mid-course. I've seen modifications to aircraft be made in mid-course in operations just because we found out something. Or individual aircraft that may have had a problem. So everything that can be done will be done and it's very comprehensive. Takes a lot of effort. So if anything can be changed to make it better that we won't have a problem like that in the future, that will be taken into consideration. On the other hand, we'll continue to fly missions."[73]

The fact that cluster weapons were used on a target in proximity to a civilian area, and at a time of day when civilians were on the streets and most likely to be harmed, raised serious concerns as to whether NATO was indeed taking the proper steps to distinguish between military targets and civilians and civilian objects, and whether it was taking all the necessary precautions to ensure that civilians were not put at risk. The daytime attack on 7 May killed civilians at two locations that were not in the immediate vicinity of the airfield. However, there are residential buildings very close to the perimeter of the airfield, in the suburb of Medoševac.[74] Several of these houses were damaged in a NATO attack on the airfield that took place around 3am on 7 May. According to *The White Book*, three civilians were injured in this attack.

On 11 May 1999, Amnesty International wrote to NATO Secretary General Javier Solana asking whether these factors had been considered in planning the attack and the choice of munitions. Again, in response NATO reiterated its general commitment to uphold international humanitarian law, and to "make every possible effort to avoid civilian casualties and collateral damage".

Four days before this incident, Jamie Shea had told the press that on the night of 2 May, the electrical transformer yard at Niš had been hit, and that the command, control and communications capabilities of the 3rd Yugoslav Army headquartered at Niš had been "degraded significantly". He continued: "I want you to know -- and I want to stress this --

[73] DoD News Briefing, Saturday 8 May 1999

[74] According to Agence France-Presse (AFP), Medoševac is within 150 metres of the airfield. See "Sorrow and rage in Niš, as NATO raids kill 15", 7 May 1999.

that NATO forces took the utmost care to ensure that important civilian facilities like hospitals had redundant power capabilities and that they had therefore the back-up transformers to keep their systems running through these power outages...". Within days of that statement, however, the hospital itself was hit.

Even if the casualties at Niš resulted from technical malfunction or error, as Major General Jertz suggested might have been the case, this would not mean that no violation of international humanitarian law had taken place. As already stated, Article 57 of Protocol I requires precautionary measures to be taken to spare civilians. These include taking "all feasible precautions in the choice of means and methods of attack" to avoid, or at least minimize, loss of civilian life, and refraining from deciding to launch an attack which "may be expected to cause incidental loss of civilian life...which would be excessive in relation to the concrete and direct military advantage anticipated." The use of cluster bombs and the fact that the attack was made at a time of day when civilians were bound to be present, suggests that NATO may have failed to ensure that the necessary precautionary measures were taken in this instance, in violation of the laws of war.

According to Human Rights Watch, a US executive prohibition on the further use of cluster bombs was issued shortly after the killing of civilians in Niš.[75] But this does not explain why cluster bombs were being used near civilian concentrations in the first place. NATO officials in Brussels could not confirm to Amnesty International that the US stopped using cluster munitions after this incident. NATO did confirm reports that the UK forces participating in Operation Allied Force continued to drop cluster bombs at least until 4 June. NATO Assistant Secretary General Buckley told Amnesty International that US and UK forces were using different types of cluster bombs. The UK cluster bombs (RBL 755) were not malfunctioning and continued to be used by the Royal Air Force (RAF).[76]

The use of cluster bombs is not prohibited by international law. But Amnesty International believes that in this instance, NATO failed to meet its obligations to take necessary precautions by using cluster weapons in the vicinity of civilian concentrations, thereby violating the prohibition of indiscriminate attacks under Article 51(4) and (5) of Protocol I.

[75]Human Rights Watch, *Civilian Deaths in the NATO Air Campaign*, February 2000.

[76]According to the UK Ministry of Defence, British forces dropped 532 RBL 755 bombs during the campaign. Each RBL 755 contains about 100 bomblets. According to the US DoD, US forces dropped 1100 cluster bombs (CBU-87) – each containing about 200 bomblets (US DoD News briefing, 22 June 1999).

5.6 Attack on the Chinese Embassy in Belgrade: 8 May

A B-2 aircraft attacked the Chinese Embassy in Belgrade in the early hours of Saturday, 8 May 1999 killing three and wounding more than 20 people. NATO said it was a mistake and expressed deep regret. The intended target had not been the Chinese Embassy, but the Federal Directorate for Supply and Procurement in Belgrade. Although the location of the Chinese Embassy had been targeted, NATO had erroneously believed this to be the site of the Federal Directorate. Faulty intelligence had led it to bomb a civilian target by mistake.

At the NATO press Conference on 10 May 1999, Jamie Shea said that NATO was undertaking a comprehensive review of operational procedures and the targeting databases, and had taken action to ensure no repetition of such an error. However, he did not comment on targeting policy as such. His statement confirmed what US Secretary of Defence William S. Cohen and George J. Tenet, director of the Central Intelligence Agency (CIA), had said in a joint statement issued on 8 May. They had expressed their regret at the bombing, and said that "faulty information led to a mistake in the initial targeting of this facility. In addition, the extensive process in place used to select and validate targets did not correct this original error". They believed such a mistake would not happen again.

On 10 May, Defence Secretary Cohen gave a news briefing in which he described further the errors involved. He said that the bombing instructions had been based on an outdated map, and that there had been a failure to locate correctly the actual target on the maps. The intended target -- the Procurement Directorate -- was in fact close to the Chinese Embassy, but the maps being used had shown the Embassy to be in a different part of town. Furthermore, an intelligence official said that the database used when targeting contained no record of the move of the Chinese Embassy to its new site in Belgrade. Cohen stressed that NATO had conducted around 18,000 sorties, including some 4,036 strike sorties, and that in only about a dozen had unintended casualties been involved. Far more harm to civilians had been inflicted by President Milošević, he said.[77]

Although faulty maps and an incomplete database had been blamed for the error, Cohen stressed that the bombing would continue uninterrupted, even before these resources could be corrected. The intelligence failure that led to the bombing of the Chinese Embassy appeared to confirm Amnesty International's fears that NATO was not taking sufficient safeguards in selecting and vetting targets for attack.

[77] DoD News Briefing, May 10 1999.

In October 1999 the UK newspaper *The Observer* carried a report asserting that the bombing of the Chinese Embassy was intentional and not an accident.[78] The report cited senior military and intelligence sources in Europe and the US as divulging that the Chinese Embassy was acting as a re-broadcast station for the Yugoslav army after the military's own transmitters were destroyed by NATO bombing.

However, the US Department of Defence review of Operation Allied Force, issued in January 2000, reiterated that the bombing was an accident: "The bombing of the Chinese Embassy in Belgrade was entirely unintended. It was the result of a failure in the process of identifying and validating proposed targets. The headquarters of the Yugoslav Federal Directorate of Supply and Procurement was a legitimate military target, but the technique used to locate it was severely flawed. None of the military or intelligence databases used to validate targets contained the correct location of the Chinese Embassy. Nowhere in the target review process was a mistake detected."[79] NATO officials, at their meeting with Amnesty International in Brussels, insisted that the bombing was an accident.

NATO's stated failure to properly identify the Chinese Embassy resulted in striking a civilian object and killing civilians. While not all errors incur legal responsibility under international humanitarian law, all indications are that the very basic information needed to prevent this mistake was publicly and widely available at the time. It would appear that NATO failed to take the necessary precautions required by Article 57(2) of Protocol I.

In April 2000, the CIA announced that it had "taken a number of personnel actions" in response to the recommendations of its Accountability Board. The statement explained that for reasons of security and privacy, they would not divulge what measures were taken. But it was reported in the press that the CIA dismissed one employee whose inaccurate information had led to the bombing of the embassy. Six additional CIA staff members reportedly were reprimanded for their part in the misidentification.[80]

In its public statement, Bill Harlow, director of the CIA's Department of Public Affairs, said that blame for the "tragic accident" was widespread. "Numerous CIA officers at all levels of responsibility failed to ensure that the intended bombing target ... had been properly identified and precisely located before CIA passed a target nomination package to the US military for action ... While we can never undo the mistakes that led to the

[78] *The Observer*, "NATO bombed Chinese deliberately," 17 October 1999.

[79] US DoD, *Kosovo/Operation Allied Force After Action Report*, submitted to Congress 31 January 2000.

[80] "CIA Fires Official over Embassy Bombing", Associated Press, 9 April 2000.

bombing, we are satisfied that the CIA has stood up ... and taken appropriate responsibility for our mistakes," Harlow said.[81]

An article published in *The New York Times* one week after the CIA's public statement provided a detailed account of the factors which may have contributed to the error and suggested that officials outside the CIA shared responsibility for the mistake. Representative Porter J. Goss, chairman of the US House of Representatives' Permanent Select Committee on Intelligence, which investigated the embassy bombing, told the paper: "It was a systemic problem. It was not a problem just at the CIA. The fact of the matter is that, at least at the Pentagon, somebody should stand up and say it isn't just the agency's fault. To fire one person and let off all the other agencies -- including the White House -- isn't doing justice to justice."[82]

This is the only case in which Amnesty International is aware that a member of the alliance has taken disciplinary measures against those found to be responsible for causing unlawful civilian deaths in the campaign. And it is the only instance in which a NATO member has paid compensation to the victims and their families and reparations for damage to buildings. These measures were taken after prolonged and intense diplomatic pressure from China, which had, after the bombing, suspended talks with the US on arms control, human rights, security and trade issues.

5.7 Ethnic Albanian civilians bombed at Koriša: 13 May

At 11.30pm on 13 May 1999, three NATO aircraft bombed the village of Koriša (Korishë), killing a large number of displaced ethnic Albanians who were sheltering there. Tanjug, the official Yugoslav news agency, put the death toll at 87, with 78 people wounded. The Yugoslav *White Book (vol 2)* states that 48 were killed (mostly children, women and the elderly) and at least 60 wounded. Human Rights Watch reported that more than 48 people definitely died in the attack, but was unable to give a conclusive death toll for this incident. Numerous tractors in which they had been travelling were destroyed or damaged in the attack. Yugoslav sources stated that 11 of the injured were children under 15. NATO could not confirm the casualty figures reported in the media.[83]

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[81] "Statement by Bill Harlow, Director of Public Affairs, on the Inadvertent Bombing of the Chinese Embassy," CIA press release, 10 April 2000.

[82] "Chinese Embassy Bombing: A Wide Net of Blame", by Steven Lee Myers, *The New York Times*, 17 April 2000.

[83] General Jertz speaking at NATO Press Conference, 15 May 1999.

Koriša is situated at the foot of a range of hills, about one kilometre off the main Prizren to Suva Rea highway. According to UN figures, there were around 4,200 residents in 1998. The KLA had been active in the area, and the village had suffered a series of punitive Yugoslav security force raids through March and April 1999. A number of ethnic Albanian villagers had been victims of Serbian killings, and houses had been burned in Serbian raids on the village. The village had also been shelled. Most of the villagers left and attempted to flee to Albania. Many did not get there, however, and camped out in woods on the hillsides for extended periods of time.



Ahmetaj Marita. a 9 year old who lost two grand-parents, a brother and a sister in the NATO bombing of refugee tractors (in back-ground) at the village of Korishe. © AI

Amnesty International interviewed several villagers from Koriša about events preceding the bombing. Their accounts made clear that, at times, FRY forces had taken up positions in the village in their offensives against the KLA. Thus, in mid-April, government forces took up an established position at the entrance to the village, where they stayed for about 10 days while police and soldiers set houses alight and killed up to 18 people. These forces were said to have left the village towards the end of April, to move to a police station on the main road. Villagers also spoke of a disused military training camp in the area. The available accounts, some of which are summarized below, however, do not make clear the precise location of the site of the bombing in relation to the village and the police post.

At the NATO press conference on 14 May, NATO was asked, since this attack was apparently similar to the mistaken attack on the ethnic Albanian convoy near Djakovica a month earlier, what specific changes had been made to procedures to avoid tractors being hit after being mistaken for military vehicles. Jamie Shea responded that NATO does not target civilians, that he would not speak on the incident until he had the full facts, and that NATO always tells the full facts on these issues every time. He said he hoped that the

Western journalists currently being transported to the site by Belgrade would "break free of their minders" and do their own investigations.[84]

The Pentagon was reported as pointing to the possibility that heavy Serb shelling in the area may have been to blame.[85] Some, speaking privately, referred to discrepancies in timings and asserted that aerial imagery which was taken eight hours after the time when FRY authorities said the attack happened did not show any damage around the village.[86]

At the following day's press conference[87] NATO denied Serbian claims that cluster bombs had been used in this attack, and asserted that it had attacked "a legitimate military target". NATO said that it had identified a military camp and command post just outside Koriša, which had been in use since the beginning of the conflict, including an armoured personnel carrier and 10 pieces of artillery. It said that after the target had been confirmed, and "positively identified ... as what looked like dug in military revetted positions", two aircraft dropped two laser-guided bombs each, and then 10 minutes later, a third aircraft dropped six gravity bombs on the target.

In response to a question as to how the pilots had interpreted the tractors on the ground at the time the attack took place, General Jertz said the pilot " had to visually identify it [the objective] through the tech systems which are in the aircraft, and you know it was by night, so he did see silhouettes of vehicles on the ground and as it was by prior intelligence a valid target, he did do the attack."

When asked why they bombed at night without sufficient guarantees that they would not cause "collateral damage", he reiterated that since April they had intelligence that there were military pieces in the area and that these had been continually used,

> "so for the pilot flying the attack it was a legitimate target. But when he was in the area for attack it was his responsibility to make sure that all

[84] NATO press conference 14 May 1999 (exchange between Jake Lynch of Sky TV and Jamie Shea).

[85] "NATO accused of huge blunder as refugees are slaughtered", *The Guardian*, 15 May 1999; Paul Watson's article "Dozens of Kosovo Albanians killed in Nighttime Air Raid", *Los Angeles Times*, 15 May 1999, also refers to such allegations.

[86] "NATO accused ...", *The Guardian*, 15 May 1999. (But the AFP journalist referred to above visited the site twelve hours after the time the attack was said to have happened, i.e. four hours after these aerial images allegedly were taken).

[87] Peter Daniel, NATO press conference, 15 May 1999.

> the [objects] he sees are the ones he needs to really attack ... Of course, ... we are talking at night. If there is anybody sleeping in a house you would not be able to see it ...And at night he saw the silhouettes of vehicles and that is why he was allowed to attack ... ."

On 16 and 17 May NATO's Peter Daniel and Jamie Shea suggested that the civilians in Koriša may have been brought there by Serbs as human shields. On 17 May, Pentagon spokesperson Kenneth Bacon estimated that one-third to one-half of all civilians killed in the NATO air campaign may have been deliberately placed around bombing targets, citing an interview on German Radio with a survivor of the Koriša attack.[88] On 18 May NATO held a briefing session on the general matter of the alleged use of human shields. However, this did not reveal any particular factual information on the Koriša incident.

The Yugoslav authorities took international journalists to view the scene about a day after the bombing. It emerged that after the bombing campaign started, the people of Koriša left for Albania, but some were turned back by police and returned to Koriša. Their homes were attacked again by Yugoslav forces, and they left for the hills. A day or two before the bombing, they returned home. In some accounts, they did so with the "permission" of the authorities; in others they were "sent back" to Koriša by the police, and kept in the yard of a stone ornament factory under police guard. They had apparently been told they would be able to go back to their homes after the village had been cleared of "terrorists".[89]

In another account,[90] a reporter was told that the displaced civilians had started to run out of food after living out in the mountain woods for a month, so had approached the police commander in Ljudižda (Ludizhdë). He had told them that they could either go home or go to Albania, but that as the border was closed they had better go home. At the village, about 430 displaced persons had camped out as their homes were destroyed, and some 200 more slept in a nearby motel. Many were asleep when the bombing started.

While these reports do not give a strong indication of Serb forces using these civilians as "human shields" in Koriša , a report in the London newspaper *The Times* did

[88] DoD News Briefing, 17 May 1999

[89] "Their tractors were their homes. Then their tombs," *The Observer* (London), 16 May 1999

[90] "Dozens of Kosovo Albanians Killed in Nighttime Air Raid", *Los Angeles Times*, 15 May 1999

appear to support this suggestion.[91] A refugee interviewed in Pobneg, Albania, told a *Times* reporter that Serbian forces had established their headquarters in the village, in a block of residential apartments. They used the ground floor for an artillery post, and on the floor above it they established a police and military post. This source stated that women and children "were held" on the floor above, and that the three blocks of apartments all together held about two or three hundred women and children. However, when an Amnesty International representative subsequently interviewed this same refugee and his brother, neither man had any first-hand information that villagers had been housed in buildings used by FRY forces, and their account of events in the village did not cover the actual time of the bombing.

Reporters who visited the scene the day after the attack saw around 30 tractors still parked in the yard at Koriša , 20 of which had been burnt out.[92] Some questioned whether this could really have been a military target, as it was in an exposed, open field where military hardware could not have been hidden.[93] According to a *Washington Post* journalist, reporters at the scene had been unable to confirm either visually or by interviewing refugees that any military installations or personnel had been present that night.[94] In response, Jamie Shea cited stories in the Kosovar press that refugees had reported seeing a military command post and encampment at the site.

On the basis of this information, it remains unclear whether or not FRY forces or military installations were actually present in Koriša at the time of the bombing. Refugees from Koriša whom Amnesty International interviewed said there had indeed been a FRY military post there in April -- but they also said that these forces had moved out by the end of the month, well before the NATO bombing. As these refugees had left Koriša before it was bombed, however, they would not have known the precise situation at the time of the bombing. A confused picture has emerged from press reports on this point.

NATO insisted that it had hit the intended, legitimate military target. Other accounts have made clear, however, that any military posts at Koriša were temporary, and had not been in use up to the time of the bombing. General Jertz continued to maintain that the pilot had hit the revetments -- although journalists said they saw no sign of such damage at the site.

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[91] "Bombed village was army base, says refugee", *The Times*, 17 May 1999

[92] "Belgrade says 100 civilians dead in NATO attack on village", AFP, 14 May 1999

[93] "Was she a human shield or just a NATO mistake?" *The Observer*, 16 May 1999

[94] NATO Press Conference, 17 May 1999

It also remains unclear on the basis of current information whether or not civilians were being used as human shields in Koriša. If they were, this would constitute a serious violation of international humanitarian law by FRY forces, but would not relieve NATO of the responsibility of ensuring their protection. NATO has said that it had no knowledge of the presence of ethnic Albanian civilians at Koriša . However, NATO's statements on this incident suggest that they failed to take sufficient precautionary measures to ascertain that there were no civilians present, resulting in an inability to apply the rule of proportionality as required by Article 51(5)(b) of Protocol I. Because the command post was on a list of approved targets, rather than a target of opportunity, the attacking aircraft apparently did not take sufficient precautions to verify that there were no civilians in the vicinity before attacking.

5.8 Varvarin bridge: 30 May

The attack on Varvarin bridge in central Serbia took place at about 1pm on 30 May, a market day; it was a religious holiday, when the streets were more crowded than usual, and the risk of civilian casualties was thus very high. Official Yugoslav media reported 11 killed and as many as 40 injured.[95]

There is some doubt as to whether this bridge was a legitimate military objective. Accounts suggest that it was too narrow to accommodate large military vehicles.[96] Yet even if the bridge were a legitimate military objective, Amnesty International is concerned at the apparent lack of necessary precautions in the conduct of this attack.

The conditions surrounding this strike echoed those in the attacks on the Grdelica railroad bridge on 12 April and the road bridge near Lužane on 1 May, when there were also civilian casualties. As in those earlier attacks, the bridge at Varvarin is reported to have been struck twice: as people rushed to assist the victims of the first strike, two more missiles hit, several minutes later, inflicting additional civilian casualties.

[95] The official government account in the *White Book (Vol 2)* lists nine civilians killed, two missing, and 12 severely injured, plus two people still missing at the time it was published. The toll given in an account by Tanjug on 5 June was at least 11 killed and 40 severely injured. The Yugoslav Daily Survey (issued 1 July by the Ministry of Foreign Affairs) states 24 killed and 74 wounded.

[96] Lara Marlowe, *Irish Times*, 31 May 1999.

According to a local schoolteacher, it was "well known that Sunday is market day here and people are lined all along the street down to the bridge selling things".[97] An estimated 2,000 people were in the vicinity of the bridge[98] and several cars and pedestrians were on the bridge at the time of the attack.[99] A number of cars fell into the river as a result of the bombing.

NATO said it had bombed this bridge as a legitimate military target, and that the bridge was hit accurately. When asked whether NATO could not avoid such attacks at midday, when the risk of civilian casualties is high, Jamie Shea reiterated on 31 May that "NATO pilots do take every precaution to avoid inflicting damage to civilians." Although Shea also said that "pilots know that if they see a risk of harm to civilians, then they don't strike at the target," he failed to give any explanation of why the attack on Varvarin bridge was not aborted, or whether the pilot ever checked for the presence of civilians before launching the missiles.[100] Asked again the next day why the bridge had been bombed at lunchtime, he simply replied that "we take the same precautions at midday as we do at midnight".

The attack on Varvarin bridge raised concerns about whether NATO was taking proper precautions to protect civilians in its selection of targets, times for attack and modes of attack. Despite concerns about these matters having been raised on previous occasions, certain attacks continued to be carried out under conditions which raised the risk of civilian casualties. This bombing calls into question the effectiveness of the changes to the Rules of Engagement that NATO said it had instituted after the 14 April bombing of displaced civilians near Djakovica.

At its Brussels meeting with NATO, Amnesty International was told that following this attack, NATO tightened its Rules of Engagement to "take account of the time of day and circumstances." This basic precaution should have been incorporated into the Rules of Engagement from the outset, not one week before the end of the bombing.

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[97] Carlotta Gall, "Day for church and market shattered by a day of war", *New York Times*, 1 June 1999.

[98] *White Book, Vol 2.*

[99] Richard Boudreaux, "Civilian deaths in airstrikes erode NATO credibility", *Los Angeles Times*, 31 May 1999.

[100] NATO press conference, 31 May 1999

5.9 Attack on Surdulica: 31 May

On 31 May, the Yugoslav authorities reported that two missiles had struck the main building of the Special Hospital for Tuberculosis and Pulmonary Diseases in Surdulica and that two more had hit a retirement home which was in the grounds of the hospital. Some 16 or 17 people were killed. Journalists subsequently saw 11 bodies lying under sheets near the destroyed medical complex, and a further four on stretchers in front of the retirement home.[101] The arms of a further victim could be seen protruding from the wreckage of the building.

According to the *White Book* several missiles were launched at the complex of buildings housing the special lung hospital, which also contained buildings used as a nursing or retirement home, and a refugee shelter. One missile hit the sanatorium; two hit the building used as a shelter for Serb refugees from Croatia; another hit the nursing home. A laboratory in the lung hospital was demolished. Nineteen people were killed,[102] three severely injured and 35 less seriously injured in these attacks. All those killed were civilians.

Residents said there had been four blasts, shortly after midnight, and that the nearest barracks and ammunition storage facilities were over two miles away. The hospital was reported to have been marked on all maps of the area.

At the NATO press conference on 31 May, Colonel Freytag responded to a query about the Surdulica attack by saying that

> "the facts are that last night NATO aircraft attacked the military barracks and an ammunition storage area in the vicinity of that city. Both these targets were legitimate military targets, and both were already attacked before. All munitions hit the planned aiming points. NATO cannot confirm any Serb claims of casualties or collateral damage in Surdulica."

The next day, NATO spokesperson Jamie Shea said that four precision guided missiles were fired at the facilities in Surdulica, all hitting the target accurately. NATO offered no explanation at all of how the hospital complex came to be hit.

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[101] Reporters for the *Los Angeles Times*, *The Independent* and *The Washington Post* were among those who visited Surdulica.

[102] At another point the *White Book* gives a figure of 13 killed, five missing.

However, in July, while testifying before Congress, Deputy Secretary of Defence John Hamre and CIA Director George Tenet testified about an accidental bombing of a hospital during the air campaign. Deputy Secretary Hamre said: "We did have an instance where we hit a hospital. It was totally an accident. In this case, that was human error". Director Tenet said: "We hit a hospital. We didn't want to do that. That was the case of the pilot got confused and he was off by about a mile and what he thought was his coordinates."[103] It is not clear from the transcript of the hearing which incident this statement refers to, since during the course of the campaign NATO hit several hospitals, clinics and medical centres, including a hospital in Niš struck on 7 May and the Dragiša Mišović hospital in Belgrade on 20 May. Human Rights Watch has attributed this explanation to the 31 May attack on Surdulica.[104]

In their meeting in February 2000 with Amnesty International, NATO officials said that the civilian casualties in Surdulica probably resulted from a bomb malfunctioning. They could not confirm the Congressional testimony by Hamre and Tenet that civilians were killed due to pilot error.

One reporter tried to investigate whether there might have been a military encampment in the woods around the hospital, and found the remains of two camp fires and four "foxholes" of the kind soldiers dig to protect themselves from bombs. He found a further 12 newly dug foxholes on another track. The local civil defence commander said they had probably been built by worried hospital staff in self-defence, and other authorities said that defence personnel for a radio repeater station a mile away may have encamped there. There was no sign, however, of a military barracks or munitions depot.[105]

One news report[106] quoted the director of the sanatorium as saying that 60 Serb refugees from Croatia were lodged there along with two sick Yugoslav soldiers. However, an employee of the sanatorium is quoted in the *White Book* as saying that no military personnel ever stayed at the hospital. Another witness, herself a refugee living in the sanatorium, states that the Refugee Commissariat shelter provided the refugees with lodging in some rooms of the building on the first and second floors and that the ground floor was

[103] US Congress, House Permanent Select Committee on Intelligence, Hearing on the Bombing of the Chinese Embassy, 22 July 1999.

[104] Human Rights Watch, *Civilian Deaths in the NATO Air Campaign*, February 2000, p.58.

[105] "War in the Balkans - NATO calls the bombing of a hospital collateral damage. I call it a tragedy", *The Independent*, 1 June 1999.

[106] "Another airstrike on civilians kills 16 at Sanitarium Complex" *Los Angeles Times*, 1 June 1999

used for the hospital's regular activity. But in a retrospective article[107] written after a follow-up visit in November, British journalist Robert Fisk reports a friend of one of the civilians killed in the bombing as saying that there were a lot of soldiers living on the ground floor of the building where the refugees were accommodated. They had not been injured in the attack because they were on the ground floor.

If NATO intentionally bombed the hospital complex because it believed that it was housing soldiers, it may well have violated the laws of war. According to Article 50(3) of Protocol I, "the presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character." The hospital complex was clearly a civilian object with a large civilian population, the presence of soldiers would not have deprived the civilians or the hospital compound of their protected status.

However, if the Congressional testimony about the accidental bombing of a hospital does refer to the 31 May attack in Surdulica and NATO does therefore recognize that an error was made, the question is whether necessary precautions were taken to avoid mistaking a civilian object for a military target.

At the very least, this attack and its aftermath point to NATO's poor record of disclosing information about incidents that resulted in civilian casualties. Initially, NATO categorically denied that it had struck a hospital in Surdulica. Several weeks later, US officials made an oblique reference --in the context of a Congressional hearing about the bombing of the Chinese Embassy in Belgrade -- to hitting a hospital (which may have been in Surdulica) due to pilot error. And more than eight months after the attack, NATO officials told Amnesty International that the civilian casualties may have been caused by a malfunctioning bomb.

[107] "Milena's story" *The Independent*, 25 November 1999.

Select Committee on Defence Fourteenth Report

III. THE CONDUCT OF THE CAMPAIGN

The UK's Contribution to the Air Campaign

AIRCRAFT

The UK Sortie Rate

130 The UK contributed forty-eight fixed wing aircraft to Operation Allied Force, though not all were in theatre at the same time. Of these, twenty-eight were strike aircraft (Tornado GR1s and Harrier GR7s), seven were air defence (Sea Harrier FR2s flown off HMS *Invincible*) and thirteen were support aircraft (air-to-air refuelling tankers, E3D early warning aircraft and one Nimrod). In addition some eighteen helicopters were deployed to support NATO operations.[274]

131 The BDA figures quoted above[275] apply to NATO as a whole; none are available to determine the effectiveness of the munitions used by UK. The UK flew some 10% of NATO's strike sorties, but released under 5% of the total munitions used in the operation.[276] There is therefore little direct evidence on the effectiveness of UK's weapons against the opposition afforded by the VJ. This will not help in future force structure or procurement decisions. Indeed the US Report makes clear that in the NATO BDA process it was extremely difficult to link specific damage to a particular aircraft/weapon mix.[277]

132 The UK deployment was progressive. By the beginning of 1999, eight Harrier GR7s had been deployed to support the Kosovo Verification Mission, together with two Tristar air-to-air refuelling tankers.[278] The Harriers operated from the Gioia del Colle and the tankers from Ancona, both in Italy. Two E3D airborne early warning aircraft and one Nimrod were also in theatre. This force was increased in late March with the addition of four more Harriers, one Tristar tanker (and one more on 15 April) and another E3D Sentry. On 1 April, eight Tornado GR1s were made available, operating from RAF Bruggen in Germany and supported by three VC-10 tankers. On 12 April, HMS *Invincible* arrived in theatre and made her seven FA2 Sea Harriers available for air defence missions until her departure on 21 May. On 7 May, four more Harrier GR7s were deployed to Gioia del Colle and on 28 May the eight Tornados of 14 Squadron flying from RAF Bruggen were stood down in favour of twelve Tornados from 9 and 31 Squadrons deployed to Solenzara in Corsica and supported by five VC-10 tankers. This pattern of deployment reflects the escalating nature of the NATO air campaign more generally.

Basing of Aircraft

133 The deployment of RAF aircraft does also raise other concerns, which we examined in our inquiry. First, the use of a number of different air bases for a comparatively small number of aircraft created problems, not least logistically. This point is accepted by the Department[279] and clearly needs to be borne in mind for future operations. The second obvious shortcoming in basing arrangements was the use of aircraft based in Germany for operations in the Balkans. The consequential strain on pilots and other resources was considerable.[280] Crew were forced to spend long periods in the cockpit transiting to the theatre; substantial tanker support was required; and there was no guarantee that during the long flight the weather over the target would not have deteriorated to the extent that weapons could not be released. We were told that the use of aircraft flying from RAF Bruggen was due to the 'anticipated tasking rate and also trying to find a suitable base close to theatre'.[281] This reinforces our belief that **the operation was launched on the basis of over-optimistic assumptions about its duration and intensity, and this suggests some failure of planning on the part of the MoD.** Despite Sir John Day's assurances,[282] we retain a suspicion that these over confident assumptions may in part have arisen in response to overstretch in the RAF's capacity to deploy outside home bases.

Strike rate

134 A total of 1618 sorties were flown by UK aircraft during Operation Allied Force. Of these, 1008 were strike sorties leading to the release of 1011 munitions. Of these, 244 were precision guided weapons, 230 were gravity bombs and 531 were cluster weapons. Additionally, six air-launched anti-radiation missiles were fired.[283] The relationship of the UK effort to that of NATO as a whole is detailed in the Table below. The RAF provided a small percentage of the overall number of NATO aircraft used in the operation which was, of course, dominated by the US Air Force. But the UK also provided fewer aircraft than the French and the Italians. We were left with the impression that the RAF provided as much as it could given the pressures it was under, but despite the relatively low overall number of aircraft it did provide a relatively high proportion of strike aircraft rather than support.[284] Air Marshal Sir John Day told us—

> We had enough aircraft ... They were certainly the right type of aircraft. We happened to have aircraft that were best configured for bombing as opposed to air defence but that was what the pressure was for ...[285]

As Air Commodore Torpy told us—

We tried to offer what we felt was going to be the most useful.[286]

Compared to other *European* members of the Alliance, the UK was in this operation relatively well provided for with support aircraft.[287] This allowed the UK to provide a significant contribution in the form of air-to-air refuelling and airborne early warning aircraft. It is not clear, however, that the allied commanders felt they had the right overall mix of aircraft at the start of the campaign—indeed, we heard several authoritative claims that they did not.

135 UK aircraft conducted 15 attacks on 10 air defence targets, 99 attacks against 58 infrastructure targets and 530 missions against fielded forces. These represent the approximately 40% of UK strike missions in which weapons were released.[288] The number of munitions dropped by UK aircraft per strike sortie was significantly lower than the NATO average. The RAF flew 9.6% of NATO strike sorties, but dropped only 4.2% of the munitions. In part this was due to the poor weather affecting the use of precision guided munitions, something we discuss below. It may also be presumed that the relatively large bomb loads carried by US B-52 and B-2 aircraft also influence the comparison. Additionally, the respect for the rules of engagement shown by our pilots, and their insistence on not dropping munitions if at all uncertain of hitting their designated targets, may unfairly distort the comparisons.[289] But it may also suggest that the RAF may have a significant and more fundamental comparative weakness in this area.

	Total sorties	Strike sorties	% strike/sorties	Munitions released	Aircraft
NATO	38004	10484	28%	23614	829
UK	1618	1008	62%	1011	41
% UK/NATO	4.3%	9.6%		4.2%	4.9%

Source: Kosovo: An Account of the Crisis, p 30

Carrier-based Aircraft

136 The aircraft carrier HMS *Invincible* was on passage through the Mediterranean on her return from operational duty in the Gulf when the decision was taken on 9 April to divert her to operations in the Balkans. She arrived on station on12 April and remained within the Allied tasking order for the next 39 days.[290] She carried the usual peacetime complement of seven Sea Harrier FA2s with ten pilots. Of this small complement, we were told "approximately" two thirds were fully night qualified (presumably six or seven); this we were also told was normal for peacetime.[291] It is unclear what the wartime complement should be, and whether this could have been provided if requested. The National Audit Office (NAO), for example, reported that the Royal Navy suffered from shortages of trained aircrew.[292] This problem was not mentioned when our MoD witnesses were questioned about the numbers of night-qualified pilots,[293] nor did the MoD do so, when invited in a written question to expand on that answer.[294] Ten Sea King helicopters were also on board *Invincible*, and these were mainly engaged in humanitarian missions. An additional five Sea Harrier FA2s were kept available at RNAS Yeovilton to reinforce the operation, of which one was maintained at short notice to deploy.[295]

137 During *Invincible's* time on station, her Sea Harriers flew 102 combat air patrol sorties in support of Operation Allied Force, at an average of 15 sorties per aircraft. This compares with an average of 37 for RAF shore-based aircraft. The total number of sorties was dictated by the time deployed on station, which for *Invincible* was half of the 78 days of the air campaign, but the sortie *rate* was still lower for the Sea Harriers.[296] We were told that the intensity of participation was governed by the Air Tasking Order.[297] It seems that the tasks that General Short wanted the Sea Harriers to undertake did not require them to generate their maximum sortie rate.

138 Also, the Air Tasking Order did not require the Sea Harriers to exercise their other roles. All the sorties flown by the Sea Harriers were defensive counter air, in other words they were not required to undertake any ground attack missions. Air Commodore Morris, when challenged on this point, asserted that the Sea Harriers nonetheless had demonstrated their utility by helping to establish adequate control of the air to allow NATO operations to be conducted in Kosovo and later Serbia, and to free other multi-role aircraft to carry out offensive support missions.[298] The evidence for this is in part circumstantial since the Sea Harriers did not shoot down any Serbian aircraft, nor did they engage any with missiles. However we were told that Serbian aircraft were chased[299] and were illuminated with the Blue Vixen radar, [300] and that the Sea Harriers contributed to the campaign to suppress enemy air defences in which only two allied aircraft were shot down as a result of Serbian action.[301] Our naval witness stressed that the offensive bombing operation depended for its success on having combat air patrols up 24 hours a day, seven days a week, to deny the Serbs the opportunity of getting even one aircraft airborne for an offensive bombing mission.[302] The reason given for the Sea Harriers not flying any land-attack sorties was that they are optimised for the air defence role.[303] The Sea Harrier, unlike the Harrier GR7, cannot self-designate to drop laser guided bombs and requires another aircraft to designate targets for them.[304] The establishment of Task Force Harrier[305] was intended to integrate RAF and Royal Navy Harriers, pending their replacement by the Future Carrier-Borne Aircraft. The division of capabilities between the Harrier GR7s and the Sea Harrier FA2s has, however, been highlighted by the Kosovo campaign. **Given the centrality of the two future aircraft carriers to the SDR strategy, the evidence that *Invincible's* carrier air group may not have been optimally constructed or tasked during the air campaign raises some significant questions that will need to be addressed in the acquisition of the UK's future carrier-borne aircraft. We look forward to reading the MoD's own assessment of the lessons of this operation for the future carrier programme.** One paragraph in its *Lessons* report is hardly adequate.[306] Nonetheless, the presence of *Invincible* was a useful demonstration of political will, and the Sea King helicopters made a real and important contribution to the humanitarian operation.

139 Availability rates for UK aircraft remained high, particularly for the two key strike aircraft, the Harrier GR7 and the Tornado GR1.[307] Nevertheless a number of shortcomings and problems were apparent with British equipment, some serious and some of which have already been noted by the MoD.[308] Although aircraft losses were minimised, this was in part because they were mainly flying at medium altitude (above 15,000 feet) to avoid hand held SAMs. This is a height for which Harriers and Tornados are not best designed or equipped. Some of their weapons could not be released when aircraft were flying above cloud.[309] These factors, added

to the political requirement to avoid collateral damage, meant that only 40% of strike missions actually led to weapons release.[310] Even if this can to some extent be accounted for by the effect of the rules of engagement and the discipline of UK pilots, it still suggests that if the UK is to be equipped to face similar challenges in the future, there needs to be some reconsideration of the balance of capabilities its strike aircraft possess. **Overall, despite the heroic efforts of UK aircrew and support staff, we must conclude that the UK's contribution to the air campaign, in terms of actual fire power rather than support, was somewhat disappointing.** We now examine the limitations of the aircraft weapons systems which may have contributed to reducing their effectiveness.

EQUIPMENT PERFORMANCE

Air-launched Precision-guided Munitions

140 **The most serious shortcoming in UK capabilities shown-up by the air campaign was the lack of a precision-guided weapons capable of being used in all weathers against static and mobile targets.** RAF ground-attack aircraft are optimised for low level attacks against static targets.[311] At the outset of Operation Allied Force we were told that the intention was for the RAF to use only precision guided weapons.[312] Bombing at medium altitude, however, meant that it was difficult to distinguish targets with the necessary certainty to avoid civilian casualties. More importantly, the RAF's precision-bombing capability relied on laser designation of targets, which could not be used through cloud cover. Although some in the MoD were clearly surprised at how much of an effect this would have on the RAF's precision strike capability[313] others were not.[314] Poor weather and cloud cover persisted through the campaign—over two-thirds of the 78 days of the bombing campaign were affected by these conditions—so that laser designated weapons often could not be used.[315] **By the end of the campaign, precision-guided weapons had accounted for only 24% of the weapons used by the RAF.**[316]

141 Some commentators have suggested that difficulties encountered with the Tornado GR4 played a part in curtailing the RAF's laser-guided bombing performance. The ground-attack Tornados used in the air campaign were those still in the GR1 configuration, rather than those that had been updated to GR4 standard in the aircraft's mid-life update programme. The problem that limited the GR4's utility for precision strikes concerned the thermal imaging and laser designating (TIALD) pod. The TIALD system has been in service on a range of RAF aircraft types for some time.[317] Indeed, as our report on the implementation of the lessons of Operation Granby noted, the hurried deployment of pre-production TIALD pods in 1991 allowed the RAF to dispense with the tandem flying of (bomber) Tornados and (target-designator) Buccaneers in the Gulf War.[318] Subsequently the system's integration on the GR4 was part of the contract for the mid-life update programme let by the Tornado partners in 1994.[319]

142 Like its GR1 predecessor, the GR4 will be capable of dropping laser-guided munitions (notably Paveway IIs), but there have been difficulties integrating the aircraft's new systems with the TIALD pod. At the time of the Kosovo campaign the GR4 would not have been able to designate its targets, and would have had to rely on a separate aircraft to do this. Continued reliance on the GR1 aircraft does not appear to have directly curtailed the effectiveness of the delivery of laser-guided munitions. One of our witnesses from the MoD told us that the—

> GR1 was always going to be our favoured option, and it gave us the capability which met our needs at the time. We could have delivered GR4s had we wanted to and they could have been effective, but not in all of the roles that we might have wanted to use them for at that time.[320]

An interim TIALD capability for the GR4—at least as effective as that of the GR1—was planned to be available in July 2000, and a full capability by the end of the year.[321]

143 More generally, the Tornado's mid-life update, once fully delivered, should provide a significant enhancement to the aircraft's capabilities, including new systems to give it an all-weather and night-time utility, as well as an integrated TIALD system.[322] The conversion of GR1 aircraft to the new GR4 standard has, however, been much delayed. It was originally due to be completed in 1993,[323] but as of February this year only 50 of the 142 aircraft had been converted, and the MoD's current estimate is that the remainder will be delivered by February 2003.[324] While the RAF's laser-guided bombing performance may not have been significantly curtailed because of the unavailability of the GR4, the enhanced capabilities of the updated aircraft might have made the UK's contribution to the air campaign more effective in other ways, utilising its better all-weather and night-time capabilities—capabilities which proved to be in demand for Operation Allied Force. **It is regrettable that, like other examples in this report, the Tornado mid-life update is another programme in which delays have prevented new and improved systems being available for the Kosovo campaign. The MoD and the contractors—BAE Systems—must get this programme back on track, and prevent any further delay.**

Unguided Bombs

144 In response to its difficulties experienced in delivering guided munitions, the RAF reactivated its ability to use unguided ('dumb') bombs from medium altitude.[325] Neither the requirement for precision attack nor the poor weather conditions in this part of Europe could have come as a surprise. Given that, it is a cause for some concern that the ability of pilots to use 'dumb' bombs accurately had to be reactivated. The RAF had to conduct trials *during the campaign* to establish the degree of confidence in the accuracy of gravity bombs, and pilots in theatre were not trained for their use.[326] **This suggests a lack of foresight on the part of the MoD.**

145 The MoD acknowledged that this form of attack was a sub-optimal choice, and it is pursuing options to give it an all-weather precision capability.[327] MoD witnesses nevertheless argued that the accuracy of 'dumb' bombs is considerable and that it was

sufficient to meet the stringent criteria of the rules of engagement against certain types of targets, though not all.[328] We note a recent report stating that only 2% of the 1,000lb unguided bombs could be confirmed as hitting the target.[329] Even accepting that a larger percentage may have hit the target but could not be confirmed as so doing, this is a distressingly low figure and at variance with the tenor of the evidence provided by the MoD. We were told that since there is less to go wrong with a 'dumb' bomb, the risks of collateral damage against certain targets may actually be lower.[330] The key point of course is that their acceptability depended crucially on the type of target attacked, and in particular on the risk of collateral damage or casualties associated with such targets.[331] **The MoD's professed faith in the great utility of 'dumb' bombing in the Kosovo campaign suggests that it has been economical with the truth, if not attempting to mislead us. Dumb bombs may be more 'reliable' in the particular sense of the term as used by the MoD, but their future utility in peace support missions undertaken by a perhaps reluctant Alliance will be limited by the operational and political constraints of such endeavours.**

146 One of the lessons of the difficulties of operating in the generally poor weather over Kosovo and Serbia was the utility of munitions guided by the global positioning system (GPS). MoD work is now in hand to review the balance of 'smart' and 'dumb' munitions, and to see whether new technologies can be used to provide an all-weather capability.[332] Specifically, the Chief of the Defence Staff explained that the MoD was examining the possibility of acquiring GPS-guided weapons such as the US JDAM.[333] It was also looking at the possibility of bolting GPS systems into 'dumb' 1000 lb bombs as a relatively inexpensive short term measure ahead of the introduction of other fully-fledged GPS-based systems. One area of perhaps particular promise would be to reap the benefits of laser-designation *and* global positioning systems. The MoD, it appears, is monitoring developments in the US to integrate GPS guidance into laser-guided Paveway bombs, so that if cloud were to interfere with the laser designation, the GPS guidance would still deliver it to within a few metres of the target.[334] More recently, in connection with the 2000 Spending Review, the Secretary of State announced that the MoD would "procure as soon as possible a new precision guided all-weather bombing capability for the RAF", using GPS technology.[335] The problems of intelligence, and fire control, for operations in areas (such as some built-up areas) where targets are extremely difficult to identify from the air, will remain.

Cluster Bombs and Anti-Armour Weapons

147 Greater investment in precision-guided munitions could also help to defuse one of the more controversial aspects of the bombing—the casualties caused by the use of so-called 'cluster bombs'. Each of these weapons contains 147 bomblets, primarily firing a plasma-jet able to penetrate armour, but having a secondary anti-personnel effect with over 2000 shrapnel pieces cut into the casing. The RAF is still reliant upon the use of such cluster bombs in certain roles (particularly anti-armour), and during the air campaign the RAF dropped 531 BL755 cluster bombs, designed principally to destroy tanks and other vehicles.[336] The MoD's report states that, of the targets engaged by the RAF, 530 were against fielded forces.[337] This strongly suggests that cluster bombs were used primarily for this purpose. **Over 50% of the bombs dropped by the RAF were cluster bombs.**

148 The BL755 has been in-service with the RAF since 1972. Even in 1991, the MoD acknowledged that experience in the Gulf War had shown that the bomb was no longer credible against modern main battle tanks.[338] Despite modifications since then to improve its capabilities, counter-measures[339] have developed faster so that tanks are now four times as likely to survive BL 755 bombing than in 1991.[340] Its main limitations are that it works most effectively when deployed by low flying aircraft (which also have to fly directly over the target); it is not guided; and on average around 5% of its 147 bomblets fail to explode.[341] However, there is evidence that the actual failure rate in Operation Allied Force was higher—possibly between 8% and 12%.[342] That means that the RAF left between 4,000 and 10,000 unexploded bomblets on the ground in Kosovo during Operation Allied Force. A report in *Flight International*, purportedly based on MoD operational analysis, suggested that only 31% of cluster bombs hit their targets and a further 29% cannot be accounted for.[343] Human Rights Watch commented—

> There are seven confirmed and five likely incidents involving civilian deaths from cluster bomb use by the United States and Britain. Altogether, some ninety to 150 civilians died from cluster bomb use ... After the technical malfunction of a cluster bomb used in an attack on the urban Nis airfield on May 7 ... the White House quietly issued a directive to restrict cluster bomb used (at least by US forces) ... Nevertheless, the British air force continued to drop cluster bombs ... indicating the need for universal, not national, norms regarding cluster bomb use.[344]

The Foreign Affairs Committee made a similar point.[345]

149 The weaknesses of the cluster bombs were highlighted in the Kosovo air campaign, where allied aircraft were not permitted to fly low, where, as we have rehearsed above, cloud caused many sorties using such free-fall (and laser-guided) munitions to be aborted, and where the avoidance of collateral damage and civilian casualties were high priorities. The RAF need not have been so handicapped, however. The MoD's Brimstone programme is intended to provide a stand-off[346] anti-tank guided missile with its own autonomous target-seeking radar which will not require continuous guidance from its launching aircraft. The MoD now expects it to enter service in October 2001, but that will be 10 years later than planned when the programme was launched in 1982.[347] The project will have then taken more than twice as long as it should have done,[348] a delay largely caused by the MoD itself, as the missile's requirements were re-evaluated and refined, including a delay of more than 5 years while the implications of the post Cold-War 'Options for Change' defence review and the lessons of the Gulf War were addressed.[349] The MoD has reported that its operational analysis has showed that Brimstone would be 20 times as effective against main battle tanks deploying modern countermeasures as the cluster bomb currently in service[350]— an advantage unavailable in the Kosovo conflict.[351]

150 The Secretary of State put up a stout defence of the use of cluster bombs, telling us—

> As far as cluster bombs are concerned, I regret that munitions are not always as effective as we would like ... We were aware that there was a small failure rate, in the order of 5% ... but a judgment has to be made. These are extremely effective weapons. They are the most effective weapons against armoured and certain kinds of soft skinned vehicles and, frankly, if

we did not use the most effective weapons available to us we would be putting our armed forces at risk.[352]

The Secretary of State's claim that cluster bombs are 'the most effective weapons' for an anti-armour ground attack task does not, we believe, apply to the circumstances of this campaign. At the very least, their reputation as an indiscriminate weapon risks international condemnation, undermining popular support for an action. The UK needs a more discriminatory anti-armour system in order to move to an early end to reliance upon recourse to these weapons in inappropriate circumstances.

151 The MoD's *Lessons from the Crisis*[353] recognises the requirement for more effective engagement against tanks, other armoured vehicles and air defences.[354] At the end of July 2000, the Secretary of State announced that the UK would proceed with the integration of the Maverick anti-armour system onto Harrier GR7s,[355] and that missiles would be purchased in sufficient time to give an operational capability by the end of 2000.[356] The contract for the purchase of these missiles was subsequently signed in September 2000.[357] The Department sees Brimstone being complemented, rather than replaced, by the US Maverick anti-armour missile. Each has its different strengths. Indeed, when the MoD had chosen Brimstone back in 1991 it had evaluated it against the Maverick system. The MoD had noted that Brimstone would have been able to tackle many mobile targets in a given area (such as a tank formation), and that Tornado and Harrier aircraft could not have carried enough of the heavier Maverick missiles to defeat massed armour.[358] Brimstone's radar target-detection system makes the weapon considerably more effective where the target is obscured by cloud, fog or heavy rain than a weapon (like Maverick) which relies on electro-optical or infra-red systems.[359] In addition, while Brimstone would have an autonomous target detection and recognition capability, the pilot would have to lock the Maverick missile onto a particular target prior to launch, which in certain conditions would increase aircraft vulnerability.[360] But, crucially important in the Kosovo campaign and others like it, this characteristic may give the Maverick missile a lower risk of inflicting collateral damage,[361] and the MoD now envisage Maverick filling a capability gap for attacking solitary armoured targets in an environment with a high risk of collateral damage and consequently restrictive rules of engagement.[362]

152 The MoD has recently reduced its planned purchase of Brimstone missiles,[363] perhaps by 25%.[364] We trust that this will be more than balanced by the purchase of other precision munitions, such as Maverick missiles and GPS-based systems, but caution is required in substituting (rather than enhancing) such capabilities— each type of munition is best suited for different types of conflict. There is a case, as the MoD itself says in its *Lessons* report, for having 'a range of capabilities, to tailor the response to the target'.[365] **It is clear that for air-to-ground attack, and even for just an anti-armour capability, a mix of weapons is required which the UK does not currently possess.**

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274 *Kosovo: An Account of the Crisis*, p 30; Ev p 240, para 1 Back

275 See para 112 Back

276 NAO, para 3.3 Back

277 DoD, p 81 Back

278 Ev p 191 Back

279 Q 110 Back

280 Q 116 Back

281 Q 110 Back

282 Q 79 Back

283 Ev p 57 Back

284 QQ 122-4 Back

285 Q 84 Back

286 Q 245 Back

287 Q 246 Back

288 Ev p 57 Back

289 Q 214 Back

290 Cm 4724, p 63 Back

291 Cm 4724 p 51 and Q 201 Back

292 NAO, p 31 ff Back

293 Q 201 Back

294 Ev p 256, para 69 Back

295 ibid Back

296 0.38 sorties per aircraft per day as compared with 0.47 for land-based aircraft Back

297 Ev p 241, paras 2 and 7; Q 247 and 248 Back

298 Q 197 Back

299 Q 218 Back

300 Q 196,197 Back

301 DoD, figures 13-15 Back

302 Q 215 Back

303 Q 199 Back

304 RUSI Journal June 2000 p25 Back

305 Formerly Joint Force 2000 Back

306 Cm 4724, para 9.3 Back

307 Q 107 and Ev p 240 Back

308 See for example Cm 4724, p 5 Back

309 QQ 83 and 381 Back

310 Q 240 Back

311 Cm 4724 para 7.38 Back

312 Q 88 Back

313 Q 86 Back

314 Q 147 Back

315 QQ 84-6 and 236 Back

316 Ev p 242, para 13; Q 88 Back

317 HC Deb, 11 February 2000, c344w Back

318 Fifth Report, 1993-94, HC 43, para 69 Back

319 ibid Back

320 Q 211 Back

321 Q 70 Back

322 HC Deb, 11 February 2000, c342w Back

323 Major Projects Report 1997, Report by the Comptroller and Auditor General, HC (1997-98) 695, p 99 Back

324 HC Deb, 11 February 2000, c343w Back

325 See eg Human Rights Watch Report on *Civilian Deaths in the NATO Air Campaign*, February 2000, p 7 Back

326 QQ 89, 148-9 and 229 Back

327 QQ 1, 107, 450, 459, 463 and Cm 4724 para 7.38. Back

328 Q 469 Back

329 'Kosovo bombing misses the target, says MoD report', *Flight International*, 15-21 August 2000. Back

330 QQ 88, 143-4, 236-8, 254-8, 461 Back

331 See eg Human Rights Watch, *op cit*, p 7 Back

332 Ev p 243, para 19 Back

333 Q 84 Back

334 Jane's Defence Weekly, 15/3/2000 Back

335 HC Deb, 24 July 2000, c 778 Back

336 Ev p 257, para 77; Cm 4724, Annex F, p.70 Back

337 Cm 4724, p 70 Back

338 Major Projects Report 1999, Report by the Comptroller and Auditor General, HC (1999-2000), para 3.7 Back

339 Such as 'explosive reactive armour' and 'defensive aids suites' Back

340 HC (1999-2000) 613, *op cit*, para 3.8 Back

341 ibid Back

342 Note of meeting between the All-Party Parliamentary Landmine Eradication Group and NATO officials, 24 July 2000 Back

343 'Kosovo bombing misses the target, says MoD report', *Flight International*, 15-21 August 2000 Back

344 Human Rights Watch, *op cit*, p 8 Back

345 Foreign Affairs Committee, *op cit*, para 150 Back

346 Its range is 8 km Back

347 HC 91999-2000) 613, *op cit*, pp 59-63 Back

348 ibid, Figure 16 Back

349 ibid, p 63 Back

350 Thirty-third report of the Committee of Public Accounts, Session 1999-2000, *Ministry of Defence: Major Projects Report 1998*, HC 247, p19 Back

351 HC (1999-2000) 613, *op cit*, para 3.8 Back

352 Q 1214 Back

353 Cm 4724 Back

354 Cm 4724, para 7.41 Back

355 ibid, para 4.5 Back

356 HC Deb, 24 July 2000, c 778 Back

357 Jane's Defence Weekly, 20 September 2000 Back

358 Thirty-third report of the Public Accounts Committee, Session 1999-2000, *op cit*, p 19 Back

359 Q 466 and Ev p 255, para 77 Back

360 Thirty-third report of the Public Accounts Committee, Session 1999-2000, *op cit*, p 19 Back

361 Q 466 and Ev p 255, para 77 Back

362 Thirty-third report of the Public Accounts Committee, Session 1999-2000, *op cit*, p 19 Back

363 HC Deb, 25 July 2000, c 544w Back

364 Jane's Defence Weekly, 5 July 2000 Back

365 Cm 4724, para 7.41 Back

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Select Committee on Defence Fourteenth Report

III. THE CONDUCT OF THE CAMPAIGN

Command, Coordination and Intelligence

183 Operation Allied Force was, of course, a NATO operation. Political direction was given by the North Atlantic Council, or delegated to the Secretary General. SACEUR was in overall military command, working through the headquarters SHAPE and AFSOUTH.[461] The North Atlantic Council set the political parameters and objectives for the campaign, provided guidance for the NATO military authorities and oversaw their activities, assisted by the Military Committee.[462] But with 19 sovereign governments and most of their armed forces involved, it would be idle to pretend that lines of command were simple and clear. As the MoD's own report observes, within the UK—

> ... there was a very high level of political interest and involvement in both the air and ground operations, and the emphasis was therefore on the MOD to develop national strategy and options, and explain them in detail to Ministers, although PJHQ was heavily involved throughout.[463]

THE DEFENCE CRISIS MANAGEMENT ORGANISATION

184 The MoD in Whitehall and the Permanent Joint Headquarters (PJHQ) in Northwood together form what has been known since the establishment of the PJHQ in 1996 as the UK Defence Crisis Management Organisation. The MoD reports that—

> We were pleased with the performance of the UK Defence Crisis Management Organisation during the air campaign. Experience gained in Operation Desert Fox, the operation against Iraq in 1998, proved invaluable in preparation for the Kosovo operation.[464]

The Chief of the Defence Staff's view was that "PJHQ and the Ministry of Defence in general worked very well indeed."[465] Vice-Admiral Garnett, who heads the PJHQ, said "so far as I am concerned the DCMO, as such, worked very well during the campaign."[466] CDS did remark that he thought—

> ... that because this was a very high profile campaign, perhaps the Ministry of Defence did rather more on this occasion than it would over something like East Timor.[467]

The NAO, however, observed that—

> The Department's initial analysis, undertaken in July 1999, of the overall management and organisation aspects of the initial deployment highlighted a continuing overlap regarding the division of responsibilities between the Department's headquarters and PJHQ. Their review stated that [MoD] headquarters staff tended to stray into operational level business—the domain of PJHQ—often at the expense of providing the more strategic guidance. As a consequence decisions made often lagged behind planning and deployment time-scales ... The Department recognised, however, that PJHQ and the [single Service] Supporting Commands had worked well together—and senior staff in theatre we spoke to confirmed the value of a co-ordinating headquarters in the United Kingdom to act as a focus for support and decisions.[468]

185 While we are ready to accept CDS's view that "in general" the MoD and the PJHQ worked well together, we are concerned that the Department's own initial analysis, as reported by the NAO, should have highlighted shortcomings which, in response to our questioning, witnesses did not see fit to tell us about. In response to a supplementary written question, the MoD expanded on its original answers—

> The division of responsibilities within the Defence Crisis Management Organisation is dependent on the particular operation in hand. In the Kosovo operation, there was a very high level of political interest and involvement in both the air and ground operations, and the emphasis was therefore on the MoD to develop national strategy and options, and explain them in detail to Ministers, although PJHQ was heavily involved throughout. The observation quoted in the NAO report was taken from a compilation of initial lessons from across PJHQ, and was not the result of in-depth analysis. Overall, MoD and PJHQ assess that the MoD/PJHQ relationship worked well, although it is acknowledged that there were some grey areas in interpreting the responsibility between MoD and PJHQ. These were recognised and resolved as practical experience of managing the crisis grew. The improved management of the relationship between MoD and PJHQ which has arisen out of the Kosovo conflict has been applied to subsequent crises including the East Timor and Sierra Leone operations, where PJHQ played a more prominent role.[469]

We recognise that both the MoD's official line and the Chief of the Defence Staff's comments seek to excuse the MoD because of the high political profile of the Kosovo crisis. But, as we emphasise throughout this report, **the very political sensitivity of an operation such as that in Kosovo demands all the more that the respective jobs of the civilians and the military are clearly delineated. It is not the MoD's job to micro-manage the business of the Permanent Joint Headquarters. We trust the Department has taken heed of and acted upon its own initial analysis.**

INTELLIGENCE

186 In its November 1999 report *Lessons from Kosovo*, the French defence ministry noted that—

> ... the permanent presence and complementarity of American capabilities bring our national resources into perspective. However, France was able to line up a complete range of resources, unique within Europe.

The French noted that these resources included 'satellite and air resources', strategic intelligence and 'listening and observation' assets. These resources, the report asserts, are 'necessary conditions for national autonomy in terms of assessment of situations'. [470] Britain also recognises the overwhelming intelligence capabilities of the Americans. As Vice-Admiral Sir Alan West, Chief of Defence Intelligence (CDI) told the Committee, the Americans'—

> ... intelligence capability is amazing. They have spent huge amounts of money on collection, particularly on the technical aspects of collection.[471]

187 Unlike France, however, Britain has not sought to achieve 'national autonomy' in terms of intelligence collection. Instead, it has enjoyed privileged access to American intelligence. As CDI noted, "we are extremely lucky that we have got such a good ally".[472] This is a reciprocal relationship, however, in which both sides contribute information and analysis. Britain has long prided itself on the quality of its national assessment and analysis capabilities. Indeed, CDI argued that the UK and the US "will come out, very often on the same data that is collected, with a different assessment",[473] and added that the Americans "value very much indeed our analysis".[474]

188 That relationship covers several aspects of intelligence—signals intelligence, human intelligence, and geographic and imagery intelligence. We examined the close reciprocal relationship between the UK and the US in regard to the latter of these areas in our report earlier this year on the Defence Geographic and Imagery Intelligence Agency.[475] That inquiry focussed on the rationale for the merger of the Joint Air Reconnaissance Intelligence Centre (JARIC) and the Military Survey from April 2000. As we said then, 'operations of the future, exploiting all aspects of information and intelligence in increasingly shorter timeframes, will require the outputs of JARIC, Military Survey and others to be more closely integrated.'[476] But the merger was in many respects also being driven by the US/UK intelligence partnership. While in resources terms the UK is clearly the junior partner, it benefits enormously from the deal and needs to continue to provide a meaningful contribution. As we noted in our report, therefore, the new unified agency needs to have the organisational and financial wherewithal to remedy its staff shortages and attract sufficient imagery analysts, [477] and to introduce vital new technological infrastructure.[478]

189 It must be remembered, however, that though there is a special relationship in intelligence terms, the USA will never share all of its intelligence even with the UK, and we will never know what we do not know. Indeed, US restrictions on the sharing of intelligence with coalition partners were identified by the DoD as a problem during Operation Allied Force. The DoD noted that security restrictions 'at times acted as a barrier in disseminating operational information to warfighters ¼ and coalition partners.'[479] As a sub-contractor to the USA in intelligence gathering and analysis, the UK cannot make unilateral decisions about the access it gives its other Allies to the information it has. **If the European Security and Defence Identity is to develop, the UK and the its European Allies will have to give further thought to the balance between intelligence capabilities rooted in the American link and those which are nationally-owned or shared within Europe.** Straddling both camps, NATO itself has no intelligence capability other than that provided by individual nations, as we describe below. **Problems arising from differential access to intelligence within the Alliance undoubtedly hampered the effective execution of the air campaign.**

190 Intelligence is about more than the collection, analysis and dissemination of tactical and operational information. A central function is strategic analysis and assessment to enable policy makers to understand their opponents. It should therefore be of concern if the Kosovo crisis demonstrated shortfalls in the UK's assessment capability. Strategic assessment for policy makers is ultimately provided by the Joint Intelligence Committee (JIC) and Cabinet Office Assessments Staff which utilises the outputs of the MoD's Defence Intelligence Analysis Staff (DIAS). CDI told us that this was "the largest group of all source analysts anywhere in the United Kingdom", which had a long-standing cell studying the Balkans.[480] The claimed expertise of the DIAS meant that DIS had a leading role in producing strategic analysis for UK policymakers. The Committee was refused access to officials from the JIC. However, from the evidence we were able to gather, DIS does not appear to have performed well in two crucial areas: understanding the nature of the Serbian regime and forecasting the likely reactions of the Yugoslav leadership to NATO's air campaign."

191 For instance, on the crucial question of whether British intelligence analysis predicted the mass expulsion of Kosovo Albanians by Serb forces once the NATO air campaign began, Richard Hatfield, MoD Policy Director, told the Committee that "we had not predicted that sort of movement." We were told that DIS—

> ... knew that the ¼ Serbs intended to conduct a major offensive operation against the UCK [the KLA] starting March/April time. We knew that from intelligence.[481]

However, CDI told us that—

> ... we had no intelligence ¼ that ¼ would have said ¼ this is what he is positively going to do [the mass expulsion of Kosovars into neighbouring states].[482]

192 That NATO and the UK failed to assess and predict the reactions of Milosevic and his regime is evident in the widespread expectation that the campaign would require only a limited use of force over a few days and the fact that NATO and the UK were surprised by Serbia's tactic of expelling hundreds of thousands of refugees into neighbouring countries.[483] General Sir Rupert Smith admitted—

> There were areas where you will see we were wrong [in terms of intelligence assessments] ¼ where we mis-assessed the reaction of the Serbs, driving all those people out. Those [assessments] were demonstrably wrong in the event.

193 But the MoD has stressed the difficulty of predicting the actions of a particular leader. While the MoD does—

> ... some psychological research ¼ of a generic sort ¼ it is really difficult to get down to individual people's minds.[484]

Nonetheless, some efforts appear to have been made to understand the psychology of Milosevic and the levers that could be used to influence his regime's perceptions. CDS told us that—

> We had a good feel for how dangerous a man he was. We had a track record of what he had done.[485]

But, in contrast, the Permanent Secretary at the MoD said—

> We did not expect the barbarity or the savagery. We did not reckon on the readiness to do quite what they did ... I think it was quite difficult to get into the mind of not just Milosevic but his very close entourage, they were extremely good at maintaining, as it were, their own operational security.[486]

194 NATO gained some of its main insights into Milosevic from NATO leaders (General Clarke, Mr Solana and General Naumann) who had negotiated with him, as well as from its own Balkan experts and national intelligence sources (though member states certainly did not pass on all available intelligence).[487] The Defence Intelligence Staff has argued that it "had a fairly good understanding of what a complex person ¼ [Milosevic] was" but has also acknowledged that it failed to predict some of Milosevic's actions. It has explained this failure by arguing that "he is an opportunist" who is—

> ... quite willing to change his position very dramatically on a daily basis. That makes predictions extremely difficult.[488]

While this is a fair observation, it must be remembered that a key function of intelligence is not so much prediction but providing a range of possible futures of which planners can take account. The evidence is that some of Serbia's main responses to the air campaign, including conserving its air defences and ethnically cleansing Kosovo, were not raised as options for which UK or NATO planners should prepare.

195 **A common fallacy is to believe that intelligence is concerned with forecasting the future and predicting the actions of an opponent. Intelligence can no more predict the future than can racing tipsters. However, a key role of strategic intelligence is to provide planners and policymakers with analysis of an adversary's future options so they are not caught unprepared and 'surprised' by events. This options analysis should be supported by a process of wargaming and scenario evaluation. We believe that, if it had been, it would not have been beyond the wit of trained intelligence analysts to have identified Milosevic's possible and likely responses more accurately.**

196 But we do not place all the blame on failure of intelligence analysis. We believe the fault lies also with policy makers for not defining their intelligence requirements more exactly and for not probing the intelligence assessments with greater vigour; with planners for not thinking more imaginatively and laterally; and with the intelligence community more generally for not consulting more widely, including with regional experts in academia and NGOs.

197 **The UK's and NATO's analysts cannot be expected to predict with certainty the future actions of a régime or an individual. Nonetheless, it is striking that they appeared to have failed to warn policy-makers of the full range of options open to Milosevic and the likelihood of his use of asymmetric responses, thereby leading to surprises for which the Alliance was unprepared.**

UK-NATO COORDINATION AND COMMAND

198 On the interface with NATO, we learned from both the UK Ambassador to NATO and the UK Military Representative that the NAC and Military Committee had functioned much as intended. Vice-Admiral Haddacks, the UK's Military Representative to NATO, commented that NATO was very quick and very responsive, particularly with the UK. [489] Both DSACEUR, General Sir Rupert Smith, and COMARRC, General Sir Mike Jackson, were at pains to remind us that, as NATO officers, their first responsibility was to NATO and that their credibility amongst the allies was dependent upon being, and being seen to be, impartial in their interventions. Both, however, recognised their value as an 'informal' source of comment and as a conduit on the interface between NATO and UK.[490]

199 On the interaction of national and Alliance command structures, the MoD told us that 'current arrangements appear to work well overall', but it also admitted that 'there may be scope for links between PJHQ and the appropriate NATO headquarters to be strengthened."'[491] **We expect the scope for better coordination between the Permanent Joint Headquarters and NATO**

headquarters to be spelled out in more detail in the response to this report.

200 There are also questions about the nature and quality of the links between US and NATO command structures. General Sir Rupert Smith reminded us that "something in the order of 80 to 85% of the equity lay with the United States".[492] The US DoD reported to Congress that—

> NATO's command structure worked well, but parallel US and NATO command-and-control structures complicated operational planning and unity of command.[493]

General Naumann commented, when challenged about implicit claims of a chain of command over-dominated by the US, that—

> It would be the wrong conclusion to say that the United States of America waged a war within a war, that is not true. They provided assets which we did not have. SACEUR tried to harmonise the impact these assets may have as well as it could into NATO's campaign plan. Under the given circumstances we could not have achieved much more.

But he went on to say—

> Strictly speaking, from a NATO point of view I think one has to make sure that a NATO Commander is given the maximum unity of command and the right to really see it through. Nations, I think, have to think through—I should put it as cautiously as I can—they should prepare to think through to which degree they are really willing to transfer authority to NATO. At the moment the formulas which we have definitely allow for improvements under difficult conditions, as we had.[494]

201 There are claims made that the US effectively ran a separate war during Operation Allied Force. The French Ministry of Defence, in its November 1999 report, comments—

> Our partners noted the complex decision-making and information process within the Atlantic Alliance. The 19 allies indeed jointly decided on and conducted, on a political level, NATO's engagement in the crisis. However, despite the universally recognized need for a single command, it has to be admitted that part of the military operations was conducted by the United States outside the strict NATO framework and procedures. The Supreme Allied Commander of the operation—SACEUR—is accountable not only to the Atlantic Council, but also to his own national hierarchy at the very highest level.[495]

The same report also criticises the determination of the USA (as well as the UK) to keep their cruise missile launch platforms under national control.[496]

202 While a certain discount needs to be applied to French views of American domination of the Alliance, these complaints are too persistent and come from too many sources to be dismissed as groundless. The efforts to blend the US Joint Task Force Noble Anvil operation into the Allied campaign appear to have been at times clumsy and inappropriate. This resulted in dual tasking orders and caused frustration. In practice, to those on the ground it often seemed that there were two separate missions, the US and the NATO one, being undertaken at the same time. It is unsurprising that the contributors of over 80% of the firepower will take a dominant decision-making role. The UK or France would expect to do the same in similar circumstances. **Two views of the US within NATO can be taken—that its dominance pushes the Alliance in directions for which there is less than full consensus; or that its willingness to work within NATO acts as an almost self-imposed constraint on US military might in which European views of the world carry more weight than they otherwise would. We favour the latter view.**

203 The NATO military command structure for Kosovo, running from SACEUR to CINCSOUTH and on *via* his Component Commanders and into theatre has been described by General Wesley Clark as "about as complex a command structure as anyone would ever fear to see. But we had it and we worked it."[497] The MoD's Policy Director commented—

> I think that is part of the wider lessons NATO has learned, that it was not configured, optimised, to fight that sort of operation.[498]

On our visit to NATO HQ in February of this year, we formed the distinct impression that the idealised wiring diagrams and flow charts reflecting NATO's command and control arrangements, and its associated staff procedures, had rapidly been thrown aside under the pressures of a real operation, and that this was an operation in which the element of political discretion was far higher than had ever been envisaged within the mindset of the Cold War in which NATO had grown up. **We were also surprised that greater focus was not placed upon the development and use of more structured NATO Combined Joint Task Forces, a concept introduced with many fanfares at the Brussels Summit in 1994.** Vice-Admiral Haddacks told us—

> We have learned lessons on the whole operational planning process which in this crisis worked okay, but were not necessarily completely coherent and joined up. In the wake of the crisis we have taken a very hard look at the whole operational planning structure and methodology and we have decided that there are better ways of doing it. In fact, NATO has now drawn on UK best practice to set in place the thought process that starts with a political military estimate, moves on from that to a planning directive, and then draws out of that various military options. We practised that process in this year's crisis exercise 2000 for the first time.[499]

He also told us that—

> Modern technology makes it [NATO] a much flatter kind of organisation than it looks in the hierarchical diagram because daily, as we know, SACEUR had a video-tele conference with his commanders ... They have a dialogue, decisions are reached and direction is given. It is much more synthesised perhaps than the stark diagram would indicate.[500]

DSACEUR, General Sir Rupert Smith, also judged that the physical dislocation of NATO senior commanders did not give rise to any problems. He, too, emphasised that there were repeated video television conferences (for example with the Combined Air Operations Centre at Vincenza and AFSOUTH in Naples) and no shortage of communications. Indeed, he told us—

> You could argue that there was possibly too much of it ... I do not think he [SACEUR] lacked for air advice.[501]

204 General Jackson tended to be more critical. On the NATO side he told us that his one difficulty was the ability of the decision making machinery to deliver the decisions required in the most timely way.[502] Viewed from his perspective, it no doubt seemed that way, although we are mindful, too, of the inherent difficulties of getting quick decisions within an Alliance of 19 nations. Vice-Admiral Haddacks emphasised that NATO had digested some of these lessons, and that changes were in hand, particularly to enable the NAC to authorise the deployment of enabling forces in advance of any ACTORDs.[503] That, he told us, had been an important lesson. On matters of NATO doctrine, he warned that—

> There is a lot of work to be done in the overall area of doctrine ... Civil and military co-operation ... The whole peace support operations doctrine ... Doctrine on information operations ... There is a broad agenda of work that is under way ... lead nations have been nominated and the UK is a lead nation in a number of those areas, including peace support operations as a single subject.[504]

205 Overall, despite tensions, NATO appears to have delivered an ultimately effective command structure, if incorporating a good deal of improvisation. It worked, but the strains showed. The French Ministry of Defence comments—

> NATO's procedures, essentially devised for scenarios implementing Article 5 ... were again shown to be inappropriate for the management of [a] non-Article 5 crisis. A highly reactive decision-making process is necessary and, at the same time, there needs to be a guaranteed consensus between the members of the Alliance. *Ad hoc* procedures were therefore established.[505]

It would, of course, help in achieving improved procedures within the Alliance if France were to rejoin NATO's integrated military structure. The MoD's own report on the lessons learned is more upbeat, asserting that—

> NATO proved itself to be a capable and effective crisis management organisation ... NATO's integrated military structure proved its worth in the Kosovo operation.[506]

The US DoD's report concludes that action is needed to—

- enhance NATO's contingency planning process for operations outside the NATO area;
- develop an overarching command-and-control policy and agree on procedures for the policy's implementation; and
- enhance procedures and conduct exercises strengthening NATO's political-military interfaces.

206 **If NATO is to meet the challenges of future crises—particularly in response to asymmetric threats—it must improve its performance in a number of planning aspects. First, it must streamline its own crisis management planning system.** NATO must develop the ability to become truly proactive in its planning and crisis management techniques, outlining clearly a set of political scenarios from which military contingencies can be derived at an early stage. This requires an earlier input to the NAC to help clarify NATO's political objectives. General Naumann was clear that there should be no question of overriding the need for NAC authorisation in planning, "but to start thinking", as he pointed out, "I do not need a Council authorisation." In particular, he said, "we do not exploit the possibilities of modern technology in a sufficient way". NATO's Military Committee needs at least a 'supranational facility' for communication, simulation and planning, to offer the NAC better founded advice and support to help it get ahead of events.[507]

207 **Second**, the mechanisms of crisis management will always be challenging for a multinational organisation, but **the Alliance must ensure that differences between the members are not created by NATO processes themselves: the way information is handled, the bureaucratic pace of dealing with events, or the failure to gather the relevant information at the appropriate time.** As the Policy Director and the Chief of Defence Intelligence told us, NATO is looking at this aspect of its operations as part of a broader approach to lessons learned and the way in which it handles information.[508]

208 **Third, NATO must address in particular the relationship between political and military planning.** Vice-Admiral Haddacks described to us the way explicit political direction was handed down from the ministerial level to the military planners in NATO in May 1998 to draw up a range of contingency measures. He believed that this had been done "soon enough" to be effective.[509] He also described how all 19 nations in the Alliance "share ownership" of the planning as it passes from the North Atlantic Council, through the International Military Staff, to the responsible strategic commander, whose response back up the line is then shared among the national capitals. The Military Committee then provides an overall assessment which is offered to the Council in answer to its original request. This process will go through several iterations as the situation develops. As NATO planning becomes more detailed, national capitals also are allowed to comment and make their positions clear.[510]

contingency planning process it worked reasonably well in the build up to this crisis. There is a distinction, however, between the planning and the execution phase of an operation and both General Smith and Sir John Goulden pointed to problems in the implementation of policy where Allies were not all working with the same information, and took different positions on the execution of the strategy.[511] Once political planning moves to military execution it becomes very difficult to maintain the transparent and consensual procedures described by Vice-Admiral Haddacks. There may be no sensible alternative to the politico-military interface he outlines. But **NATO must streamline the way in which its international (political) staff work with the international military staff in the implementation phase to minimise friction and misunderstanding.**

210 **Fourth, NATO needs a greater ability to undertake its own coordination of intelligence information.** As General Smith put it—

> You are entirely reliant upon the information that individual nations supply¼We will state our requirements as NATO but we cannot answer them ourselves. So the reliance, as a senior NATO commander, is entire.[512]

This cannot but slow down the planning process and build into it further discrepancies in the information available to different allies once operations begin. General Naumann told us that, "NATO intelligence is the collection of NATO nations' intelligence".[513] This is unavoidable, but **intelligence-sharing is fundamentally a matter of trust, not just in the people handling it but also in the communications and processes through which it goes. Unless NATO has a better and trusted co-ordination system of its own, so that it can analyse better what it is getting from member nations, its efforts to streamline the political/military relationship in the execution of policy will be badly flawed.**

211 We suspect though, that some of these issues will take a long while to resolve. We trust that the MoD will monitor the speed of response and seek to maintain the pressure for action where it is appropriate to do so. **There are also two areas where both the UK and NATO manifested particular shortcomings—humanitarian co-operation and information operations**—which we discuss now in more detail. **These highlight most starkly the failure of NATO to confront effectively the 'asymmetric' tactics used by Milosevic.**

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461 The majority of forces contributed by UK [to Operation Allied Force] deployed under the Operation Control of SACEUR. Operational Control confers less authority than Operational Command. The NATO definitions of Operational Command and Operational Control are as follows:"Operational Command: The authority granted to a commander to assign missions or tasks to subordinate commanders to deploy units, to re-assign forces and to retain or delegate operational and/or tactical control as may be deemed necessary." "Operational Control: The authority delegated to a commander to direct forces assigned so that the commander may accomplish specific missions or tasks which are usually limited by function, time or location; to deploy units concerned, and to retain or assign tactical control of those units". In short, Operational Command gives a commander authority to do virtually what he likes with the forces under his command, whereas Operational Control only gives him authority to use those forces for the missions or tasks for which they have been specifically assigned by contributing nations. The effect of this is that if commanders with Operational Control wish to use their forces for tasks different to those for which they were assigned, they have to seek national approval. Similarly, if nations believe that their forces are being used or are likely to be used for tasks different to those they agreed, they can object; a process known as "raising the Red Card". Back

462 Cm 4724, para 5.7. Back

463 ibid, para 6.16. Back

464 ibid, para 6.14 Back

465 Q 101 Back

466 Q 268 Back

467 Q 101 Back

468 NAO, para 3.15. Back

469 Ev p 265, para 98 Back

470 Cm 4724, pp. 16-17. Back

471 Q 410 Back

472 Q 410 Back

473 Q 412 Back

474 Q 410 Back

475 Fifth Report, Session 1999-2000, *The Defence Geographic and Imagery Intelligence Agency*, HC100 Back

476 *ibid*, para 21 Back

477 *ibid*, para 14 Back

478 *ibid*, para 11 Back

479 DoD, p 74 Back

480 Q 295 Back

481 Q 344 Back

482 Q 346 Back

483 Q 921 Back

484 Q 471 Back

485 Q 324 Back

486 Q 77 Back

487 Q 896 Back

488 Q 318 Back

489 Q 848 Back

490 QQ 906, 913-15 Back

491 Ev p 250, para 39 Back

492 Q 909 Back

493 DoD, p 20 Back

494 QQ 1028-9 Back

495 Ministère de la Defense, *Lessons from Kosovo* (English version), November 1999, p 9 Back

496 *ibid*, p 19 Back

497 www.brook.edu/comm/transcripts/20000608/keynote.htm Back

498 Q 415 Back

499 Q 873 Back

500 Q 869 Back

501 Q 968 Back

502 Q 743 Back

503 Q 873 Back

505 Ministry of Defence, Paris, *op cit*, p 10 Back

506 Cm 4724, pp 18 and 19 Back

507 Q 900 Back

508 Q 415 Back

509 QQ 843, 844 Back

510 Q 846 Back

511 Q 851, 911 Back

512 Q 918 Back

513 Q 983 Back

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Select Committee on Defence Fourteenth Report

III. THE CONDUCT OF THE CAMPAIGN

COMPUTER NETWORK ATTACK/COMPUTER NETWORK DEFENCE

233 Computer Network Attack (CNA) and Computer Network Defence (CND) are perhaps the most publicised of the new components of information operations. Only the US armed forces have a doctrine and operational concept for these activities and they played minimal roles in the conflict. Nonetheless, the conflict provided some lessons for the UK and for the Alliance.

234 There is no doubt that during the Kosovo campaign all means were used for intelligence gathering but there is no evidence as to whether the UK, the US or the Alliance made significant use of computer network attack against the Serbian military or civilian infrastructure. As the Pentagon pointed out in its report to Congress—

> ... the command, control, communications and computers (C4) systems provided for Operation Allied Force were unprecedented in terms of capacity and variety of services. ¼ The available bandwidth was nearly double that used during the Gulf War."[555]

However, as the DoD admitted—

> ... training deficiencies ¼ contributed to security vulnerabilities. ¼ Some important network details were not adequately protected. In addition, not all computer hardware and software security features had been enabled."[556]

There was a good deal of publicity given to the activities of Serbian hackers who, with a degree of government sponsorship, sought to disrupt NATO information systems. They had limited success against two NATO websites but failed to systematically disrupt NATO information activities or to gain access to closed defence systems. Nonetheless, Serbian use of CNA, however tentative, is a reminder of the potential of this threat. **Especially in light of its efforts to develop a digitised battlefield environment, the MoD is well advised to continue its work with other government departments to ensure that defence and other national, as well as Alliance, infrastructures are secure against future attacks that may display a better understanding of their vulnerabilities.** [557]

OPERATIONAL SECURITY

235 Operational security is an age-old military principle but a crucial element in information operations at both strategic and tactical levels. Given the nature of the Kosovo campaign, there was virtually no scope for its use at the strategic and operational levels. NATO's obvious determination to risk no aircraft or personnel, and its open eschewal of a ground option, left the Serbian leadership with little doubt as to the constraints within which it was operating.

236 Even at the tactical level, operational security was not a key factor in this campaign. Serbian forces were fairly effective in analysing and predicting NATO air operations and in responding appropriately. This appears to have been due to good analysis on the Serb side, helped by integration of a wide range of sources including open source intelligence, communications intercepts and spotters around airbases in Italy. NATO's 'predictable operating patterns and poor understanding of operations security' contributed, according to the DoD, to Serbian successes.[558] Although there were claims in the press of significant deliberate leaking of targetting data to Belgrade from within NATO, there is no hard evidence of Serbia having had access to a significant human source within NATO or the UK government.

DECEPTION

237 The political circumstances of Operation Allied Force again provided little scope for the use of deception. The most obvious technique would have been to deceive the Serbian armed forces into believing that a ground offensive was imminent. The open political debate over this option may explain the lack of a significant NATO or UK deception plan, but the lesson to be learned is perhaps wider than this. It may simply be the case that, when operating as part of a broad coalition, strategic and operational deception are very difficult to agree upon and to achieve. **US sensitivity to releasing certain types of information greatly inhibited combined planning and operations in some areas.** American reluctance to release classified information to other Allies—

> ... precluded any integration of deception planning between US and NATO information planners.[559]

UK MEDIA OPERATIONS

238 Before Operation Allied Force, the MoD had renamed Psyops (Psychological Operations) 'Information Support'.[560] But the concept had changed little from the traditional objective of influencing the perceptions of selected target audiences. The precise aims will depend on the nature of the operation and of the target audience. For instance, against an opponent's armed forces the aim may

and minds' amongst those on whose support an enemy may depend. At home, the aim may be to mobilise and sustain support for a particular policy and interpretation of events. In the Kosovo campaign tactical and operational Psyops, including leafleting Yugoslav forces in Kosovo, were mainly undertaken by the USA.[561] The UK's main contribution was in terms of media operations.

239 As far back as the Falklands campaign, media operations were identified by the MoD and our predecessors as an important area of weakness.[562] Kosovo demonstrated that media operations are taken more seriously than in the past. Jonathan Marcus of the BBC World Service observed—

> This is a very particular sort of war ... This is a war of choice, in this rather fortunate phrase that has come to be used. In a war of choice fought by a democracy, fought by a multinational alliance, this aspect of public support for the war, the whole mobilisation of public opinion and so on is very, very important, as the MoD clearly knew only too well.[563]

But planning and preparation appear still to have been *ad hoc* and under-resourced. The MoD admitted that "there was a lot of improvisation" during the campaign.[564] Preparation and planning within the MoD appear to have been good in parts: for example, doctrine, in the form of the *Green Book*,[565] had been drawn up between the MoD and the media and served as a reasonably effective guide to operations, and media operations had been included in the MoD's regular exercise programme.[566] It is less evident that senior MoD civilian and military staff had adequate support and training in media operations. Efforts had apparently been made prior to the crisis to build relationships of trust with journalists and to understand the media target audience. This appears to have been a limited activity reliant on individual initiative.

240 There was, apparently, little effort to brief journalists before the campaign.[567] Mark Urban of BBC Newsnight commented in his written submission—

> Compared to the period preceding the 1991 Desert Storm operation, there was very little activity by the Ministry of Defence in briefing journalists. This was a shame as it might have provided valuable background on such subjects as the state of Yugoslav air defences, Milosevic's force build up around Kosovo and the difficulties of bombing mobile or hardened targets. In general the atmosphere for informed coverage of defence issues has declined markedly. Many news organisations have decided they cannot afford dedicated Defence Correspondents and the MoD offers far fewer facilities or briefings than it once did. Contacts within the armed forces have suggested that this is all part of restrictive central information policy. While it may save the Government the occasional embarrassment, alas it also means we are denied the kind of informal contact with senior officers that we used to enjoy more regularly and was vital to providing good coverage.[568]

Planning for augmentation of trained personnel also seems to have remained patchy, even though this problem had been identified internally in 1998. The Army had more experience with media operations and more trained personnel than the other Services but, in 1999, the **MoD did not have an adequate system for identifying, training and incorporating media operations specialists to meet the needs of a crisis.**

241 According to MoD, the media operations campaign had four key target audiences:

- — the UK public
- — NATO allies
- — Kosovo Albanians
- — Milosevic and his supporters[569]

A further target audience was British military morale. In conjunction with the Services, the MoD disseminated messages to British forces covering British policy and Alliance objectives. We were told that the key messages were 'the reasons for our action, our determination and our confidence in the final outcome'.[570] In effect, there were two key audiences for the UK's media operations and two key tasks, not necessarily complementary and possibly sometimes conflicting. In relation to the UK public and NATO Allies, the prime task was to mobilise and to keep on-side public and political support for the campaign. The messages here were the legitimacy of the Alliance campaign, the unacceptable behaviour of Milosevic and the Alliance's determination to 'win'. In relation to Milosevic and the Serbian élite, the main objective was to persuade Belgrade of the Alliance's resolve and of its commitment to inflict more pain than the Yugoslav regime could bear.

242 The media operation operated in the context of a number of constraints. These included:

> — The 24 hour news cycle, which meant that, compared to previous conflicts, the media demanded vast quantities of information at an unprecedented pace. The need for frequent updates, especially on TV, radio and the Internet has left journalists with a constant requirement for new 'news'.[571]
>
> — The speed of global media dissemination forced the MoD to operate in a global environment. Messages therefore had to be coordinated between the Balkan region, Brussels, London and Washington to ensure that the media received a consistent line and 'updates' to the story.[572]
>
> — The decline of specialist defence reporters across many of the media was both a problem and an opportunity for the MoD. Most journalists were unable to enquire into the strategic and military details of the campaign and did not understand the complexities of military operations, especially over issues such as 'smart' weapons and Battle Damage Assessment.[573] This led to a tendency to paint militarily routine events, such as collateral damage or the loss of the Stealth fighter as major

disasters.[574] It was an opportunity on the other hand, since most journalists were unable to challenge the MoD line and relied heavily on official briefings for their copy rather than on a network of contacts or informed analysis.[575]

243 The nature of the campaign, an air operation conducted over a territory from which the media were excluded, meant that there was essentially little new news to report.[576] The media were unable to visit Kosovo to report upon the insurgency or the impact of the NATO campaign and so were left to report upon the air campaign and on NATO's political strategy. Although some British journalists were in Belgrade, their work was inevitably very restricted by the authorities.[577] There was therefore a media tendency to focus on inconsistencies and controversies in the NATO and UK presentation of the campaign—hence a focus on Alliance 'splits' and military errors.[578]

244 Ministers could not be accused of neglecting the media aspects of the battle. From the top-down, the UK government committed its considerable media operations resources to the campaign and to the task of mobilising international and British public opinion.[579] UK doctrine for media operations emphasises the importance of winning the trust of the media and of target audiences. Few journalists appear to believe that they were actually lied to by the MoD. Asked whether he had been the victim of a deliberate, calculated attempt to deceive, Mark Urban responded—

> The short answer is no ...[580]

Jonathan Marcus said—

> I do not think they were deliberately trying to mislead.[581]

Mark Laity added—

> Was I lied to? No. Was I given bum information? Yes. Was I given it deliberately? No.[582]

Especially in a coalition humanitarian operation, the damage to UK and Alliance credibility of being caught out in an outright lie would have been serious. The complaints in retrospect can be seen to have resulted from the inability to collate and disseminate military information fast enough or from simple lack of knowledge, exacerbated by the media's simplification of a complex message.[583] There were two major areas of controversy which emerged in our evidence from journalists.

245 The first was the claim, perhaps never officially made but reported in the media, of 100,000 deaths of Kosovo Albanians during the ethnic cleansing. Much play has been given since the campaign to the argument that the Alliance wildly exaggerated the numbers of Kosovo Albanian civilians killed by the Serbians. It would appear, however, that UK and NATO officials never actually reported that they believed 100,000 had been killed but rather that they estimated this number as being missing.[584] Nevertheless, they do not appear to have done much to cast doubt on the more sensationalist or exaggerated headlines of the tabloid press. **More could have been done to give accurate information about the actual number of killings in Kosovo, and to provide some corrective to the more lurid claims.** This number was calculated from the low proportion of men arriving in refugee camps. Whilst some NATO officers privately believed that these men had probably been murdered, officially NATO listed them as missing—in fact most had hidden in the forests or joined the KLA.[585] The MoD still maintains its estimate that 10,000 civilians were murdered.[586] However, more recent estimates from other sources have been lower.[587]

246 The second area, which has perhaps attracted greater and more sustained controversy, was information given on the effectiveness of air strikes. There is a general perception that NATO and the UK exaggerated the effectiveness of air strikes. When the media discovered that relatively few strike missions were delivering ordnance on target and that initial assessments of the damage done to Serbian fielded forces in Kosovo were vastly over-estimated, there was a view that NATO and the UK had deliberately deceived the media in order to pretend the campaign was having more impact than it was. We have discussed the shortcomings of the Alliance's battle damage assessments and equipment earlier. Again, it appears that this perception owes more to media misunderstanding and to the difficulties inherent in the analysis and dissemination of battle damage assessment than to a deliberate ploy to deceive. A largely inexpert media understandably wanted quick and clear answers on battle damage assessment and failed to understand the time-honoured problems with this military science which includes much art.[588] NATO's spokesmen naturally wished to portray its achievements in a positive light, but in underestimating the experience and therefore scepticism of its journalistic audience, they made a rod for their own backs when the early claims for battle damage came back to haunt them. Nor can it be said that subsequent efforts to redress the damage done have been marked by a real readiness to engage in open debate.

247 The MoD has identified a number of improvements that need to be made to its media operations in the light of the experience of the Kosovo conflict.

248 *Defence Press Office.* The Defence Press Office was the focus for the MoD's 24 hour media operation. The MoD notes that 'individual commitment and sheer hard work'[589] meant that the office was successful. However, it has acknowledged that the office was understaffed, so that important tasks such as specialist briefings and rapid rebuttal of Serbian stories could not be carried out effectively. One reason for the lack of resourcing may have been the hope that this campaign would only last a few days. When Milosevic did not capitulate, structures in place came under strain. The MoD has pledged to ensure that a rapid surge capability is in place through use of augmentees from the Services, civil service and the reserve forces for future operations.[590] Overall, the MoD has acknowledged that improvement in its media operations capability is a "very high priority" and that "there shall not be a problem of resourcing".[591] We were told that improvements to the MoD's capability will not be very costly but they will involve attention to training at all levels, cultivation of technical skills and adequate manning prior to a crisis erupting.[592] They may not be costly compared to a new weapons system—but they will not be cheap, if done properly.

249 *Press Conferences.* The centrepiece of the media operation was a daily London press conference, convened jointly by MoD, the FCO and the DfID. This format, we were told, demonstrated the benefits of joined-up government.[593] The decision to hold the press conference at 11.30 every day in order to fit into the 24 hour news cycle (and influence the American channels) appears to have been well judged. The decision to make the press conference a joint political-military affair with ministerial and senior military representation was also laudable in demonstrating British commitment and unity of purpose.

250 Our media witnesses, however, levelled some criticisms at the format of the press conferences, which were televised live. It was noted that specialist journalists felt inhibited from asking detailed and critical questions, for fear of revealing operational details. Background briefs were designed to fill this gap and to allow specialist audiences to receive "detailed facts about particular areas of operations".[594] The media have complained that these were too infrequent and limited in scope. The MoD has recognised this and pledged to make them better planned and more regular. There was also, apparently, felt to be a problem in gaining direct access to military experts. Jonathan Marcus remarked—

> Speaking purely as a defence correspondent it would be nice in a broader sense to have a greater purely military element in the briefings and rather less of the political side. ... If you go to the Pentagon, 99 times out of 100 your queries are dealt with by a senior officer and usually a senior officer with experience of the area you are talking about. 99 times out of 100 in the British system you speak to a government information officer who may be very wellintentioned and reasonably wellinformed but it is not the same thing. There is a small military element in the press side of the MoD but it is very small ... under-resourced, understaffed and has too many other functions to do along the public relations line.[595]

251 *Media Monitoring & Rapid Rebuttal.* The MoD operated a 24 hour monitoring and alert service during the campaign. Augmentees were used to monitor print and broadcast media, and the Press Office responded through the press conferences, briefing sessions or by direct contact with the journalist or media outlet. However, this work is very manpower intensive and the MoD has acknowledged the need to boost resources devoted to the task.

252 *Electronic Media.* The MoD Press Office notes that 'the increased use of the Internet was the single biggest innovation of the media campaign.'[596] The joint MoD/FCO website was regarded as "an enormous success", receiving some 7.5 million hits during the campaign, of which 3 million were from the USA and some 50,000 from the FRY. However, the MoD has acknowledged that it lacked sufficient staff skilled in new media and failed to use the Internet to its full potential. The MoD has committed itself to "think creatively" about uses of the Internet, such as interactive applications.[597] It will need to follow up this thinking with action.

253 *In-theatre media operations.* Once operations shifted to the ground in-theatre, the primary aim of the MoD media operation was to provide evidence to demonstrate the validity of the message concerning Serbian behaviour in Kosovo. It used the pool system to manage media demand, an approach which had mixed reviews from the media. On the one hand there was praise for the professionalism of military public information and escort officers, and the MoD has noted the importance of training good escort officers. On the other hand, some British journalists have complained bitterly about the restrictiveness and slowness of the pooling system, particularly in a theatre to which the world's media had easy access. Mark Urban commented that—

> The notion of a pool, with its restrictions on the use of material, sits uneasily with the anarchic nature of modern media communications.[598]

The MoD has acknowledged that it needs to review the pool process, in discussion with the media.[599]

NATO MEDIA OPERATIONS

254 In contrast to the qualified, but generally approving, verdict passed on the MoD's media operations, it is widely acknowledged that NATO was completely unprepared to carry out high-intensity media operations. Jonathan Marcus, who spent much of the period in Brussels, told us—

The initial military briefings were almost laughable in their lack of information.[600]

Although NATO had gained experience with media operations in-theatre in Bosnia, it had no doctrine, plan or resources to run a media operation from Brussels. Notwithstanding the efforts of NATO's principal spokesman, Dr Jamie Shea,[601] the lack of prior planning and resourcing meant that the Alliance media campaign was a shambles until well into the campaign. Jonathan Marcus concluded that—

> It certainly appeared to me that the media strategy had been devised for a very short war, a short, sharp shock, a matter maybe of days, after which Mr Milosevic would have crumbled. As the air campaign dragged on in the early phases with very bad weather ... I think the pressures on that media strategy were evident. NATO as a whole began the media war, if you like, with a fundamental problem and that is of being a multinational alliance. Clearly, the ... mood of public opinion in the different Alliance countries were very different ... The word "war" was never mentioned. This was an air campaign and something much less than that. That kind of lowest common denominator line was forced on NATO perhaps because of the different sensitivities in different countries. I really wonder at that lack of preparation because ... we were heading so close to the possibility of a ground war with the possibility of real casualties on the NATO side. I wonder how well that media strategy would have really prepared public opinion for what might have lay ahead.[602]

During the campaign, the UK played a leading role in 'rescuing' the NATO media operation. The intervention of the Prime Minister's Press Secretary, Alistair Campbell, in mid-April was instrumental in revamping the NATO press office. Once NATO established its Media Operations Cell, with augmentation from member nations and better information flows up the chain of command, the NATO media campaign became much more effective. With the conflict now over, NATO must address the weakness of its media operations and has determined to improve resourcing and preparation to ensure that the NATO press office can shape the agenda of future crises rather than follow them.

255 Through experience of coordinating activities such as Operation Desert Fox in 1998, the MoD had established good working relationships with the Pentagon press office. However, there appears to have been no prior coordination whatsoever with NATO in Brussels. We were told, for example, that the MoD had not held discussions with NATO prior to the campaign about media operations,[603] and that the MoD's media operations officials only initiated regular contact with Jamie Shea *after* the air campaign began.[604] We were also told that there were no joint exercises involving NATO media operations prior to the campaign. These failures are not only evidence of NATO's lack of preparation for the media war, but also of a lack of foresight and preparation by the MoD. **NATO's early failures in the media war cannot all be ascribed to a failure of imagination in Brussels. As a key player in the media campaign, the MoD must bear some of the blame for the complete lack of preparation.**

256 The effectiveness of the media operations can only be assessed in the context of the campaign as a whole. The whole campaign was designed with one and a half eyes on media perceptions. One journalist noted that, under strong American influence, "the conflict had been designed in such a way that the avoidance of having a body being dragged through the streets was almost a central feature of the military strategy".[605] Mobilising and maintaining support on the NATO home front was central to the operational concept. The MoD argues that it did this effectively, claiming that 'we met the challenge' and that the 'media operation was a success' in that 'we successfully communicated our message to the public' and the 'UK was seen as leading NATO in our steadfastness and purpose'.[606]

257 Whilst the campaign directed against home audiences was fairly successful, the effort to influence Serbian perceptions through media operations had limited impact. While Serbian external propaganda was rather ineffectual and untrusted, within the country it appear to have been effective. The régime's monopoly on the media and the predictable response of a citizenry to being bombed appear to have combined to strengthen support for the régime, at least in the short term. Observers such as John Simpson of the BBC, who reported from Belgrade, have argued that—

> ... this was a conflict where it was really important to win the hearts and minds of people within the country [Serbia] ¼ and that was a complete failure. ¼ [It] pained me ¼ to see how ineffectual the NATO side of things was in respect of getting to the people of Serbia.[607]

258 The MoD has concurred with this assessment. It has admitted that we "probably did not get to the Serb audience as much as we would have liked".[608] Nonetheless, it argues that—

> ... as the campaign progressed, co-ordination and integration improved, allowing information operations to become more effective in influencing Serb perceptions.[609]

This statement is reinforced by the MoD's intelligence assessment that—

> ... when [the Serbs] started getting some exposure to some of our media, they thought it was not quite so clear cut. Some people in Serbia started being a little bit more unhappy about what was going on.[610]

The weakness of MoD and NATO efforts to influence Serbian perceptions stemmed from a number of shortfalls. At a strategic level, as outlined above, there was insufficient attention paid to crafting a campaign plan around information operations principles that would have focused on Serbian psychological centres of gravity. In terms of intelligence and assessment, as we have also noted, there were only limited capabilities available, and efforts made, to identify and understand the appropriate psychological levers. Furthermore, direct channels to the Serbian populace and élite over which NATO and the MoD had significant influence were limited.

259 The Chief of Defence Intelligence told us that the Defence Intelligence Service predicted, correctly, an initial rallying of support behind Milosevic once the air campaign started. Subsequently, an inter-departmental assessment, supported by DIS, identified a "slight swing in public opinion."[611] By the end of the campaign, the DIS was monitoring and reporting increased popular unrest and declining military morale, but did not predict a rapid collapse of morale. Aside from such general assessments that differed little from those found in the media, it was striking that the MoD appeared to have little capacity to analyse the linkages between its air strikes, Serbian public opinion and the government's decision making. The MoD has noted that—

> ... we know the sort of effect we were having but how that worked its way through in people's minds was another matter.

The MoD did not feel well placed to—

> ... make an assessment about what the Serb citizen really felt, let alone how much influence individual Serb citizens had on Milosevic's behaviour.[612]

But forecasting of Milosevic's behaviour, understanding of the political and perceptual levers and assessment of public opinion are all

critical components of understanding whether a coercive strategy is having effect.

260 The crucial underpinning for all aspects of successful counter-propaganda is intelligence. Whether crafting an overall campaign plan, a targetting strategy or the media operations component, the crucial prerequisite is a fully-formed and detailed understanding of the opponent and of the target audiences. This initial understanding needs to be backed up by ongoing, rapid assessment of the effectiveness of operations, judged against the overall campaign objectives. **The key factor in this campaign was the need to understand the Milosevic regime's perceptions and to identify the levers that could be used to influence those perceptions. In this task, neither the MoD nor NATO were effective.**

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SUMMARY

Principal Findings

Minimizing harm to civilians was central to governmental and public consent for NATO's bombing campaign in the Federal Republic of Yugoslavia-an air war officially justified as humanitarian intervention. The decision to intervene was taken with the awareness that the use of force would be subjected to close scrutiny through the lens of international humanitarian law-and in the court of public opinion.

From the beginning of Operation Allied Force, NATO and allied government and military officials stressed their intent to limit civilian casualties and other harm to the civilian population. The practical fulfilment of this legal obligation and political imperative turned upon a range of decisions relating to targeting, weapons selection, and the means of attack.

Despite precautions, including the use of a higher percentage of precision-guided munitions than in any other major conflict in history, civilian casualties occurred. Human Rights Watch has conducted a thorough investigation of civilian deaths as a result of NATO action. On the basis of this investigation, Human Rights Watch has found that there were ninety separate incidents involving civilian deaths during the seventy-eight day bombing campaign. Some 500 Yugoslav civilians are known to have died in these incidents.

We determined the intended target in sixty-two of the ninety incidents. Military installations account for the greatest number, but nine incidents were a result of attacks on non-military targets that Human Rights Watch believes were illegitimate. (Human Rights Watch is currently preparing a separate report with a full analysis of our legal objections to the choice of certain targets.) These include the headquarters of Serb Radio and Television in Belgrade, the New Belgrade heating plant, and seven bridges that were neither on major transportation routes nor had other military functions.

Thirty-three incidents occurred as a result of attacks on targets in densely populated urban areas (including six in Belgrade). Despite the exclusive use of precision-guided weapons in attacks on the capital, Belgrade experienced as many incidents involving civilian deaths as any other city. In Nis, the use of cluster bombs was a decisive factor in civilian deaths in at least three incidents. Overall, cluster bomb use by the United States and Britain can be confirmed in seven incidents throughout Yugoslavia (another five are possible but unconfirmed); some ninety to 150 civilians died from the use of these weapons.

Thirty-two of the ninety incidents occurred in Kosovo, the majority on mobile targets or military forces in the field. Attacks in Kosovo overall were more deadly-a third of the incidents account for more than half of the deaths. Seven troubling incidents were as a result of attacks on convoys or

transportation links. Because pilots' ability to properly identify these mobile targets was so important to avoid civilian casualties, these civilian deaths raise the question whether the fact that pilots were flying at high altitudes may have contributed to these civilian deaths by precluding proper target identification. But insufficient evidence exists to answer that question conclusively at this point.

Another factor in assessing the higher level of civilian deaths in Kosovo is the possible Yugoslav use of civilians for "human shields." There is some evidence that Yugoslav forces used internally displaced civilians as human shields in the village of Korisa on May 13, and may thus share the blame for the eighty-seven deaths there.

In an important development, sensitivity to civilian casualties led to significant changes in weapons use. Widespread reports of civilian casualties from the use of cluster bombs and international criticism of these weapons as potentially indiscriminate in effect led, according to senior U.S. Department of Defense officials interviewed by Human Rights Watch, to an unprecedented (and unannounced) U.S. executive order in the middle of May to cease their further use in the conflict. The White House issued the order only days after civilians were killed by NATO cluster bombs in the city of Nis on May 7. U.S. cluster bomb use did apparently stop at about that time, according to Human Rights Watch observations, although British cluster bomb use continued. Human Rights Watch released its own report on May 11 questioning the civilian effects of cluster bombs and calling for a moratorium on their use.

International Humanitarian Law and Accountability

In its investigation Human Rights Watch has found no evidence of war crimes. The investigation did conclude that NATO violated international humanitarian law.1 Human Rights Watch calls on NATO governments to establish an independent and impartial commission, competent to receive confidential information, that would investigate violations of international humanitarian law and the extent of these violations, and would consider the need to alter targeting and bombing doctrine to ensure compliance with international humanitarian law. Such a commission should issue its findings publicly. Human Rights Watch also calls for NATO to alter its targeting and bombing doctrine in order to bring it into compliance with international humanitarian law.

With respect to NATO violations of international humanitarian law, Human Rights Watch was concerned about a number of cases in which NATO forces:

- conducted air attacks using cluster bombs near populated areas;
- attacked targets of questionable military legitimacy, including Serb Radio and Television, heating plants, and bridges;
- did not take adequate precautions in warning civilians of attacks;
- took insufficient precautions identifying the presence of civilians when attacking convoys and mobile targets; and
- caused excessive civilian casualties by not taking sufficient measures to verify that military targets did not have concentrations of civilians (such as at Korisa).

One disturbing aspect of the matter of civilian deaths is how starkly the number of incidents and deaths contrasts with official U.S. and Yugoslav statements. U.S. officials, including Secretary of Defense William Cohen, Deputy Secretary of Defense John Hamre, and Gen. Wesley Clark, have testified before Congress and stated publicly that there were only twenty to thirty incidents of "collateral damage" in the entire war. The number of incidents Human Rights Watch has been able to authenticate is three to four times this number. The seemingly cavalier U.S. statements regarding the civilian toll suggest a resistance to acknowledging the actual civilian effects and an indifference to evaluating their causes.

The confirmed number of deaths is considerably smaller than Yugoslav public estimates. The post-conflict casualty reports of the Yugoslav government vary but coincide in estimating a death toll of at least some 1,200 and as many as 5,000 civilians. At the lower end, this is more than twice the civilian death toll of around 500 that Human Rights Watch has been able to verify. In one major incident-Dubrava prison in Kosovo-the Yugoslav government attributed ninety-five civilian deaths to NATO bombing. Human Rights Watch research in Kosovo determined that an estimated nineteen prisoners were killed by NATO bombs on May 21 (three prisoners and a guard were killed in an earlier attack on May 19), but at least seventy-six prisoners were summarily executed by prison guards and security forces subsequent to the NATO attack. The countervailing claims about the civilian death toll underscore the need for full accountability by NATO for its military operations.

The Objective of This Report

This report has the limited goal of assessing the number of civilian deaths from NATO attacks, as a step toward assessing NATO forces' compliance with their obligation to make protection of civilians an integral part of any use ofmilitary force. The benchmarks to be used for judging NATO's attacks are those of international humanitarian law, also known as the laws of war.

In concentrating on civilian deaths, this report addresses only peripherally the damage to civilian property and infrastructure upon which civilian welfare depends, an issue to be addressed in a later report. Nor does this report address other broad issues which are important for an assessment of the war. These include the obligations of the international community to act effectively to prevent crimes against humanity and war crimes; the legality under international law of NATO's launching the operation; the constraints arising from issues of sovereignty; and the modalities of international consensus and decision-making. The report also does not address the war crimes and crimes against humanity committed by Serbian and Yugoslav forces against ethnic Albanians. These gross violations of international humanitarian law, as well as abuses committed by the Kosovo Liberation Army (KLA), have been documented in numerous Human Rights Watch reports in 1998 and 1999, and continue to be the focus of investigations.

Compiling and Evaluating the Evidence

A fundamental challenge in the analysis of the war over Kosovo is to distinguish the facts of civilian deaths from the propaganda. In order to investigate civilian deaths resulting from NATO bombing, a Human Rights Watch team conducted a twenty-day bomb damage assessment mission in Serbia (including Vojvodina) and Montenegro in August 1999. The team visited ninety-one cities, towns, and villages, and inspected forty-two of the ninety sites of incidents in which civilian deaths occurred. Human Rights Watch researchers also conducted ongoing investigations inside Kosovo beginning June 12, the day NATO entered the province. While most of this research was on war crimes committed by Serbian and Yugoslav forces against ethnic Albanians, several cases relevant to this report were investigated, including the case of Dubrava prison, and incidents involving refugee convoys. Many of the remaining sites in Kosovo at which NATO attacks resulted in civilian deaths have been visited by independent observers whose findings are on the public record.

The Human Rights Watch team in Serbia and Montenegro met with officials from a dozen ministries in Belgrade, and in other locations met with regional, municipality, factory, and utility representatives. Taking eyewitness testimony and inspecting bomb damage, they were able to verify individual events and assess the veracity of wartime and post-war reporting. Human Rights Watch also met with or requested information from a range of officials of NATO countries, in particular the United States, although little new official information on the bombing incidents

apart from official press statements has so far been released.

During the war, the research team compiled a master chronological database from military sources and from Yugoslav media and Internet reports, collating these with press and governmental reporting from the NATO countries. Research also drew upon a variety of bomb damage assessments undertaken by Yugoslav government agencies which, in some cases, have produced meticulous documentation on incidents. In order to assess sometimes contradictory renditions, we reviewed these data sets against other information from Yugoslav sources, while comparing this with information from NATO states, in particular the United States and the United Kingdom.

In the end, Human Rights Watch confirmed ninety incidents involving civilian deaths (see Appendix A). The field mission visited forty-two of the ninety confirmed incident locations and collected primary source information on thirty other incidents. Sufficient corroborating information existed on twenty-two others to recognize their credibility (including five about which NATO has officially confirmed that it attacked nearby targets at the same time). Eight incidents were eliminated altogether because they could not be verified or because the reported civilian deaths were actually deemed to be paramilitary troops or army soldiers (see Appendix C).

NATO has offered explanations for what went wrong or merely confirmed attacks in eighteen incidents. After May 7, when NATO began to publicly release a daily list of fixed targets, it confirmed attacking nearby targets in thirty-one of forty-three incidents that occurred between May 7 and the end of the war. NATO is on record as disputing three of the ninety confirmed incidents; Human Rights Watch was able to verify the authenticity of two of these (the other was in Kosovo) through on-the-ground inspections. Still, with the exception of the highly publicized incidents in which NATOhas been forced to offer explanations of what happened (for example, the attacks on the Chinese Embassy, the Djakovica-Decane convoys, and the Grdelica gorge), no information has been released on individual targeting missions, strike aircraft, or pilots.

The Civilian Deaths

This report documents civilian deaths in Operation Allied Force. Some 500 Yugoslav civilians were killed in ninety separate incidents over seventy-eight days of bombing, although it must be acknowledged that this evidence may be incomplete. In sixty-nine of ninety incidents, the precise number of victims and the names of the victims are known (see Appendix B). In another seven incidents, the number of victims is known and some of the names have been confirmed. In eleven incidents, the number of victims is known but the names are unknown. In three incidents, the names and precise numbers of victims are unknown.

Human Rights Watch concludes on the basis of evidence available on these ninety incidents that as few as 488 and as many as 527 Yugoslav civilians were killed as a result of NATO bombing. Between 62 and 66 percent of the total registered civilian deaths occurred in just twelve incidents. These twelve incidents accounted for 303 to 352 civilian deaths. These were the only incidents among the ninety documented in which ten or more civilian deaths were confirmed.

Available data on each incident are presented in Appendices A and B. They include descriptions of the physical destruction observed at the forty-two sites visited by Human Rights Watch, accounts by witnesses interviewed at each site and elsewhere in regard to particular incidents, documentation on individual incidents, and other available information compiled from public and private Yugoslav and NATO sources. In each incident report the emphasis is upon the evidence of civilian deaths, although any available evidence concerning the apparent target, the means of the attack, and the resulting physical damage is also presented.

Information drawn from the ninety incident reports allows a general picture to be drawn of the

civilian deaths by the time, place, and circumstances in which they occurred. The deaths resulted from attacks on a range of targets, under different circumstances, and using a variety of munitions. Fifty-five of the incidents occurred in Serbia (including five in Vojvodina), three in Montenegro, and thirty-two in Kosovo. But between 278 and 317 of the dead-between 56 and 60 percent of the total number of deaths-were in Kosovo. In Serbia, 201 civilians were killed (five in Vojvodina) and eight died in Montenegro. A third of the incidents-a total of thirty-three-occurred as a result of attacks on targets in densely populated urban areas.

Human Rights Watch was able to determine the intended target in sixty-two of the ninety incidents (68 percent). Of these, the greater number of incidents were caused as a result of attacks on military barracks, headquarters, and depots; thirteen were a result of attacks on bridges (and one tunnel); six resulted from attacks on telecommunications and air defense facilities; five each resulted from attacks on industrial facilities, oil installations, and airfields; and seven were as a result of attacks on convoys or on what were perceived to be military forces in the field. These latter incidents were the most deadly, though two of the ten worst incidents occurred as a result of attacks on bridges.

Almost half of the incidents (forty-three) resulted from attacks during daylight hours, when civilians could have been expected to be on the roads and bridges or in public buildings which may have been targeted. Overall, forty incidents occurred in April, forty-five occurred in May, four in June, and one in March. May 29 saw the most incidents (with five), followed by four on April 14, May 30, and May 31. The pace of the air war peaked at the end of May.

Human Rights Watch was able to determine the weapons involved in the cause of the civilian deaths in only twenty-eight of the ninety incidents. Of these, twenty-one are incidents about which it can be confirmed that precision-guided munitions (PGMs) were used (though there could be others). This includes all of the attacks on bridges or targets in and around the Belgrade area. Cluster bomb use can be positively determined in seven incidents (another five are possible but unconfirmed). In almost all of the other instances, it is impossible to establish the weapon used.

Other than a factual statistical analysis of attacks, insufficient evidence exists to determine the cause of civilian deaths. U.S. Deputy Defense Secretary John Hamre has provided the only analysis regarding the "30 instances of unintended damage" that the Pentagon seems to acknowledge. Of those, he says one third occurred when the target was hit but innocent civilians were killed at the same time. Of the remaining twenty, three were said to be caused by human error when the pilot identified the wrong target, and two were caused by technical malfunction. In the other fourteen instances, the Pentagon has not yet announced whether human error or mechanical failure was responsible.

The Standards Applied

The conduct of warfare is restricted by international humanitarian law-the laws of war. International humanitarian law applies expressly and uniquely to armed conflict situations, with distinct provisions to regulate international and non-international (internal) armed conflicts. In evaluating NATO's use of military force in the Federal Republic of Yugoslavia, the laws of war provide the most relevant standards. With the initiation of the NATO bombing on March 24, 1999, the conflict in Kosovo and all of the Federal Republic of Yugoslavia became an international armed conflict to which the full body of international humanitarian law applied.

Protocol I additional to the Geneva Conventions of 1949 provides the basis for the evaluation here of NATO's bombing. This Protocol has been ratified by most NATO members, and the U.S. government has declared that it accepts all of the relevant standards. The basic principle of Protocol I, and of the laws of war generally, is that the civilian population and individual civilians

shall enjoy general protection against dangers arising from military operations. This turns in large part on the requirement that attackers must distinguish between civilians and combatants and between military objectives and civilian objects. They must take all feasible precautions to avoid or minimize harm to civilians, and to this end may not attack civilians exclusively, or combatants and civilians indiscriminately.

Damage to civilian objects and civilian casualties that are incidental to lawful attacks on military objectives are known in military terminology as "collateral damage." The legality of an attack turns upon various factors. Firstly, the attackers must do everything feasible to verify that they are aiming at something specific-they cannot lash out blindly. Secondly, the attackers must establish that the objective to be attacked is a legitimate military objective. And thirdly, the attackers must establish whether an attack would endanger civilians and civilian objects, and must weigh this risk against the military advantage to be gained. Attacks which may be expected to cause incidental loss of life or injuries to civilians, or to cause damage to civilian objectives *are indiscriminate* if this harm to civilians is "excessive in relation to the concrete and direct military advantage anticipated" (Protocol I, article 57 (2)). The International Committee of the Red Cross (ICRC), the principal authority on the interpretation of international humanitarian law, has cautioned that the argument of proportionality can never justify very high civilian casualties and damage whatever the military advantage envisioned.

In researching each of the incidents involving civilian deaths we have sought to gather the facts that can enable analysts to assess the legitimacy of the real or perceived military objectives targeted; the care taken and procedures and criteria employed to confirm the military nature of the targets; the proportionality of the civilian deaths and the means employed in the attack to the express military objectives, where these were known; the correlation of civilian deaths to the location and nature of the targets selected; the timing of target selection as a factor in its appropriateness and the minimization of civilian harm; the methods and conditions under which distinct weapons systems were employed; and the potentially indiscriminate nature of some weapons systems in general and under certain conditions.

In assessing specific attacks, with a view to general observations on the conduct of the air war, the primary issue is whether due care was taken for the protection of civilians. Was the prospect of civilian deaths sufficiently taken into account in the targeting, the weaponry employed, and the means and conditions under which weapons were employed? This involves a review of the selection of targets, and the procedures through which these are determined, matters beyond the scope of the present report. So too is the larger question of whether the military objectives identified and targeted by NATO forces were wholly within what is permissible under humanitarian law. A separate report is being prepared by Human Rights Watch that will provide a full legal analysis of this aspect of the conduct of Operation Allied Force, as well as documentation concerning another 150 incidents in which civilians were injured in NATO attacks and scores of incidents in which there was damage to civilian property. The present report addresses the air war only throughits cost in civilian lives, as an indicator to be taken into account in assessing the larger picture of compliance with international humanitarian law.

Conclusions and Recommendations

Yugoslav civilian deaths in Operation Allied Force occurred under all circumstances, day and night, during good and bad weather, from the use of "smart" and "dumb" bombs, in attacks on almost every type of target. The number of incidents increased (and peaked) in the last three days of May. During this period, the intensity of the attacks also peaked. This was also a time when the percentage of precision-guided munitions being used by NATO aircraft was declining (due to inventory shortages and cost considerations). Most of the increased bombing effort, particularly in the large number of dumb bombs being dropped by B-1 and B-52 heavy bombers, was taking

place in western and southern Kosovo. Attacks at a greater intensity in this area, which was largely depopulated, did not result in any increase in civilian deaths.

Throughout the air war, then, the incidents of civilian deaths per number of strikes seem to have remained fairly constant. Human Rights Watch therefore concludes that civilian deaths in Operation Allied Force were not necessarily related to the pace or intensity of the war, but occurred as a result of decisions regarding target and weapons selection, or were caused by technical malfunction or human error. This suggests that affirmative measures-restrictions on certain daylight attacks, prohibitions on the use of cluster bombs in populated areas, greater care in attacking mobile targets, better target selection-could indeed have been taken to further reduce the level of civilian harm during these military operations.

Five of the ten worst incidents involving civilian deaths (see Table 1 following Appendix C) were attacks on presumed Yugoslav military convoys or transportation routes, four in Kosovo. NATO Gen. Wesley Clark stated after the war that NATO often observed military vehicles moving on roads in Kosovo "intermixed with civilian convoys," particularly during bad weather. This does not exempt NATO from the obligation to take fundamental precautions to focus their effort on military objectives. In fact, after the first two incidents, on April 12 and 14, the civilian deaths led to changes in rules of engagement. While pilots had previously been required to visually identify the military nature of traffic before attacking, after the initial incidents new guidance directed that if military vehicles were intermingled with civilian vehicles, they were not to be attacked.

Similarly, after a mid-day attack on the bridge in the town of Varvarin on May 30 which resulted in civilian deaths (incident no. 81), NATO again provided excuses for the incident but then changed the rules of engagement for attacks on bridges. NATO Spokesman Jamie Shea publicly stated that the alliance had bombed a "legitimate designated military target" and stated that "we take the same precautions at midday as we do at midnight." Yet after the incident at Varvarin, according to Lt. Gen. Michael Short, the air war commander, pilots were directed not to attack bridges during daylight hours, on weekends, on market days, or on holidays. There is no evidence that the daylight timing of the attack at Varvarin (or on many other fixed targets) was critical to the destruction of the target-the attack was not directed specifically against military traffic. Around-the-clock bombing in these and other cases rather seems to have been part of a psychological warfare strategy of harassment undertaken without regard to the greater risk to the civilian population.

With respect to target selection itself, one of the worst incidents of civilian deaths, and certainly the worst in Belgrade, was the bombing of state Serb Radio and Television headquarters in Belgrade on April 23 (incident no. 30). There was considerable disagreement between the United States and French governments regarding the legality and legitimacy of the target, and there was a lively public debate regarding selection of Yugoslav civilian radio and television as a target group. There is no evidence that the radio and television headquarters meet the legal test of military necessity in target selection, as it made no direct contribution to the military effort in Kosovo. In this case, the purpose of the attack again seems to have been more psychological harassment of the civilian population than to obtain direct military effect. The risks involved to the civilian population in undertaking this urban attack grossly outweigh any perceived military benefit.

Another issue of intense public interest in the war is NATO's use of cluster bombs. There are seven confirmed and five likely incidents involving civilian deaths from cluster bomb use by the United States and Britain. Altogether, someninety to 150 civilians died from cluster bomb use. The first confirmed incident was on April 10 (incident no. 14) and the last was on May 13 (incident no. 57). After the technical malfunction of a cluster bomb used in an attack on the urban Nis airfield on May 7 (incident no. 48), the White House quietly issued a directive to restrict cluster bomb use (at least by U.S. forces). Cluster bombs should not have been used in attacks in

populated areas, let alone urban targets, given the risks. The use prohibition clearly had an impact on the subsequent civilian effects of the war, particularly as bombing with unguided weapons (which would otherwise include cluster bombs) significantly intensified after this period. Nevertheless, the British air force continued to drop cluster bombs (official chronologies show use at least on May 17, May 31, June 3, and June 4), indicating the need for universal, not national, norms regarding cluster bomb use.

What is striking about the Yugoslav conflict, given the level of intense media coverage and public interest it has received in the United States and abroad, is that there is almost a complete lack of any public accountability by any of the national NATO members for missions undertaken in the NATO alliance's name. Little information has been released on nations or aircraft involved in bombing missions, on specific targets, and there is sparse information on weapons used in individual circumstances.

Human Rights Watch calls on NATO and its individual member states to:

• establish an independent and impartial commission, competent to receive confidential information, that would investigate violations of international humanitarian law and the extent of these violations, and would consider the need to alter targeting and bombing doctrine to ensure compliance with international humanitarian law;

• alter NATO's targeting and bombing doctrine to reflect the rules of engagement adopted during Operation Allied Force to increase civilian protection, as an important step toward bringing the doctrine fully into compliance with international humanitarian law;

• conduct an impartial and independent investigation of the nine incidents which were the result of attacks on inappropriate targets that Human Rights Watch believes were illegitimate. (Human Rights Watch will identify other examples of inappropriate targets in a separate report currently in preparation);

• carry out a full review of the compliance with international humanitarian law of the psychological warfare strategy of harassment of the civilian population evident in many of the attacks;

• acknowledge and evaluate all instances of civilian deaths and "collateral" damage-and not just some twenty or thirty select incidents-if there is to be a publicly relevant post-war analysis;

• declassify all NATO and national operations reports that could establish the precise nature of munitions employed in each attack to enable a comprehensive evaluation of the humanitarian dimension of the use of cluster bombs or other weapons, and suspend the use of cluster bombs until such evaluation has occurred;

• release comprehensive information on their operations-including chronologies of attacks, target lists, numbers and types of weapons expended, as well as any analysis or evaluations of the causes of incidents of civilian deaths or damage-that would enable independent observers to carry out a proper analysis of these operations under international humanitarian law; and

• examine targeting emphasis and weapons selection during the war and take whatever corrective measures are needed in the future to further minimize the civilian effects of the use of military force.

1 Rules of international humanitarian law arise from international agreements such as the Geneva Conventions, or develop as international customary law. States have an obligation to ensure

compliance with all provisions of international humanitarian law, and to suppress all violations. War crimes constitute some of the most serious violations of international humanitarian law, known as grave breaches. These violations give rise to the specific obligation to search for and punish those responsible, regardless of the nationality of the perpetrator or the place where the crime was committed. Examples of war crimes are wilful killing, torture or inhuman treatment of noncombatants, wilfully causing great suffering or serious injury to body or health of noncombatants, or launching an indiscriminate attack in the knowledge that the attack will cause excessive loss of life or injury to civilians.

TOC PAGE >

THE CRISIS IN KOSOVO

Operation Allied Force began on March 24, 1999 after more than a year of effort by the international community led by NATO to find a negotiated solution in Kosovo. In June 1998, NATO Defense Ministers decided to charge NATO planners with the responsibility to produce a range of options, both ground and air, for military action should the diplomatic process fail to yield the desired results. By the fall, an estimated 250,000 Kosovo Albanians had been driven from their homes and some 50,000 were threatened by approaching winter weather.2 The United Nations Security Council adopted resolution 1199 (UNSCR 1199) on September 23, highlighting the impending human catastrophe and demanding a cease-fire and the start of real political dialogue. A Contact Group meeting in London on October 8 gave U.S. envoy Richard Holbrooke a mandate to secure agreement to the requirements of UNSCR 1199 in a mission to Belgrade. Activation orders for air strikes were agreed on October 13; that same day Holbrooke reported to NATO that Slobodan Milosevic, the president of the Federal Republic of Yugoslavia (FRY), had agreed to the deployment of an unarmed Organization for Security and Cooperation in Europe (OSCE) verification mission to Kosovo and to the establishment of a NATO aerial verification mission. Yugoslavia also agreed to reduce the numbers of security forces personnel in Kosovo to pre-crisis levels.

Despite initial stabilization, violence continued. Following a massacre in the village of Racak on January 15, 1999, NATO increased its state of readiness, issuing a "solemn warning" to Milosevic and the Kosovo Albanian leadership on January 28.3 This was followed by a second statement on January 30 that reaffirmed NATO's original demands, and delegated to Secretary General Javier Solana authority to commence air strikes against targets on FRY territory.

Parties to talks at Rambouillet in France, in February 1999, attempted to build agreement to protect the rights of all sides. After the first round of talks was suspended on February 23, a second round was convened on March 15. This second round was suspended on March 19 in the light of what NATO intelligence and OSCE observers saw as intensifying violence on the ground instigated by FRY security forces, and a build-up of FRY/Serbian forces in and around Kosovo. OSCE verifiers were withdrawn during the night of March 19-20, and Holbrooke flew to Belgrade on March 22 in a last-ditch effort to persuade Milosevic to back down and avoid a military confrontation. On March 23, following final consultations with allies, Javier Solana directed NATO's Supreme Allied Commander Europe (SACEUR), Gen. Wesley Clark, to initiate a "phased" air operation.4

Operation Allied Force Attacks

Operation Allied Force was initiated at 7 p.m. GMT (8 p.m. local time in Yugoslavia). Of thirteen

(out of nineteen) NATO nations that made aircraft available for the operation (Belgium, Canada, Denmark, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and the United States), eight put their planes in action on the first night. Aircraft from the United States, the United Kingdom, France, Canada, and Spain conducted bombing, carrying out a succession of attack waves with almost exclusively precision-guided munitions (PGMs) against fixed and pre-selected targets. Long-range cruise missiles were fired by the United States and Britain. Though targets were hit throughout Yugoslavia across a mix of target types (for example, airfields, command and control sites, barracks, andheadquarters, particularly of the special police), the initial focus was almost exclusively an effort to neutralize the Yugoslav air defense system. In the first day, NATO hit fifty-three targets, largely air defenses and radar sites.5

The mission of Operation Allied Force, in General Clark's words. "was to halt or disrupt a systematic campaign of ethnic cleansing."6 Attacks would be along two lines, a "strategic attack line operating against Serb air defenses, command and control, VJ [Yugoslav Army] and MUP [Ministry of Interior] forces, their sustaining infrastructure, supply routes, and resources," and "a tactical line of operation against the Serb forces deployed in Kosovo and in southern Serbia."7 The initial attacks against air defenses and command and control elements were intended to "set the conditions for moving on up [the hierarchy of targets] to [include] the forces in the field."8

Following the attacks on air defenses and command and control centers, NATO chose targets to isolate Yugoslav forces and constrain their movement. According to Chairman of the Joint Chiefs of Staff Gen. Henry Shelton, this included their "ability to move both horizontally [and] laterally on the battlefield, the road and bridge network, which was key to that, and also...sustainment, particularly the POL [petroleum, oil, and lubricants], to start causing shortages, since this was a predominantly mechanized armored force."9

Although there were expectations on the part of some, including evidently many political leaders in NATO governments, that Allied Force would be a short campaign, the U.S. Department of Defense stated that it "made clear to our allied counterparts that Operation Allied Force could well take weeks or months to succeed."10 Regardless of this post-war claim, NATO operations began with just a limited number of cruise missile and air strikes. The carefully planned "phases" were quickly melded together and expanded to accommodate political and public sensitivities, as well as to escalate the intensity of operations to make progress towards forcing Yugoslav submission. According to U.S. Secretary of Defense William Cohen, "soon after the conflict began, entire classes of targets were delegated for approval by NATO's military commanders. And only certain sets of targets, such as those in downtown Belgrade, in Montenegro and those with a high likelihood of civilian casualties, were reviewed by the allied capitals and by higher political authorities."11

At the NATO summit in Washington on April 23, 1999, one month into the air war, alliance leaders decided to intensify the air campaign by expanding the target set to include military-industrial infrastructure, news media, and othertargets considered to be of a strategic nature.12 More aircraft and weapons were deployed in the theater of operations, and there was an intensification not only in the rate at which targets were hit, but also a shift from an initial eight-hour day to a twenty-four-hours a day campaign.13

With an increasing force and greater intensity of attacks, there were also increasing attacks on Yugoslav forces in and around Kosovo. However, by and large, the focus into the second month of bombing continued to be attacks on objects that would cut the supply lines and support infrastructure of the military forces. Not only was poor weather a prohibitive factor in mounting attacks on mobile forces, but NATO had to "learn" the Kosovo geography and the organization of Yugoslav forces. It was many weeks before it was able to track forces on the ground, identify key elements, predict their movements and activities, and attack them in urban settings. Nevertheless,

NATO's air attacks, both against "strategic targets" and in the south, slowly had an accumulating impact on Yugoslav military operations. Air activity forced Yugoslav forces to remain largely hidden from view, traveling only under limited circumstances.14 Over time, attrition of heavy equipment accelerated, peaking at about the last week in May.

In the first month of Operation Allied Force, NATO reported that it averaged around 350 sorties per day, with nearly 130 attack sorties. By the fourth week, it was flying nearly two-and-a -half times the number of attack sorties per day than it flew during the first three weeks.15 NATO reported in early July that it had flown a total of 37,465 sorties, of which 14,006 were strike and suppression of air defense (SEAD) sorties and 10,808 were strike-attack sorties.16 By the end of the conflict, NATO had attacked over 900 targets.17

As more NATO forces were introduced and the attacks continued, the percentage of PGMs being used also declined. In the early days of Allied Force, "smart" weapons constituted more than 90 percent of the ordnance employed. By mid-May, this had declined to only 10 or 20 percent of the total. with guided weapons constituting about 35 percent of the 26,000 weapons employed throughout the course of the war.18

From the very beginning of Operation Allied Force, minimizing civilian casualties was a major declared NATO concern. According to NATO, consideration of civilian casualties was fully incorporated into the planning and targeting process. All targets were "looked at in terms of their military significance in relation to the collateral damage or the unintended consequences that might be there," General Shelton said on April 14. "Then every precaution is made...so that collateral damage is avoided."19 According to Lt. Gen. Michael Short, "collateral damage drove us to an extraordinary degree. General Clark committed hours of his day dealing with the allies on issues of collateral damage."20

Though a couple of dozen incidents would dog NATO throughout the war in its press and propaganda battles with the Yugoslav government, from another perspective, the limitation of "collateral damage" was a political imperative to successful conclusion of an alliance war. In the words of Lt. Gen. Marvin R. Esmond, the senior Air Force operationsofficer, "NATO's success with precision engagement and minimal collateral damage was a key factor in holding the Alliance firmly together during the bombing."21

Documenting and Assessing the Civilian Toll

Because of keen public interest in the civilian toll from Operation Allied Force, Human Rights Watch assumed a major undertaking to document and evaluate the impact and effects of the NATO military operation. Human Rights Watch military consultant William M. Arkin and researcher Bogdan Ivanisevic conducted extensive research into the operation. During the war, they compiled a master chronological database from military sources, Yugoslav media and Internet reports, collating these with press and governmental reporting from the NATO countries. Tanjug (official Yugoslav news agency) and Yugoslav television and radio dispatches were monitored on the Internet and via the Foreign Broadcast Information Service (FBIS) and BBC Summary of World Broadcasts. The researchers corresponded with Yugoslav civil defense, military, and information ministry officials via E-mail, and scoured Yugoslav websites, particularly those maintained by official agencies. They also comprehensively monitored the Yugoslav press from March-June 1999, including: *BLIC* (Belgrade independent daily), *Politika* (Belgrade pro-government daily), *Politika Ekspres* (Belgrade pro-government), *Vecernje Novosti* (Belgrade pro-government daily), *Glas Javnosti* (Belgrade independent), *Dan* (Montenegrin pro-Belgrade/SPS daily), *Pobjeda* (Montenegrin pro-Podgorica government daily), and *Vijesti* (Montenegrin independent daily).22

Between August 2 and August 20, 1999, Arkin and Ivanisevic conducted a bomb damage assessment mission in Serbia and Montenegro. Human Rights Watch Executive Director Kenneth Roth accompanied the team on August 2-5. In twenty days, the team drove approximately 5,000 kilometers, visited ninety-one cities, towns, and villages, and inspected well over 250 sites (targets, reported targets, areas of civilian damage, stray craters, etc.). They met with officials from a dozen ministries in Belgrade, and in other locations met with regional, municipality, factory, and utility representatives. Taking eyewitness testimony and inspecting bomb damage, they were able to verify individual events and assess the veracity of wartime and post-war reporting.

Human Rights Watch confirmed ninety incidents in which civilians died as a result of NATO bombing (see Appendix A). The field mission visited forty-two of the ninety confirmed incident locations and collected primary source information on thirty other incidents. Sufficient corroborating information existed on twenty-two others to recognize their credibility (including five in which NATO has officially confirmed that it attacked nearby targets at the same time). Eight additional reported and claimed incidents have been eliminated altogether, three because they could not be verified or there was little corroborative reporting,23 and five because the reported deaths are actually presumed to be paramilitary policemen or soldiers (see Appendix C).24

Human Rights Watch has also assessed the veracity of information compiled by the Yugoslav government, including autopsy reports, death certificates, and photographic evidence of bomb damage and casualties. The government's two-volume *White Book, NATO Crimes in Yugoslavia*, provides information on seventy-five of ninety incidents. Other releases by the Ministry of Foreign Affairs and the Ministry of Health document, in a less comprehensive manner, other aspects of the civilian effects of the bombing. Human Rights Watch also met with representatives of the governmental Committee for Compiling Data on Crimes Against Humanity and International Law, which is compiling dossiers on eachinstance of civilian casualties, as well as the government Reconstruction Commission, which is responsible for repair of the public infrastructure.

The findings of Human Rights Watch's field operation facilitated a critical review of governmental and private reports from both sides of the conflict. Systematic on-site inspections facilitated the cross-checking of information compiled from press and Internet reports, as well as providing the basis for evaluating the detailed reporting on casualties by the Yugoslav government and private agencies. Our inspection of bomb damage and interviews with witnesses, survivors, and others enabled us to assess the accuracy of detailed reporting on deaths and bomb damage produced on the same incidents, for example, by the Yugoslav and other government sources. On the basis of spot-checking in the course of our own field research and correlation with other sources, some of these documentation sets, notably the *White Book* and the Ministry of Health photographic record, have been found to be largely credible.25

Civilian Deaths as a Result of Attacks

Human Rights Watch concludes that as few as 489 and as many as 528 Yugoslav civilians were killed in the ninety separate incidents in Operation Allied Force. In sixty-nine of the ninety incidents, the precise number and the names of the victims are known (see Appendix B). In another nine incidents, the number of victims is known and some of the names have been confirmed. In nine incidents, the number of victims is known but the names are unknown. In three incidents, the names and precise numbers of victims are unknown.26

Between 62 and 66 percent of the total registered civilian deaths occurred in just twelve incidents (see Table 1). These twelve incidents accounted for from 303 to 352 civilian deaths, based on the

best available information. These were the only incidents among the ninety documented in which ten or more civilian deaths were confirmed.

Information drawn from the ninety incident reports allows a general picture to be drawn of the civilian deaths by the time, place, and circumstances in which they occurred. The deaths resulted from attacks on a range of targets, under different circumstances, and from a variety of munitions. Fifty-five of the incidents occurred in Serbia (including five in Vojvodina), three in Montenegro, and thirty-two in Kosovo. But between 279 and 318 of the dead-between 56 and 60 percent of the total number of deaths-were in Kosovo. In Serbia, 201 civilians were killed (five in Vojvodina) and eight died in Montenegro. A third of the incidents-thirty-three-occurred as a result of attacks on targets in densely populated urban areas.

Human Rights Watch was able to determine the intended target in sixty-two of the ninety incidents (68 percent). Of these, the greater number of incidents was caused as a result of attacks on military barracks, headquarters, and depots; thirteen were a result of attacks on bridges (and one tunnel); six resulted from attacks on telecommunications and air defense facilities; five each resulted from attacks on industrial facilities, oil installations, and airfields; and seven were as a result of attacks on convoys or on what were perceived to be military forces in the field. These latter incidents were the most deadly, while two of the ten worst incidents occurred as a result of attacks on bridges.

Almost half of the incidents (forty-three) resulted from attacks during daylight hours, when civilians could have been expected to be on the roads and bridges or in public buildings which may have been targeted. Overall, forty incidentsoccurred in April, forty-five occurred in May, four in June, and one in March. May 29 saw the most incidents (five), followed by April 14, May 30, and May 31 (four each).

Human Rights Watch was able to determine the weapon involved in the cause of the civilian deaths in only twenty-eight of the ninety incidents. Of these, twenty-one are incidents in which it can be confirmed that precision-guided munitions (PGMs) were used (though there could be others). This includes all of the attacks on bridges or targets in and around the Belgrade area. Cluster bomb use can be positively determined in seven incidents (another five are possible but unconfirmed).27 In almost all of the other instances, we have been unable to establish the weapon used.

Countervailing Claims

One disturbing aspect of the matter of civilian deaths is how starkly the number of incidents and deaths contrasts with official U.S. and Yugoslav statements. Speaking on September 9, 1999, Secretary of Defense William Cohen said: "Of the thousands of bombs that were dropped and the missiles that were fired, nearly all of them hit their intended target. Of all those thousands of weapons that were dropped and expended, approximately 20 had unintended consequences or were not on target."28 Gen. Wesley Clark, commander of NATO forces, in the war, stated on August 31 that there were just "20 incidents of collateral damage" in the entire war.29 Deputy Secretary of Defense John Hamre testified before Congress on July 21 that "Out of the 9,300 strikes [sic], we had 30 where we killed people...30 where we had damage we hadn't intended."30 In October, General Clark again repeated that there had been twenty incidents: "I just want to emphasize the incredible precision of the bombing; the fact that on 78 days, with over 23,000 weapons dropped or fired, there were only 20 incidents of collateral damage...that's an incident rate of less than 1/10th of 1 percent."31

However, the number of confirmed deaths is considerably smaller than both U.S. and Yugoslav public estimates. The post conflict casualty reports of the Yugoslav government vary, but coincide

in estimating a civilian death toll of at least some 1,200 and as many as 5,700 civilians. On May 22, Margit Savovic, president of Yugoslav Committee for Cooperation with UNICEF said that "more than 1,200 civilians were killed and more than 5,000 [were] wounded."32 On July 14, Milovan Zivkovic, director of the Federal Office of Statistics, said at press conference that "estimations [of] about 1,200 killed have appeared, and some sources talk about more than 5,000 victims, some go even up to 18,000."33 According to the BETA independent news agency, Zivkovic also said that the 1,200 number publicized by the Yugoslav Committee for Cooperation with UNICEF pertained only to those killed during the two and a half months of the air campaign. "But the 5,000 and 5,700 numbers are exact as well, only they cover a longer period of time and various ways of losing life," he said.34 Ambassador Djorde Lopicic, chief of international law at the Ministry of Foreign Affairs (MFA), told Human Rights Watch on August 5, 1999, that 2,000 civilians had died and over 10,000 were injured from NATObombing. At the lower end, even the 1,200 figures is more than twice the civilian death toll of around 500 that Human Rights Watch has been able to verify for the ninety known incidents involving civilian deaths.

While there have been various pronouncements from the Yugoslav government regarding the number of civilian deaths, NATO has been far more silent. There has been only one informal U.S. government or NATO statement regarding the number of Yugoslav civilian deaths from the bombing. General Joseph W. Ralston, vice chairman of the Joint Chiefs of Staff, said in September that "Despite the weight of bombs dropped, Serbian civilian casualties were amazingly light, estimated at less than 1,500 dead."35 This estimate is three times the number calculated by Human Rights Watch.

In the thirty instances acknowledged by the Defense Department, Deputy Defense Secretary John Hamre has provided the only analysis regarding the causes of civilian deaths. In Congressional testimony in July he said of the thirty incidents:

one third were instances where we damaged the target we wanted to destroy, but innocent civilians were killed at the same time. You will recall the time one of our electro- optically guided bombs homed in on a railroad bridge just when a passenger train raced to the aim point. We never wanted to destroy that train or kill its occupants. We did want to destroy the bridge and we regret this accident. As I said, 10 of the 30 instances of unintended damage fall in this category. For the remaining 20 instances, 3 were caused by human error that identified the wrong target, and two were caused by mechanical error by our hardware. In 14 instances we have not yet determined whether the unintended damage was caused by human error or mechanical failure. We will determine that to the best of our ability during our after action assessment. The one remaining ... [is the] bombing of the Chinese embassy. ... [It] was unique in that we had a legitimate target that we wanted to hit; the only problem is we had the target located in the wrong building. To my knowledge, this is the only example of this failing in all of our strike operations.36

The Standards Applied

The conduct of warfare is limited and restrained by the complementary standards of international humanitarian law, the laws of war. International humanitarian law (IHL) applies expressly and uniquely to armed conflict situations, with distinct provisions to regulate international and non-international (internal) armed conflicts. In evaluating NATO's use of military force in the Federal Republic of Yugoslavia, the laws of war provide the most relevant standards. The conflict in Kosovo reached the threshold of an internal armed conflict in the terms of humanitarian law in 1998, so that certain provisions of the laws of war then applied to both government forces and to the armed insurgency. With the initiation of the NATO bombing in March 1999, the conflict in Kosovo and all of the Federal Republic of Yugoslavia involving NATO and Yugoslav forces became an international armed conflict to which the full body of international humanitarian law applied.

The four Geneva Conventions of 1949 are the fundamental building blocks of international humanitarian law. Geneva Convention IV concerns the protection of civilians in time of war. The conventions are among the most widely ratified international treaties, and the norms they establish are largely considered customary international law, that is, norms that have obtained universal recognition and are accepted as binding upon all nations.

Further elaboration of the provisions of the four Geneva Conventions of 1949 is provided in the 1977 additional protocols to the conventions: Protocol I, relating to the protection of victims of international armed conflicts, and Protocol II, relating to the protection of victims of non-international armed conflicts. All of the 188 members of the United Nations are parties to the four Geneva Conventions of 1949; 155 states are parties to Protocol I and 148 to Protocol II. The Federal Republic of Yugoslavia acceded to the four Geneva Conventions on April 21, 1950, and to Protocols I and II onJune 11, 1979. Most NATO members are parties to Protocol I, which applies to the conflict in question: notable exceptions are France, Turkey, and the United States. Although the U.S. has not ratified Protocols I and II, it considers many of their provisions to be applicable as customary international law.37 In addition, the United States and NATO recognize as a matter of policy and have declared that the laws of war (LOW) apply to all cases of armed conflict, even if a state of war is not recognized.38

Protocol I Additional to the Geneva Conventions provides the basis for the evaluation of NATO's bombing. A basic principle of the laws of war is that the civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. This turns in large part on the requirement that attackers must distinguish between civilians and combatants and between military objectives and civilian objects. They must avoid or minimize harm to civilians, and to this end may not attack civilians exclusively or combatants and civilians indiscriminately. Attacks may not be indiscriminate by intent, where the attackers deliberately set out to kill and maim civilians, or through negligence, where those carrying out an attack disregard their obligations to identify a specific military objective, and to take care not to cause disproportionate harm to civilians in attacking it. Damage to civilian objects and civilian casualties that are incidental to lawful attacks on military objectives are known in military terms as "collateral damage."

The most fundamental principle of the laws of war requires that combatants be distinguished from noncombatants, and that military objectives be distinguished from protected property or protected places. Parties to a conflict must direct their operations only against military objectives (including combatants).39 Under Protocol I, Art. 51, paragraph 4, indiscriminate attacks are prohibited. These include attacks that:

- are "not directed against a specific military objective";
- "employ a method or means of combat which cannot be directed at a specific military objective";
- "employ a method or means of combat the effects of which cannot be limited as required" by the Protocol; and
- "in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction."

Military objectives are defined as "those objects which by their nature, location, purpose or use make an effective contribution to military action."40

The term "means" of combat refers generally to the weapons used; the "method," to the way in which such weapons are used. Casualties that are a consequence of accidents, as in situations in which civilians are concealed within military installations, may be considered incidental to an attack on a military objective-"collateral damage"-but care must still have been shown to identify

the presence of civilians. Protocol I, Art. 57 sets out the precautions required, among them to "do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects..."; to "take all feasible precautions in the choice of means and methods of attack" to avoid or minimize incidental civilian casualties or damage to civilian objects; and to refrain from launching any attack "which may be expected to cause" such deaths, injuries or damage "which would be excessive in relation to the concrete and direct military advantage anticipated..."41 In its authoritative *Commentary* on the protocols, the International Committee of the Red Cross (ICRC) is clear on that what is meant by "feasible": "What is required...is to take the necessary identification measures in good time in order to spare the population as far as possible."42

The principle of proportionality places a duty on combatants to choose means of attack that avoid or minimize damage to civilians. In particular, the attacker should refrain from launching an attack if the expected civilian casualties would outweigh the importance of the military objective.43 Protocol I, art. 57 ("Precautions in attack"), para. 2(b) requires those who plan and/or execute an attack to cancel the attack in such circumstances. The ICRC has noted that there isnever a justification for excessive civilian casualties, no matter how important the military target. Moreover, the argument of proportionality can never justify very high civilian casualties and damage whatever the military advantage envisioned: "Incidental losses and damages should never be extensive."44

The ICRC Commentary on Protocol I's art. 57 sets out a series of factors that must be taken into account in applying the principle of proportionality to the incidental effects attacks may have on civilian persons and objects:

The danger incurred by the civilian population and civilian objects depends on various factors: their location (possibly within or in the vicinity of a military objective), the terrain (landslides, floods etc.), accuracy of the weapons used (greater or lesser dispersion, depending on the trajectory, the range, the ammunition used etc.), weather conditions (visibility, wind, etc.), the specific nature of the military objectives concerned (ammunition depots, fuel reservoirs, main roads of military importance at or in the vicinity of inhabited areas etc.), technical skill of the combatants (random dropping of bombs when unable to hit the intended target).45

The *Commentary* provides a number of examples of the application of this principle:

All these factors together must be taken into consideration whenever an attack could hit incidentally civilian persons and objects. Some cases will be clear-cut and the decision easy to take. For example, the presence of a soldier on leave obviously cannot justify the destruction of a village.
Conversely, if the destruction of a bridge is of paramount importance for the occupation or non-occupation of a strategic zone, it is understood that some houses may be hit, but not that a whole urban area be levelled.46

In researching each of the incidents in which attacks led to civilian deaths we have sought to compile the facts from which to determine the nature of the real or perceived military objectives targeted; any facts relating to the care taken and procedures and criteria employed to confirm the military nature of the targets; analysis done by NATO to determine proportionality of the civilian deaths and the means of attack to the express military objectives; the correlation of civilian deaths to the location and nature of the targets selected; the timing of target selection as a factor in its appropriateness; the methods and conditions under which distinct weapons systems were employed; and the potentially indiscriminate nature of some weapons systems in general and under certain conditions.

In assessing specific attacks, with a view to general observations on the conduct of the air war, the

primary issue is whether due care was taken for the protection of civilians. Was the prospect of civilian casualties sufficiently taken into account in the targeting, the weaponry employed, and the means and conditions under which weapons were employed? This involves a review of the selection of targets, and the procedures through which these are determined: Were the military objectives as defined and identified by NATO forces within the terms of humanitarian law? This report addresses the air war only through its cost in civilian lives as an indicator to be taken into account in assessing the larger picture of compliance with international humanitarian law.

Case Studies of Civilian Deaths

The ninety incidents involving some 500 civilian deaths provide a part of the picture from which to consider NATO's conduct of the war (two subsequent Human Rights Watch reports are planned to look in greater detail at targeting in Operation Allied Force and the use of cluster bombs).47 At issue is whether NATO effectively adhered to the humanitarianlaw imperative that the civilian population be protected against dangers arising from military operations. At the core is the principle of civilian immunity from attack and its complementary principle requiring the parties to a conflict to do everything feasible to distinguish civilians from combatants at all times. Several incidents, which accounted for a large proportion of civilian deaths, illustrate various problems faced in NATO actions, and are further presented below.

The most dramatic losses of civilian life from the NATO offensive in Kosovo came from attacks on fleeing or traveling refugees confused with military forces. These included repeated attacks on refugees over a twelve-mile stretch of the Djakovica-Decane road in Kosovo, in which seventy-three civilian refugees died (incident no. 19), attacks near Korisa in Kosovo (incident no. 57), in which as many as eighty-seven civilian displaced persons and refugees died, and two incidents involving attacks on civilian buses, at Luzane (incident no. 41) and Savine Vode (incident no. 46). Another dramatic loss of civilian life followed from an attack on Dubrava prison, which caused nineteen deaths (see below).

In these various incidents involving the deaths of Kosovar refugees, the principal issue is whether every feasible precaution was taken to accurately distinguish civilians from combatants. At the same time, there are questions regarding the decisions to attack on the basis of incomplete and/or seriously flawed information. The public statements by NATO spokespersons concerning particular attacks, and the changes in the way attacks were characterized, also bear some analysis, in particular insofar as they may seek to justify attacks in which civilian casualties were clearly excessive.

Moreover, there is a question as to whether NATO's extraordinary efforts to avoid casualties among its pilots precluded low-flying operations that might have helped to identify targets more accurately. This was and continues to be a major issue in the public debate about Operation Allied Force. For many weeks in the initial stages of the war, NATO airplanes were not flying below 15,000 feet. If the height at which the NATO pilots flew had little to do with identification and attack of the target, than the issue is irrelevant. But if precision would have been greater (and civilian casualties lessened) had NATO pilots flown lower, it could be argued that NATO was "obligated" to have its pilots fly lower.48 In the case of attacks such as those at Djakovica-Decane, in which flying at a higher altitude seems to have impeded a pilot from adequately identifying a target, the conclusion again is that inadequate precautions were taken to avoid civilian casualties.

The incident at Korisa (incident no. 57) also raises important questions of Yugoslav responsibility for some civilian deaths attributed to NATO bombing. In this case, NATO did not apply adequate precautions in executing its airstrikes. But Yugoslav military forces may share the blame for the eighty-seven civilian deaths at Korisa: there is some evidence that displaced Kosovar civilians

were forcibly concentrated within a military camp there as a human shield.

Yugoslav responsibility of a more direct kind has been shown for killings at the Dubrava prison that Yugoslav authorities attributed to NATO bombing. Human Rights Watch researchers in Kosovo have found that some seventy-six prisoners there were victims of extrajudicial executions-cold-blooded murder-by Yugoslav forces in the days after NATO bombed the prison. The NATO attack on May 21 was, however, responsible for nineteen deaths at the facility prior to the massacre of prisoners; an earlier NATO attack killed four civilians at the prison (see incidents nos. 60 and 65).49

A third of all of the incidents in which civilians died-thirty-three-occurred as a result of attacks on targets in populated urban areas. Six incidents occurred in Belgrade, Nis, and Vranje (the latter two are towns in southern Serbia). Eight towns had two or three incidents each involving civilian deaths: Aleksinac, Cacak, Novi Sad, Surdulica, and Valjevo in Serbia and Vojvodina, and Djakovica, Pristina, and Prizren in Kosovo. The targets in almost all of these attacks were headquarters or military/police barracks and facilities, and/or factories. In these cases there was little doubt as to the apparent objective of the attack, or that these locations constituted lawful military objectives.

In one case, involving the use of cluster bombs in Nis (incident no. 48), the weapon employed was a decisive factor in the civilian deaths. Nis is one of seven confirmed and five likely incidents involving civilian deaths from cluster bomb use. Altogether, some ninety to 150 civilians died from cluster bomb use by the United States and Britain. In the case of the attack on the Nis airfield on May 7, the technical malfunction of the weapon points to the fact that cluster bombs should not be used in attacks in populated areas, let alone on urban targets, given the risks. After the Nis incident, there was a U.S. executive prohibition on further cluster bomb use.50 Nevertheless, British planes continued to drop cluster bombs, indicating the need for universal, not national, norms regarding cluster bomb use.

In three cases-the bombing of Serb Radio and Television headquarters in Belgrade (incident no. 30), the bombing of the "Marshal Tito" Petrovaradin (Varadinski) Bridge in Novi Sad (incident no. 2), and the bombing of the Belgrade Heating Plant (incident no. 7)-Human Rights Watch questions the legitimacy of the target. Regardless of NATO's legal determination that civilian radio and television were legitimate military objectives because of their role in internal and external propaganda,51 NATO did not take adequate precautions in warning civilians in the attack on the media headquarters, nor did the attack satisfy the legal requirement in terms of proportionality, given that the center was located in a densely populated urban neighborhood and was staffed twenty-four hours. After strikes on the Belgrade headquarters, moreover, Yugoslav state broadcasters were easily able to move operations to private and makeshift facilities.52 Similarly, in the case of the 04:35 a.m. attack on the New Belgrade Heating Plant on April 4, in which one civilian (the night watchman) was killed, NATO issued no warning and attacked a target located in an urban area.53 The risks involved to civilians in undertaking the two Belgrade urban attacks were grossly disproportionate to any perceived military benefit.

The attacks on the Novi Sad bridge and six other bridges in which civilian deaths occurred (Ostruznica, incident no. 37; Trstenik, incident no. 39; Nis, incident no. 51; Vladicin Han, incident no. 55; Pertate, incident no. 71; and Varvarin, incident no. 81) also were of questionable military effect. All are road bridges. Most are urban or town bridges that are not major routes of communications. Human Rights Watch questions individual target selection in the case of these bridges. U.S. military sources have told Human Rights Watch that bridges were often selected for attack for reasons other than their role in transportation (for example, they were conduits for communications cables, or because they were symbolic and psychologically lucrative, such as in the case of the bridge over the Danube in Novi Sad). The destruction of bridges that are not central

to transportation arteries or have a purely psychological importance does not satisfy the criterion of making an "effective contribution to military action" or offering a "definite military advantage," the baseline tests for legitimate military targets codified in Protocol I, art. 52. Moreover, the risk in terms of civilian casualties in attacking urban bridges, or in attacking during daylight hours, is "excessive in relation to the concrete and direct military advantage anticipated," the standard of proportionality codified in Protocol I, art. 57.

In one final incident, a pilot targeted a large sanatorium complex in Surdulica in southeastern Serbia (incident no. 79) in what was suggested to be an error, the complex apparently being mistaken for a military installation located in the sametown. Other than the Chinese Embassy bombing in Belgrade (incident no. 49), which NATO claimed it had mistakenly identified as the Yugoslav Directorate for Supply and Procurement, this appears to be the only target attacked in error. U.S. officials have elliptically admitted to what happened at Surdulica, but have not mentioned the place name.54 In another incident of civilian deaths, at Tornik peak in the Zlatibor mountains (incident no. 12), Human Rights Watch has been unable to identify the intended target.

What follows is a discussion of the major legal and policy issues raised in selected incidents (others are discussed in Appendix A).

Refugees on the Djakovica-Decane Road, Kosovo

On April 14, during daylight hours, NATO aircraft repeatedly bombed refugee movements over a twelve-mile stretch of road between Djakovica and Decane in western Kosovo, killing seventy-three civilians and injuring thirty-six-deaths Human Rights Watch could document. The attack began at 1:30 p.m. and persisted for about two hours, causing civilian deaths in numerous locations on the convoy route near the villages of Bistrazin, Gradis, Madanaj, and Meja. NATO and U.S. spokespersons initially claimed the target was an exclusively military convoy and that Serb forces may have been responsible for the attacks on civilians. Pentagon spokesman Ken Bacon said that NATO commander Gen. Wesley Clark had received reports that "after the convoy was hit, military people got out and attacked civilians." "The pilots state they attacked only military vehicles," NATO said, adding that the "reported incident will be fully investigated once all mission details have been reviewed." There are also various NATO reports of Serbian deception in placing dead civilians at the site of the bombing. German Defense Minister Rudolf Scharping, in particular, put the blame for civilian casualties on Yugoslav forces.55

On April 15 NATO began to backtrack. It said one plane had "apparently" dropped a bomb on a civilian vehicle traveling with a military convoy. The reference to a strictly military convoy was modified: "Serbian police or army vehicles might have been in or near the convoy." NATO acknowledged that it had bombed civilian vehicles by mistake: "Following a preliminary investigation, NATO confirmed that apparently one of its planes dropped a bomb on a civilian vehicle traveling with a convoy yesterday," alliance spokespersons said.

Reporters from U.S. media went to the scene on April 15. They interviewed refugee survivors and observed shattered farm tractors, burned bodies identified as refugees, bomb craters, shrapnel, and bomb remnants with U.S. markings. The refugee column had apparently been divided in two main groups. Over the next few days, NATO wavered from insisting its forces attacked only military vehicles to an explanation that two convoys had been targeted, that the refugees had been at the rear of military columns, and that the civilian death toll was limited. On April 16, NATO spokesman Jamie Shea and Gen. Giuseppe Marini declared that "in one case and one only, we have proof of civilian loss of life. Otherwise, we are sure that we targeted military vehicles."

NATO finally admitted that the pilot of a U.S. F-16 mistakenly fired on what he believed to be military trucks, and expressed "deep regret." Later, on April 19, NATO modified its account of a

single pilot's error, declaring that about a dozen planes had been involved in numerous attacks on the two convoys, dropping a total of nine bombs. Convoluted explanations continued for a number of days after the incident; NATO and the United States seemed incapable of reconstructing what had occurred. There were widespread press reports of the use of cluster bombs, which the United States denied.56

In addition to the press reporting of this incident and the endless damage control by NATO and U.S. spokespersons, Human Rights Watch obtained extensive forensic details of the incident from the Yugoslav government.57 No evidence whatsoever was ever produced to indicate Serb responsibility for any of the deaths, though Tanjug reported the deaths of three Serbian "policemen" in the bombings who it said "were securing the safe passage for the convoy."58 This tends to suggest that military or police were present in the refugee vehicles, but

Human Rights Watch found no basis to support the claim that the convoys themselves were composed of military vehicles.59

General Clark stated in September that NATO consistently observed Yugoslav military vehicles moving on roads "intermixed with civilian convoys." After the Djakovica-Decane incident, General Clark says, "we got to be very, very cautious about striking objects moving on the roads.60 Another NATO officer, Col. Ed Boyle, says: "Because we were so concerned with collateral damage, the CFAC [Combined Forces Air Component Commander] at the time, General [Michael] Short, put out the guidance that if military vehicles were intermingled with civilian vehicles, they were not to be attacked, due to the collateral damage."61 When this directive was actually issued, and why it may not have served to avoid the subsequent three incidents, remains an important question. Nevertheless, the change in NATO rules of engagement indicates that the alliance recognized that it had taken insufficient precautions in mounting this attack, in not identifying civilians present, and in assuming that the intended targets were legitimate military objectives rather than in positively identifying them.

Displaced Civilians in the Korisa Woods, Kosovo

On May 13, almost a month after the Djakovica-Decane incidents, as many as eighty-seven displaced Kosovar civilians were killed and sixty wounded when bombs were dropped during the night on a refugee camp in a wooded area on the Prizren-Suva Reka road, near the village of Korisa in Kosovo (incident no. 57). There have been various conflicting reports of the number of dead, from 48 to 87.62 The Yugoslav government claimed the attackers used cluster bombs, and the *White Book* published by the Ministry of Foreign Affairs includes photographs of the remains of tactical munitions dispensers (TMDs) it says are from the site. NATO spokespersons vociferously denied the use of cluster bombs,63 and Human Rights Watch has been unable to independently confirm that cluster bombs were indeed used in this attack.

In an official statement on May 15, NATO spokesman Maj. Gen. Walter Jertz acknowledged the attack, deeply regretting any "accidental civilian casualties." He insisted, nonetheless, that the attack was against Yugoslav army forces in the field:

This was a legitimate military target. The Serb claims of an attack involving cluster bombs against a non-military target are both false. NATO identified Korisa as a military camp and command post. Military equipment including an armored personnel carrier and more than ten pieces of artillery were observed at this location. The aircraftobserved dug-in military positions at the target before executing the attack. NATO cannot confirm the casualty figures given by the Serbian authorities, nor the reasons why civilians were at this location at the time of the attack.64

The NATO statement further stressed that military positions had been positively identified and that the bombs employed included laser-guided PGMs and non-guided gravity bombs:

Immediately prior to the attack at 23.30 - 11.30 pm - local time Thursday night an airborne forward air controller confirmed the target, so the identification and attack system of his aircraft, having positively identified the target as what looked like dug in military reveted positions, he dropped two laser guided bombs. Following his attack, he cleared his wingman to also attack the same target using two more laser guided bombs. Approximately 10 minutes later, the third aircraft engaged the target with...six gravity bombs. A total of 10 bombs were dropped on the target.65

The same day, Pentagon spokesman Kenneth Bacon said at a news briefing that the incident would be reviewed, but that major changes in operations should not be expected:

This accident at Korisa did not shake NATO's resolve in any way....NATO deeply regrets civilian casualties....We try very hard to avoid these casualties, but combat is inherently dangerous and accidents cannot be avoided...this mission, like every other, will be reviewed, and the airmen and their commanders will learn what they can from it and continue. But I don't anticipate that there will be a sweeping change. We can't cross legitimate military targets off the list, and we won't.66

On May 16, a Kosovar refugee who witnessed the NATO strike on Korisa reported to Deutsche Welle that FRY police forced some 600 displaced Kosovars to serve as human shields there before the attack. "We were told something bad would happen to us if we left the place," said the eyewitness, interviewed by the station's Albanian service. He said Serbian police hinted at what was about to happen. "Now you'll see what a NATO attack looks like," the refugee quoted one policeman as saying. The refugee said he finally went to sleep underneath a tractor only to be woken up by explosions and the cries of children and adults. He said he and others managed to scale a two-meter wall surrounding the plot and fled in the direction of the village as Serbian paramilitaries fired bullets around them.67

On the basis of available evidence it is not possible to determine positively that Yugoslav police or army troops deliberately forced civilians to group near them, nor to establish the motive for such action. It is not clear, for example, how potential attackers could be expected to have been aware of the refugee concentration in order to be deterred from attacking.

The laws of war expressly forbid shielding. Article 28 of the Geneva Convention IV stipulates that "The presence of a protected person may not be used to render certain points or areas immune from military operations." Geneva Protocol I, article 51(7), elaborates:

The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.

The Protocol stresses, however, in art. 51(8), that such violations of the laws of war do not in any account release an adversary from obligations to respect civilian immunity. An authoritative new commentary on humanitarian law states: "If one party to a conflict breaks this rule, this does not exempt the other side from the regulations applicable in military attacks....The military commander must therefore take into account the column of refugees used by the adversary as a shield."68

For NATO, then, the question is whether its target designation was made with the knowledge that hundreds of displaced civilians were present in this wooded area-there is no evidence to this effect-and secondly, whether sufficient measures were taken to verify that the target had no such

concentrations of civilians. On this score, the excessive civilian death toll in what NATO has itself described as a lamentable accident suggests that verification was inadequate.

Bombing of the Dubrava Penitentiary, Kosovo

Another case of Yugoslav deception involves civilian deaths and NATO bombing that damaged the large Dubrava penitentiary complex near Istok in Kosovo. According to NATO and former Dubrava prisoners interviewed by Human Rights Watch, Yugoslav Army and police forces were based adjacent to the penitentiary, which was fully operational well into the NATO air campaign, housing common and political criminals serving out their terms.

The Penitentiary Institute Istok, as it was officially called, was hit twice, causing civilian deaths among both prisoners and guards. In the first attack, at 1:15 p.m. on May 19 (incident no. 60), three prisoners and a guard were reported killed. The second attack occurred on May 21 (incident no. 65), in which at least nineteen prisoners were killed. According to a separate investigation undertaken by Human Rights Watch in Kosovo, based upon extensive eyewitness testimony, prisoners were hunted down by Serb police inside the penitentiary walls after the May 21 attack, and some eighty or so prisoners were killed.

The Yugoslav government initially reported nineteen people killed in the Dubrava Penitentiary as a result of the May 21 attack.69 However, four days later, the Yugoslav press reported from the official Tanjug agency that "in days long bombardment of the Penitentiary Institute Istok, some 100 prisoners died, and some 200 were wounded." On May 27, Tanjug quoted Vladan Bojic, judge in Pec's District Court, saying that ninety-six corpses had been pulled from the ruins. On May 29, the Yugoslav government stated that "The number of casualties in the Correctional Institution in Istok is increasing."70 On May 30, Tanjug reported a total of ninety-three killed.71 In July, the Yugoslav government claimed that NATO bombs killed ninety-five inmates and injured 196.72

While NATO readily acknowledged the air strikes at Istok and justified the attacks on the grounds that it had targeted military objectives "in the vicinity of a prison,"73 Human Rights Watch has determined that Yugoslav forces were likely responsible for the majority of deaths which occurred after the bombing. On May 22, according to eyewitnesses, prison officials ordered the approximately 1,000 prisoners to line up in the prison yard. After a few minutes, they were fired upon, and grenades were thrown at them from the prison walls and guard towers, killing at least seventy people. Over the next twenty-four hours, prison guards, special police, and possibly paramilitaries attacked prisoners who were hiding in the prison's undestroyed buildings, basements, and sewers, killing at least another twelve people.

Journalists who visited the Dubrava prison on May 21, just after the morning bombing, reported seeing deaths on the order of ten or twenty.74 Serb authorities again opened the prison for journalists on May 24. Reporting for the BBC, Jacky Rowland said it was unclear how the victims in the prison had died:

Walking around the prison we counted forty-four bodies; about half of these appeared to be the victims of the first bombing raid on Friday [May 19], still lying under blankets on the grass. Then we were taken to a room in a damaged cell block where there were twenty-five corpses. The men appeared to be ethnic Albanians, some of them had shaved heads, others had longer hair. A couple of the corpses had their trousers pulled down around their knees. We were told they had died between Friday and Sunday although it was not clear how all of them had met their deaths, nor why they were all in one relatively undamaged room.75

The *Washington Post*, wrote:

This time, the official version-that bombs again were to blame-did not match what reporters saw at the scene, where twenty-five more ethnic Albanian corpses were on display. The corpses were piled in the foyer of a clinic. Except for a ruined dining hall, however, no new bomb damage was visible inside the prison, and none of the newly dead had been crushed, or touched by the concrete dust that covered the dining hall floor.76

Post-war visits to the prison by journalists confirmed that prisoners had been killed after the bombing.77

In the two attacks on the Dubrava prison, NATO did not apply adequate precautions in executing its airstrikes on nearby military objectives, and therefore must be held accountable for the civilian deaths that occurred as a direct result of those attacks. But Yugoslav forces must be held fully responsible for seventy-six of the claimed ninety-five deaths at Dubrava, as these were prisoners who were executed extrajudicially well after the NATO strikes.

Serb Radio and Television Headquarters

One of the worst incidents of civilian deaths, and certainly the worst in Belgrade, was the bombing of state Serb Radio and Television (RTS) headquarters in Belgrade on April 23 (incident No. 30). According to military sources, there was considerable disagreement between the United States and French governments regarding the legality and legitimacy of the target, and there was a lively public debate regarding the selection of Yugoslav civilian radio and television as a target group.

The NATO attack was originally scheduled for April 12, but due to French disapproval of the target, it was postponed. According to military, media, and Yugoslav sources, Western news organizations, who were using the facility to forward material from Yugoslavia, were alerted by NATO government authorities that the headquarters would be attacked. Attacks also had to be rescheduled because of rumors that foreign journalists ignored warnings to leave the buildings.78 When the initial warnings were given to Western media, the Yugoslav government also found out about the intended attack. When the target was finally hit in the middle of the night on April 23, according to RTS and Yugoslav government officials, authorities were no longer taking the threats seriously, given the time that had transpired since the initial warnings. As a consequence, sixteen RTS civilian technicians and workers were killed and sixteen were wounded.

Paragraph 7 of the 1956 ICRC guidelines describing lists of targets that are legitimate military objectives includes "installations of broadcasting and television stations; [and] telephone and telegraph exchanges of fundamental military importance."79 In a May 13 letter to NATO Secretary-General Javier Solana, Human Rights Watch questioned the legitimacy of the target group in the Yugoslav war. The reasoning was that the system was not "... being used to incite violence (akin to Radio Milles Collines during the Rwandan genocide), which might have justified their destruction. At worst, as far as we know, the Yugoslav government was using them to issue propaganda supportive of its war effort. And, in fact, NATO has stated that it bombed the television facilities because they were being used as a propaganda tool of the Milosevic government." As a consequence, Human Rights Watch believes that "While stopping such propaganda may serve to demoralize the Yugoslav population and undermine the government's political support, neither purpose offers the `concrete and direct' military advantage necessary to make them a legitimate military target."80

Even if one could justify legal attacks on civilian radio and television, there does not appear to be any justification for attacking urban studios, as opposed to transmitters. After strikes on the Belgrade and Novi Sad headquarters, Yugoslav state broadcasters were able to easily move operations to other facilities. In this case, target selection was done more for psychological

harassment of the civilian population than for direct military effect. The risks involved to the civilian population in undertaking the urban attack thus grossly outweighed any perceived military benefit. What is more, NATO failed to provide clear advance warning of the attacks "whenever possible," as required by Protocol I, art. 57(2).

Cluster Bombs and Civilian Deaths

One of the issues of most intense public interest that has emerged from Operation Allied Force is NATO's use of cluster bombs. As noted, there are seven confirmed and five likely incidents involving civilian deaths from cluster bomb use by the United States and Britain. Altogether, some ninety to 150 civilians died from cluster bomb use. The first confirmed incident was on April 10 (incident no. 14) and the last was on May 13 (incident no. 57).

The most serious incident involving civilian deaths and the use of cluster bombs occurred on May 7 in Nis (incident no. 48). The mid-day attack on Nis airfield, which is located inside the urban zone, killed fourteen civilians and injured twenty-eight. Cluster bomb submunitions fell in three widely separated areas: near the Pathology building of the Nis Medical Center in southeast Nis; in the town center near the Nis University Rector's Office, including the area of the central city market place, the bus station near the Nis Fortress, and the "12 February" Health Center; and near a car dealership and the "Nis Express" parking lot across the river from the fortress.

NATO confirmed the attack on Nis airfield,81 and on May 8, NATO Secretary General Solana confirmed NATO responsibility for the attack, stating that "NATO has confirmed that the damage to the market and clinic was caused by a NATO weapon which missed its target."82 According to U.S. Air Force sources, the CBU-87 cluster bomb container failed to open over the airfield but opened right after release from the attacking airplane, projecting submunitions at a great distance into the city.83

After the incident in Nis, the White House quietly issued a directive to the Pentagon to restrict cluster bomb use (at least by U.S. forces).84 Human Rights Watch considers this to have been the right move, but is concerned, given these risks, that cluster bombs were being used in attacks on urban targets in the first place. The mid-May prohibition against the further use of cluster bombs clearly had an impact on the level of civilian deaths as the war continued, particularly as bombing with unguided weapons (which would otherwise include cluster bombs) significantly intensified towards theend of the month. Nevertheless, the British air force continued to drop cluster bombs (official chronologies show use at least on May 17, May 31, June 3, and June 4),85 indicating the need for universal, not national, norms regarding cluster bomb use.

2 Documentation of abuses against ethnic Albanians in 1998 and 1999 can be seen in two Human Rights Watch reports: "Humanitarian Law Violations in Kosovo," October 1998, and "A Week of Terror in Drenica," February 1999.

3 On Racak, *see* Human Rights Watch, "Report on the Massacre in Racak," January 1999.

4 U.S. Department of Defense, Joint Chiefs of Staff (DOD/JCS), Joint Statement on the Kosovo After Action Review, October 14, 1999. Operation Allied Force was originally planned to be prosecuted in five phases: Phase 0 was the deployment of air assets into the European theater. Phase 1 would establish air superiority over Kosovo and degrade command and control over the whole of the FRY. Phase 2 would attack military targets in Kosovo and those FRY forces south of 44 degrees north latitude (in other words, targets beyond Kosovo but not yet including Belgrade), which were providing reinforcement to Serbian forces into Kosovo. This was to allow targeting of forces not only in Kosovo, but also in the FRY south of Belgrade. Phase 3 would expand air operations against a wide range of military and security force targets throughout the FRY. Phase 4 would redeploy

forces as required. U.S. Department of Defense communications with Human Rights Watch, October and November 1999.

5 Dana Priest, "Tensions Grew with Divide over Strategy," *Washington Post*, September 21, 1999, p. A1.

6 Gen. Wesley Clark, Remarks to the American Enterprise Institute regarding military action in Yugoslavia, August 31, 1999. See also Testimony before the U.S. Senate Armed Services Committee Hearing on Lessons Learned from Military Operations and Relief Efforts in Kosovo, October 21, 1999. NATO's objectives for the conflict in Kosovo were set out in the Statement issued at the Extraordinary Meeting of the North Atlantic Council held at NATO on April 12, 1999 and were reaffirmed by Heads of State and Government in Washington on April 23, 1999. They included:

- A verifiable stop to all military action and the immediate ending of violence and repression;
- The withdrawal from Kosovo of the military, police, and paramilitary forces;
- The stationing in Kosovo of an international military presence;
- The unconditional and safe return of all refugees and displaced persons and unhindered

access to them by humanitarian aid organizations; and

- The establishment of a political framework agreement for Kosovo on the basis of the

Rambouillet Accords, in conformity with international law and the Charter of the United Nations.

7 Special Department of Defense Press Briefing with General Wesley Clark, Supreme Allied Commander, Europe, Topic: Kosovo Strike Assessment Also Participating: Airmen and Analysts from Operation Allied Force and Post-strike Assessment Work, Brussels, Belgium, September 16, 1999.

8 Testimony of Gen. Henry Shelton, to the U.S. House Armed Services Committee, April 14, 1999.

9 Hearing of the U.S. Senate Armed Services Committee, Lessons Learned from Military Operations and Relief Efforts in Kosovo, October 14, 1999.

10 DOD/JCS, Joint Statement on the Kosovo After Action Review, October 14, 1999.

11 Hearing of the U.S. Senate Armed Services Committee, Lessons Learned from Military Operations and Relief Efforts in Kosovo, October 14, 1999.

12 DOD/JCS, Joint Statement on the Kosovo After Action Review, October 14, 1999.

13 U.S. Secretary of Defense William S. Cohen, Remarks as Delivered to the International Institute for Strategic Studies, Hotel del Coronado, San Diego, California, Thursday, September 9, 1999.

14 DOD/JCS, Joint Statement on the Kosovo After Action Review, October 14, 1999.

15 Anthony H. Cordesman, "The Lessons and Non-Lessons of the Air and Missile Campaign in Kosovo," CSIS, revised September 29, 1999, p. 17.

16 *Jane's Defense Weekly*, July 7, 1999, p. 21.

17 Statement of the Honorable John J. Hamre, U.S. Deputy Secretary of Defense, before the U.S. House Permanent Select Committee on Intelligence, July 22, 1999.

18 Gen. Wesley Clark, Remarks to the American Enterprise Institute regarding military action in Yugoslavia, August 31, 1999.

19 Testimony of Gen. Henry Shelton, to the U.S. House Armed Services Committee, April 14, 1999.

20 Testimony of Lt. Gen. Michael Short before the U.S. Senate Armed Services Committee Hearing on Lessons Learned from Military Operations and Relief Efforts in Kosovo, October 21, 1999.

21 Statement of Lt. Gen. Marvin R. Esmond, U.S. Deputy Chief of Staff, Air and Space Operations, United States Air Force, October 19, 1999.

22 These are collectively referred to as "Yugoslav press reports" in footnotes throughout this report and Appendices. When significant individual articles are referenced, they are listed individually.

23 These are Turkovac near Leskovac (April 11), Kastrat east of Kursumlija (April 26), and Smederevo (May 21).

24 These are Kursumilija and Prizren (March 25), Nis and Pristina "refugee" camps (March 29), and Stavaljska breza village near Sjenica (April 6). Like army soldiers, paramilitary troops are considered combatants in the context of the Yugoslav war. and as such are excluded from this assessment of civilian (i.e., noncombatant) deaths.

25 One major exception to the largely credible nature of the government's *White Book* is the case of Dubrava prison, discussed in this report. It should also be noted that the general accuracy of the documentation contained in the *White Book* and the Ministry of Health's photographic record concerning civilian casualties and damage to civilian objects contrasts sharply with the sweeping statements made by the Yugoslav government of 1,200 to 5,000 civilian deaths during the war.

26 There is some uncertainty as to the precise number of civilians killed in about three incidents. These include the April 12 attack on the Djakovica-Klina road (incident no.17), the May 1 attack in Luzane which destroyed the Nis Express bus (incident no. 41), and the May 13 Korisa attacks (incident no. 57). In Djakovica-Klina, where the best information only indicates that "several" civilians were killed, Human Rights Watch uses five civilian deaths as its estimate. In the case of Korisa, reporting of civilian deaths varies from forty-eight to eighty-seven.

27 In three other cases, Yugoslav authorities claimed that civilian casualties were a result of cluster bomb use, but Human Rights Watch could find no evidence to corroborate the claims or found evidence to refute them.

28 Remarks as Delivered to the International Institute for Strategic Studies by Secretary of Defense William S. Cohen, Hotel del Coronado, San Diego, California, Thursday, September 9, 1999.

29 Gen. Wesley Clark, Remarks to the American Enterprise Institute regarding military action in

Yugoslavia, August 31, 1999.

30 U.S. Congress, House Permanent Select Committee on Intelligence, Hearing on the Bombing of the Chinese Embassy, July 21, 1999.

31 Testimony before the U.S. Senate Armed Services Committee Hearing on Lessons Learned from Military Operations and Relief Efforts in Kosovo, October 21, 1999.

32 "Savovic: Deca cine 30 odsto od ukupno ubijenih civila," [Savovic: Children Make 30 Percent of the Total Number of Killed Civilians], *Politika*, May 23, 1999, p. 12.

33 "Temeljno utvrditi posledice agresije," ["To Establish a Full Account of the Consequences of the Aggression"], *Politika*, July 15, 1999, p. 17. In a report about the same press conference, the independent *Danas* newspaper quoted Zivkovic as saying that the G-17 group of independent economists had estimated the number of civilians who lost their lives in NATO attacks to be 5,700. "NATO ubio 5.700 civila," [NATO Killed 5,700 Civilians], *Danas*, July 15, 1999, p. 5.

34 "Zivkovic: Steta od NATO bombardovanja neprocenjiva," [Zivkovic: Damage Caused by NATO Bombardments Unmeasurable], BETA, July 14, 1999.

35 Gen. Joseph W. Ralston, Vice Chairman, Joint Chiefs of Staff, AFA Policy Forum: "Aerospace Power and the Use of Force," September 14, 1999.

36 Statement of the Honorable John J. Hamre, U.S. Deputy Secretary of Defense, before the U.S. House Permanent Select Committee on Intelligence, July 22, 1999.

37 U.S. Army, *Operational Law Handbook 2000*, Chapter 5, p. 2. The U.S. views the following Protocol I articles as either legally binding as customary international law or acceptable practice though not legally binding: art. 5 (appointment of protecting powers); art. 10 (equal protection of wounded, sick, and shipwrecked); art. 11 (guidelines for medical procedures); arts. 12-34 (medical units, aircraft, ships, missing and dead persons); art. 35(1)(2) (limiting methods and means of warfare); art. 37 (perfidy prohibitions); art. 38 (prohibition against improper use of protected emblems); art. 45 (prisoner of war presumption for those who participate in the hostilities); art. 51 (protection of the civilian population, except para. 6, reprisals); art. 52 (general protection of civilian objects); art. 54 (protection of objects indispensable to the survival of the civilian population); arts. 57-60 (precautions in attack, undefended localities, and demilitarized zones); art. 62 (civil defense protection); art. 63 (civil defense in occupied territories); art. 70 (relief actions); arts. 73-89 (treatment of persons in the power of a party to the conflict; women and children; and duties regarding implementation of GP I). The U.S. specifically objects to art. 1(4) (on the applicability of Protocol I to certain types of armed conflicts-wars of national liberation from "colonial domination," "alien occupation", and "racist regimes"); art. 35(3) (environmental limitations on means and methods of warfare); art. 39(2) (limits on the use of enemy flags and insignia); art. 44 (expansion of definition of combatants, relaxing of requirement to wear fixed distinctive insignia recognizable at a distance; reducing threshold of lawful combatant status to requirement to carry arms openly during military engagement or in military deployment preceding an attack; when visible to an adversary); art. 47 (non-protection of mercenaries); art. 55 (protection of the natural environment); and art. 56 (protection of works and installations containing dangerous forces). *See* Comments by Michael J. Matheson at "The Sixth Annual American Red Cross - Washington College of Law Conference on International Humanitarian Law: A Workshop on Customary International Law in the 1977 Protocols Additional to the 1949 Geneva Conventions," Session 1: "The United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions," American University Journal of International Law and Policy, vol. 2, no. 2 (1987), pp. 419-20.

38 It is the position of the U.S., U.N., and NATO that any military forces engaged in operations will apply the "principles and spirit" of the laws of war in their operations. It is DOD policy to comply with the laws of war "in the conduct of military operations and related activities in armed conflict, however such conflicts are characterized." (DOD Directive 5100.77 of July 10, 1979, para. E(1)(b))

39 Protocol I, Art. 48.

40 Protocol I, Art. 52(2).

41 Art. 57, Precautions in attack:

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.
2. With respect to attacks, the following precautions shall be taken:
(a) those who plan or decide upon an attack shall:
(I) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Art. 52.and that it is not prohibited by the provisions of this Protocol to attack them;
(ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;
(iii) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
(b) an attack shall be canceled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
© effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit. (...)

42 ICRC, *Commentary on the Additional Protocols*, pp. 681-682, para 2198. The ICRC notes that some delegations to the diplomatic conference that adopted the protocols interpreted the terms "everything feasible" to mean:

everything that was practicable or practically possible, taking into account all the circumstances at the time of the attack, including those relevant to the success of military operations. The last-mentioned criterion seems to be too broad, having regard to the requirements of this article.

The interpretation considered too broad by the ICRC, however, appears verbatim in the other authoritative commentary on the protocols, M. Bothe, K. Parsch, and W.Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (The Hague: Martinus Nijhoff, 1982), p. 362.

43 The principle of proportionality is codified in Protocol I, Art. 51 (Protection of the civilian population), section 5:

Among others, the following types of attacks are to be considered as indiscriminate:...
(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians,

damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

44 ICRC, *Commentary on the Additional Protocols*, p. 626, para. 1980: "The idea has also been put forward that even if they are very high, civilian losses and damages may be justified if the military advantage at stake is of great importance. This idea is contrary to the fundamental rules of the Protocol....The Protocol does not provide any justification for attacks which cause extensive civilian losses or damage. Incidental losses and damage should never be extensive."

45 ICRC, *Commentary on the Additional Protocols*, p. 684, para. 2212.

46 Ibid., p. 684, paras. 2213-2214.

47 For an early account of the use of cluster bombs by NATO in the Federal Republic of Yugoslavia and Human Rights Watch's position, see Human Rights Watch, "Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia," *A HumanRights Watch Short Report*, vol. 11, no. 6(D), May 1999; and Human Rights Watch, "Cluster Bombs: Memorandum for CCW Delegates," December 16, 1999.

48 The question as to what extent the military is obligated to expose its own forces to danger in order to limit civilian casualties or damage to civilian objects is examined in William J. Fenrick, "Attacking The Enemy Civilian As A Punishable Offense," *Duke Journal of Comparative and International Law*, 1997, p. 546, located at http://www.law.duke.edu/journals/djcil/articles/djcil7p539.htm).

49 The eighty-seven deaths in Korisa are counted in the Human Rights Watch total of 500; the seventy-six at Dobrava prison are not.

50 Human Rights Watch discussions with U.S. Air Force and Joint Chiefs of Staff officers, October 1999.

51 This issue will be discussed in greater detail in Human Rights Watch's upcoming report on targeting in Operation Allied Force.

52 The second largest broadcast center in Yugoslavia, in Novi Sad, was hit the next day but there were no civilian casualties. Officials told Human Rights Watch that after the attack on Belgrade, RTS evacuated the facility.

53 Seven oil storage tanks were damaged in the attack, as were the pump house and pouring station on the Sava river.

54 U.S. Congress, House Permanent Select Committee on Intelligence, Hearing on the Bombing of the Chinese Embassy, July 21, 1999.

55 NATO, SHAPE News Morning Update, April 15, 1999; Reuters, 150059 GMT April 15, 1999.

56 Joie Chen and Jamie McIntyre, "As Serb Force Grows, Limits of Air Attacks Become Apparent," CNN The World Today Broadcast, April 19, 1999; Sarah Chayes, "General Daniel Leaf Explains the Refugee Bombings," National Public Radio, All Things Considered Broadcast, April 19, 1999.

57 FRY Ministry of Foreign Affairs, *NATO Crimes in Yugoslavia*, vol. 1, pp. 1, 21-26, 32-37; FRY Ministry of Housing, "Photo Documentation of Civilians Who Were Killed By NATO

Attacks, from 24.03 until 20.05.1999."

58 Tanjug, Pristina, April 15, 1999.

59 At least two eyewitnesses told Human Rights Watch that the convoy was interspersed with military vehicles. Interviews with Kole Hasanaj, Meja, July 25, 1999, and with Safet Shalaj, Djakovica, July 25, 1999.

60 Special U.S. Department of Defense Press Briefing with Gen. Wesley Clark, Supreme Allied Commander, Europe, Topic: Kosovo Strike Assessment; Also Participating: Airmen and Analysts from Operation Allied Force and Post-Strike Assessment Work. Brussels, Belgium, September 16, 1999.

61 Ibid.

62 FRY Ministry of Foreign Affairs, *NATO Crimes in Yugoslavia*, vol. II, pp. 1-17. Though the *White Book* states that there were "only" forty-eight victims in Korisa, Yugoslav and Western press, as well as the U.S. State Department and the U.N. report figures of eighty to eighty-seven victims. Based upon Human Rights Watch investigations and discussions with Western journalists who attempted to reconstruct the incident, it appears that more that forty-eight people definitely died in the Korisa attack. The range of deaths is thus used.

63 Transcript of Backgrounder given by Peter Daniel and Major General Walter Jertz, in Brussels, May 15, 1999.

64 NATO, Subject: Press Release (99) 079, Statement by the NATO Spokesman on the Korisa Incident, May 15, 1999.

65 Transcript of Backgrounder, May 15, 1999.

66 Transcript, U.S. Department of Defense News Briefing, May 15, 1999.

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69 Information provided by Yugoslav civil defense authorities; FRY MFA, NATO raids on manufacturing and civilian facilities on May 21st and in the night between May 21st and 22nd 1999.

70 FRY Ministry of Foreign Affairs, NATO Raids on Manufacturing and Civilian Facilities on May 29th and in the Night Between May 29th and 30th 1999.

71 Yugoslav press reports; "Identifikovano 86 mrtvih," *DAN*, May 27, 1999, p. 2; "Jos sedam leseva," *DAN*, May 30, 1999.

72 FRY Ministry of Foreign Affairs, *NATO Crimes in Yugoslavia*, vol. II, p. 319.

73 NATO, Operation Allied Force Update, May 22, 1999, 0930 CET. See also Transcript of Press Conference given by Mr. Jamie Shea and Col. Konrad Freytag in Brussels on Saturday, May 22, 1999.

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77 Carlotta Gall, "Stench of Horror Lingers in a Prison in Kosovo," *New York Times*, November 9, 1999.

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79 ICRC, *Commentary on the Additional Protocols*, p. 632, para. 2002, note 3.

80 Human Rights Watch letter to Javier Solana, May 13, 1999.

81 NATO (SHAPE), ACE News Release - Press Release 99-05-02, May 8, 1999.

82 Transcript of Press Conference given by the NATO Secretary General, Mr. Javier Solana, in Brussels, on Saturday, May 8, 1999 (including Maj. Gen. Jertz).

83 Human Rights Watch correspondence with a U.S. Air Force officer, November 1999.

84 Human Rights Watch discussions with U.S. Air Force and Joint Chiefs of Staff officers, October 1999.

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Appendix A: Incidents Involving Civilian Deaths in Operation Allied Force

March 25

1. In a 5:10 p.m. attack on an unidentified target in the **Rozaje** area of Montenegro, near the Kosovo border between Besnika and Njegus villages, Senad Dacic (16) is killed. The Yugoslav government provides forensic detail (such as photographs, investigator's reports, autopsy reports) of the incident in its *White Book*.86

April 1

2. In a 4:55-5:30 a.m. attack on the "Marshal Tito" Petrovaradin (Varadinski) Bridge (the so-called "old bridge") across the Danube in **Novi Sad** in Vojvodina, one civilian is fatally injured. Oleg Nasov (29) dies in late May as a result of injuries sustained in the April 1 attack. A building of the University of Novi Sad is also damaged87 and the Yugoslav government claims "severe damage" to the roof structure of the Fortress of Petrovaradin and to the Petrovaradin Monastery of the Church of St. Juraj (built in 1714).88

Human Rights Watch visited the site (N4515242/E01951302)89 on August 15, and inspected the damage. Though initial reports stated that there were no casualties in the attack,90 a posted death notice for Nasov located on the bridge announced that his funeral took place on May 28. The attack, according to U.S. Air Force sources, was undertaken by a B-2 bomber, firing satellite guided Joint Direct Attack Munitions (JDAMs).

April 2

3. In a 1:30-2:00 a.m. attack on an unidentified target in the area of **Orahovac** in Nogavac (Negavac in Albanian) village in Kosovo, four civilians are killed and twelve are injured. Hysni Elsani (20), Hysen Ziniqi (29), Qazim Krasniqi (30), and Mahmut Krasniqi (age unknown) are identified as killed.91 The Yugoslav government claims another seven are killed and five injured. Tanjug and the Yugoslav press reports that two ethnic Albanians from Negavac (Nogavac) village are killed and sixteen are wounded. Tanjug states that six are injured by cluster bomb fragments, including two children, according to a local doctor.92 Another report states that the village near Orahovac was bombed and that six Albanian civilians were wounded. After being hospitalized in the Pristina medical center, one dies.93

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the incident from the Ministry of Health.94 There is no corroboration of the use of cluster bombs in this attack.

4. In a 2:00 a.m. attack on an unidentified target in the **Kursumlija** area in southern Serbia, one civilian is killed and another is wounded. The house of the brothers Stepanovic in Samokovo village (Mt. Samokovo) is hit, killing VucinaStepanovic (44) and wounding another Stepanovic brother.95 Bombs also land near the St. Bogorodica monastery (at the mouth of the rivers Kosanica and Toplica), in Pepeljevac village, and near the St. Nikola monastery.96

Human Rights Watch received photo documentation of the death from the Ministry of Health.97

April 4

5. In a 3:17 a.m. attack on the Sloboda factory in **Cacak** in central Serbia, one civilian is killed and seven are wounded. Mileva Kuveljic (73) dies in her house at 99 Ratka Mitrovica street. A number of other houses situated near the town's roundabout are also damaged in the attack. The kindergarten "Bosko Buha" is also reported damaged.98

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.99

6. In a 4:29 a.m. attack on the **Pancevo** oil refinery in Vojvodina, just north of Belgrade, three civilians are killed and three are wounded. Mirko Dmitrovic (39) and Dusko Bogosavljev (50), factory workers, are instantly killed.100 A third civilian who was seriously injured in the April 4 attack dies six days later, according to refinery officials.

The attack is the first on the refinery. The "Energana" (energy plant or electrical transformer) at the refinery is the specific target of attack. It is hit with two weapons.101
Human Rights Watch visited the NIS-Petrol and Oil Company Pancevo (N4449719/E02041436) on August 17, inspected the damage from this initial attack and other attacks, and verified the casualties with authorities at the refinery.102 The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.103 Human Rights Watch concludes, based upon the target and the extent of damage at the refinery, that a precision-guided munition (PGM) was used in the attack on April 4 and in subsequent attacks.

7. In a 4:35 a.m. attack on the **New Belgrade** Heating Plant, one civilian is killed. Night watchman Slobodan Trisic (53) is killed while making his rounds. Six oil storage tanks are hit and a seventh is damaged, and the pump house and pouring station on the Sava river are also destroyed.104

Human Rights Watch visited the site ("Beogradske elektrane" on 11 Savski nasip street, N4447904/E02024721) on August 5, inspected the damage, and verified the casualties with authorities at the plant. Authorities provided details relating to the attack and the civilian death. Remains of cruise missiles reportedly used to attack the plant were on display.The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.105

April 5

8. In a 9:35-9:40 a.m. attack on the **Aleksinac** "Deligrad" military barracks in southeastern Serbia, ten civilians are killed and another thirty are wounded.106 Immediately killed are: Snezana Miladinovic (40), Velimir Stankovic (52), Ljubica Miladinivic (63), Dragomir Miladinovic (67), Bogomir Arsic (69), Jovan Radojicic (75), Sofija Radojicic (80), Radojka Jovanovic (86), Vojislav Jovanovic (92), and Gvozden Milivojevic (93).107 Two civilians subsequently die from

injuries sustained: Marina Paovic (26) and Dragica Miladinovic (age unknown).108

A weapon or weapons fall about 600m from the barracks. Damage is reported in Dusan Trivunca street (house numbers 56-62), between the Angrokolonijal commercial enterprise and the EMPA illumination and electrical products enterprise, and at Vuka Karadzica street, where four buildings were destroyed (house numbers 23-27). A crater was also caused on Petra Zeca street, and on a lot between "Betonjerka"enterprise and the "Sumatovac" driving school. Damage was caused on Vojske Jugoslavije and Kneza Milosa streets. Window panes on buildings in the center of Aleksinac were shattered, and tiles were blown off of several buildings near where the missiles fell.109 Yugoslav authorities also report two explosions inside the Deligrad barracks and a third twenty-five meters from the barracks fence.110
On April 6, Tanjug reported that sixteen private houses and more than 400 apartments, including three buildings with eighty apartments, were damaged or destroyed. Civilian defense headquarters commander Zoran Babovic said seven bombs fell in the center of the town. One bomb also fell near the Belgrade-Nis highway, he said. He reported twenty injured civilians, including thirteen in hospitals in Nis and Aleksinac.111
NATO expressed regret for the loss of life and called the incident an "accident of war." Commenting on the incident, Air Commodore David Wilby said: "It is possible that one of our weapons fell short of the target. Despite our meticulous and careful pre-attack planning, the law of statistics will, at some stage, go against us and we will be exposed to technical defect." NATO further says that the intended target was a military barracks and artillery unit nearby.112
Testifying before Congress on April 14, 1999, Gen. Henry Shelton described this incident, which the United States labels the "first" incident of civilian deaths: "When I was in Aviano last week, we had just had what was at that point the first incident, I think, of a bomb missing the intended target. Actually three bombs went in, two hit dead center, one fell a little bit short."113
Human Rights Watch visited the site (N4332375/E02142482) on August 11, inspected the damage, and took eyewitness testimony. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.114

9. In an 11:00 p.m. attack on the "1300 Corporals" and "Simo Pogacerevic" military barracks in **Vranje** in southeastern Serbia, two civilians are killed and twenty-three injured. Taxi driver Goran Eminovic (33) and Milica Grujic (68) are killedwhen a weapon intended for the 1300 Corporals barracks falls near the Vranje bus station, not far from the barracks.115 Doctors say that six people have been seriously wounded but that their wounds are not life threatening. Slightly wounded are seventeen people, of which eleven will receive further hospital treatment.116 A number of civilian facilities are damaged in this and a previous attack on April 2, including the DIV cigarette factory, the printing house Nova Jugoslavija, and the Jedinstvo bus station.117

Human Rights Watch visited the site (N4233135/E0215455) on August 12, inspected the damage and took eyewitness testimony. The civilian objects reported as being damaged are all near the 1300 Corporals barracks, which appeared to have been extensively attacked. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.118

April 7

10. In 12:30 a.m. attacks on targets in and around **Pristina** in Kosovo, nine civilians are killed and eight are seriously wounded.119 Adem Berisha, Radovan Aleksic, Dejan Vitkovic, and an unidentified woman die in the vicinity of the Pristina Post Office and telephone exchange. Five members of the Gashi family (father Mesud, mother Dijana, and children Dea, Rea, and Demis) are killed in their home on Kosovska street.120 Dejan Vitkovic is killed in front of his house at 12 Meta Barjaktarija street.

Two weapons land in residential areas, 200-300 meters away from the telephone exchange, at the Dardanija apartment building, on Zanatska street, Meta Barjaktarija street, and Kosovska street.121 There is also damage to the former Provincial Assembly building, the Republic Pension and Disability Fund building (the provincial and municipal insurance company), the National Bank, and the "Grmija" department store, the latter of which was observed by Human Rights Watch. One weapon also reportedly explodes near an Orthodox Christian cemetery.122 Tanjug reports rescue efforts were hampered by unexploded cluster bombs,123 but there is no evidence presented in the *White Book* of the use of cluster bombs, and it is highly unlikely that cluster bombs were employed to attack the urban telephone exchange.
Reported targets in Pristina on April 7 include the Slatina airfield; a Beopetrol depot in the Devet Jugovica suburb (ten kilometers from Pristina); the downtown Pristina telephone exchange; and the Grmija hill transmitter (three kilometers from Pristina).124
On April 9, NATO admits damage to civilian homes in the strike on the telephone exchange, regretting "unintended damage or loss of civilian life." Air commodore David Wilby said that one of three bombs which targeted the Main Postal Office hit a residential area. "Careful investigation of the picture showed that bomb exploded some 200 to 300 meters from the target, on something that looks like a small residential area," Wilby says.125
The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.126

11. In an attack on the **Nis** airfield, one civilian is killed and twenty are injured. Miroslav Stojkovic is killed at the MIN industry complex. The civilian is reported as "the first civilian victim in Nis since NATO started attacks."127

Human Rights Watch visited the site on August 13, inspected the damage, collected documentation, met with civil defense officials, and took eyewitness testimony. The MIN complex is located at 12. Februara Boulevard; its rear is some 300 meters from the airfield perimeter. Nis civil defense officials reported that eleven weapons were fired against Nis on April 7, including four "missiles" and six "guided bombs." One additional unexploded bomb was reportedly recovered.

April 8

12. In an 4:00-4:10 a.m. attack on telecommunications and/or air defense facilities on Tornik peak in the **Zlatibor** mountains in central Serbia, three civilians are killed. They are forest ranger Milenko Savic (25) and guards Nedjo Urosevic (31) and Radoje Marjanovic (34).128 The "Tornik" ski resort and a training facility of the Medical Institute "Cigota" incorporating a children's recreation center and an outpatient clinic are hit. The site is visited shortly afterwards by Judge Momcilo Krivokapic and Deputy Attorney-General Stevan Zmic.129 A government report at the time said, "Almost all objects on 2,000 square meters surface are completely destroyed."130

Human Rights Watch visited the site on August 7, inspected the damage and interviewed eyewitnesses. Eyewitnesses said that army soldiers were occupying homes and hotels in the area, but that the local population knew little about the functions and activities of the army in the area during the war. The site of the civilian deaths (N4340272/E01938755), a ski lodge at the bottom of the lifts, is more than 2,000 meters from the telecommunications tower on Tornik peak, which was also bombed. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.131

13. In a 12:42-12:50 p.m. attack on the Kursulina street Army barracks in the Serbian town of **Cuprija**, one woman is killed and five civilians are injured. Zlatka Lukic (54) is killed. Houses

are destroyed and damaged on Kursulina street, Milana Toplice street, Vojske Jugoslavije Boulevard, as well as surrounding areas. There is also damage to schools, stores, and a sports hall.132

Human Rights Watch visited the site (N4356008/E02122130) on August 14, inspected the damaged and interviewed eyewitnesses. The barracks are located on the Morava river, right outside the center of town and about 800 meters from the locations where the civilian deaths occurred. Damage to the sports hall, office of the electrical distribution board, and residences was observed. The Yugoslav government provides forensic detail of the incident in its *White Book*.

April 10

14. In an 11:55 p.m. attack on unidentified targets in the area between Podujevo and Kursumlija on the Serbian-Kosovo border, five are killed and some three are injured near the villages of **Merdare** and **Mirovac**. Killed were Bozina Tosovic (30) and his one-year-old daughter Bojana, while Marija Tosovic, his wife, was seriously wounded. Dragan Bubalo (31) from Podujevo, Goran Djukic from Ploce, and Srdjan Cvetkovic are also killed.133 *Politika* names five killed: Bojana Tosovic (eleven months), Bozina Tosovic, Dragan Bubalo, Goran Djukic, and Srdjan Cvetkovic.134 According to the chief of orthopedic surgery at the Djakovica hospital, forty-three people injured at Bistrzin and Meja were admitted to the hospital on April 14.135

Yugoslav press accounts state that cluster bombs are responsible for the killings.136 Cluster bomb submunitions are later observed near the road from Podujevo to Kursumlija, near the village Merdare.137 According to a *New York Times* report, "in Merdare, NATO bombs and anti-personnel cluster bombs demolished four houses early Sunday morning, killing five....A number of pigs and cows were killed and injured....In the fields, there were hundreds of small holes in the earth from detonations, and small green nylon parachutes from what appeared to be NATO anti-personnel cluster bombs, covering an area of about 300 square yards. Large pieces of green painted metal, with yellow stripes, perfectly broken open as if on a seam, lay about the yard. There were large pieces of formed yellow plastic foam and light aluminum containers, with fans like whirligigs, that appeared to have held the small parachutes, with explosives attached...."138 The Yugoslav government provides forensic detail of the incident in its *White Book*. This is the first confirmed instance of civilian deaths resulting from cluster bomb use. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.139

April 12

15. In the evening, a four carriage civilian passenger train (No. 393) traveling the Belgrade to Ristovac line (on the Macedonian border) is hit as it crosses over the **Grdelica Klisura** gorge (Bistrica) bridge on the Juzna Morava river near Leskovac in southeastern Serbia, killing twenty. Killed are: Branimir Stanijanovic (6), Ivan Markovic (26), Ana Markovic (26), Jasmina Veljkovic (28), Simeon Todorov (31), Zoran Jovanovic (35), Petar Mladenovic (37), Verka Mladenovic (37), Divna Stanijanovic (41), Vidosav Stanijanovic (45), Radomir Jovanovic (45), and Svetomir Petkovic (65). Five others' remains are unidentified, and three persons are reported missing.140 Tanjug reports that about fifty civilian passengers are killed in the attack.141

An AGM-130 electro-optically guided precision-guided munition (PGM) was used in the F-15E Strike Eagle attack. NATO apologizes for an "uncanny accident" and says that it had targeted the bridge because it was an important supply route into Kosovo.142 Showing video footage of the attack, Gen. Clark says: "You can see if you were focusing right on your job as a pilot how suddenly that train appeared. It was really unfortunate." Later Deputy Defense Secretary John Hamre states that "one of our electro-optically guided bombs homed in on a railroad bridge just when a passenger train raced to the aim point. We never wanted to destroy that train or kill its

occupants. We did want to destroy the bridge and we regret this accident."143
Human Rights Watch visited the site (N4252594/E02205255) on August 12, inspected the damage and interviewed eyewitnesses. The Yugoslav government provides forensic detail of the incident in its *White Book*. It also received photo documentation of the deaths from the Ministry of Health.144

16. A "Ford Escort" civilian car traveling on the **Pristina-Kosovo Polje road** is hit at 2:25 p.m. local time near the Agricultural School, killing two. A third civilian dies in the Pristina Hospital.145

17. The Yugoslav government reports that the **Djakovica-Klina road** in Kosovo is struck with cluster bombs at 6:30 p.m. and that "several people were killed and wounded."146 Human Rights Watch could find no authoritative source identifying the dead. Civil defense officials stated that five civilians died.147

April 13

18. One civilian is reported killed in the **Kicma** settlement near **Pristina** in Kosovo: Sefcet Trnova (22). There are reports of attacks at the same time on the Slatina airfield, the Pristina bus station, as well as targets in the Ajvalija and Gracanica suburbs of Pristina.148

April 14

19. Between 1:30-3:30 p.m., a refugee convoy is bombed along a twelve mile stretch of road between **Djakovica** and **Decane** in Kosovo, killing seventy-three individuals and injuring thirty-six The bombing incidents occur near the villages of Bistrazin, Gradis, Madanaj and Meja in numerous different locations. On April 14, Yugoslav authorities claimed fifty-six dead and thirty-six wounded. On April 15, four additional bodies were discovered. Later the total was increased even more; Yugoslav authorities in the *White Book* state that seventy-three were killed and thirty-six were wounded. The Committee for Compiling Data on Crimes Against Humanity and International Law says eighty-two dead and fifty injured.149

The identified dead are: Ferat Bajrami, Imer Cela, Sali Gjokaj, Skendi Gjokaj, Martin Hasanaj, Lek Hasanaj, Ram Maloku, Arton Maloku, Tazija Pajaziti, Vjollca Pajaziti (18), Violeta Pajaziti (16), Nevrija Pajaziti, Hasan Pajaziti, Flora Pajaziti, Adem Seljmani, Besarde Smajli, Fikrije Sulja, Nerdjivane Zeqiri, eight members of the Ali Ibraj family, four members of the Spend Nuraj family, four members of the Fatmir Nuraj family, and three members of the Sejdi Nuraj family.150 Tanjug reports three Serbian "policemen who were securing the safe passage for the convoy" were also killed.151
The incident ignites a major controversy about NATO bombings. The Pentagon suggests Serb security forces might have attacked civilians after a NATO strike on military vehicles in the convoy. Pentagon spokesman Ken Bacon says NATO commander Gen. Wesley Clark had received reports that "after the convoy was hit, military people got out and attacked civilians." "The pilots state they attacked only military vehicles," NATO says, adding that the "reported incident will be fully investigated once all mission details have been reviewed." There are also various reports emanating from NATO spokesman and militaries of Serbian deception in placing dead civilians at the site of the bombing. German Defense Minister Rudolf Scharping is among those who put the blame on Yugoslav forces.152
On April 15, NATO acknowledges that it bombed civilian vehicles by mistake: "Following a preliminary investigation, NATO confirms that apparently one of its planes dropped a bomb on a civilian vehicle traveling with a convoy yesterday." NATO says the attack was made because military vehicles were identified in the area. "Serbian police or army vehicles might have been in or near the convoy," NATO spokesmen state.

On the same day, the AFP correspondent in Kosovo, Aleksandar Mitic, *Los Angeles Times* correspondent Paul Watson, and two Greek television crew are allowed to go to the scene of the bombing. They find, according to the AFPdispatch, "bodies charred or blown to pieces, tractors reduced to twisted wreckage and houses in ruins." According to Mitic's report, two convoys, one to the north and one to the south of Djakovica, were hit. He quotes one refugee as saying the groups had been bombed three or four times, "the planes circling overhead as if they were following us." The *Los Angeles Times* reports small craters and bomb remnants found at the scene with U.S. markings; and reports eyewitness accounts of explosions in the air (which the newspaper says indicates the use of cluster bomblets), extensive shrapnel dispersion, and the burned bodies of refugees. Tractors pulling the refugees on wagons were destroyed, suggesting, the *Times* says, that the infrared heat-seeking "sensors" on the bomblets (sic) mistook the tractors for tanks. Cluster bomb remnants, small craters and destroyed tractors are reportedly found at Meja, about three miles west of Djakovica, and also about nine miles away, east of Djakovica.153
Human Rights Watch spoke with two witnesses to the April 14 bombing in Meja, one of whom was seriously injured. Safet Shalaj from Junik had a large scar on his back and leg due to his injuries from the NATO bombing. He said:
It was April 14, around 12:45 p.m. There were seven or eight tractors and some cars. NATO bombed us. It was a civilian convoy with two or three pitzgowers in front and the [Yugoslav] army behind us burning houses. After the bombing they took us into a house with Serbian police. In my tractor, fourteen people died. I'm not angry with NATO. Only that they can now help me find my children.154

Kole Hasanaj from Meja told Human Rights Watch:

NATO bombed the convoy on Wednesday, April 14, around 2:00 p.m. It was a convoy from Junik. When the aircraft were in the sky then the military vehicles mixed with the column. I counted twenty-three killed people from the tractors. There were others around, maybe twenty-seven or twenty-eight. NATO bombed five times. No military vehicles were damaged. After the bombing, they [Serb forces] went into the hills. The Albanians stayed in my house for about three hours.155
On April 16, NATO spokesman Jamie Shea and Brig. Gen. Giuseppe Marini state that "in one case and one only, we have proof of civilian loss of life. Otherwise, we are sure that we targeted military vehicles." NATO admits that the pilot of a U.S. F-16 fired on what he believed to be military trucks, and expresses "deep regret." There is confirmation that fragments of Mk 82 500 lb. unguided bombs found at the scene were indeed used.156
On April 19, a new version of events emerges. NATO admits that about a dozen planes were involved in attacks on more than one convoy, dropping a total of nine bombs. NATO makes public a voice recording of one of the pilots responsible for bombing the first convoy, who says the vehicles in question are "of a military type." As for a second convoy, NATO claims it had been targeted because its "pace and formation were of a typically military nature."
"This is a very complicated scenario and we will never be able to establish all the exact details," says U.S. Brig. Gen. Daniel Leaf, commander of the 31st Wing at Aviano, Italy, where the F-16s originated. Leaf suggests that after NATO aircraft attacked military vehicles, Serb forces attacked refugees in the rear with cluster bombs and grenades. He denies that NATO used cluster bombs in an attacks in the area.157
The news media later reveals that one of the U.S. pilots responsible for the bombings had been warned by a British pilot that the convoy included civilians. NATO later admits that the recording made public on April 19 had no connection with the bombing of the convoys, but was just an example of pilot "chatter."
The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.158

20. In 2:25-3:30 p.m. attacks on an unidentified bridge or on a military convoy near the suburban

quarter of **Pavlovac** south of **Vranje** in southeastern Serbia, two civilians are killed and at least one is wounded. Milica Stojanovic (12) and Mijalko Trajkovic (65) are killed.

According to the Yugoslav government, they are killed by cluster bombs.159 It says that Pavlovac houses are hit by cluster bombs. "Several people were killed and gravely wounded," the Yugoslav government says. Damage is reported to a bridge on the Presevo-Vranje motorway, with civilian facilities along the motorway also damaged.160 Another report says that the Vranje-Bujanovac road was targeted.161
Human Rights Watch visited the site (N4229656/E02151770) on August 12, inspected the damage and interviewed eyewitnesses. Eyewitnesses said that four weapons exploded next to the E-75 highway at about 3:00 and 4:00 p.m. on April 14. They speculated that a military convoy on the highway was the target. A highway bridge some one kilometer south of the site was also bombed at about the same time. There is no particular evidence of the use of cluster bombs, though it remains a possibility. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.162

April 15

21. The Yugoslav government reports that two "raids" are carried out with cluster bombs against targets in the village of **Raljan**, Presevo municipality in southern Serbia, and that eight "people" are killed in these attacks.163 It reports attacks between 11:00 a.m.-12:10 p.m. in the area of Vranje, Bijelo Polje, Presevo, Bujanovac, and Prohor Pcinjski.164

22. One civilian is killed at 2:20 p.m. near the Hotel "Baciste" in the **Kopaonik** mountains in southern Serbian during the collection and clearing of cluster bombs.165 Mladen Stanojevic is killed during the clearing process. The cluster bomb attack occurred at 12:40 a.m. on April 13.166

Human Rights Watch received photo documentation of the cluster bomb clearing and the death from the Ministry of Health.167

April 16

23. In an attack on an unidentified target, one civilian is killed and two are injured in **Ribnice** village near **Vranje** in southeastern Serbia. Irena Mitic (16) died on April 17 from wounds received on April 16.168

April 17

24. In a 2:15 a.m. attack on the **Valjevo** "Krusik" factory, one civilian is wounded and dies several days later. Milisav Micic (37) died several days after he was wounded in front of his house during "the second attack on Krusik," according to neighbors and eyewitnesses interviewed by Human Rights Watch. According to the Yugoslav government, five "highly destructive missiles" hit the plant. One of the production lines was completely destroyed. Damage was also registered in the "Kolubara 2" residential quarter.169

Human Rights Watch visited the site on August 7, inspected the damage and interviewed eyewitnesses of the death.

25. In a 9:30-10:00 p.m. attack on the **Batajnica** airfield or airfield related air defenses west of Belgrade, Milica Rakic (3) is killed and another civilian is wounded.170 The girl was killed by shrapnel while in the bathroom on the second floor of her apartment (Flat no. 2) at 8 Dimitrije Lazareva-Rase street.171

Human Rights Watch visited the site (N4453977/E02017362) on August 7, inspected the damage and interviewed eyewitnesses. Evidence indicated that a weapon-possibly a cluster bomb submunition-exploded near the apartment building window. There have also been Yugoslav rumors that a cruise missile shot down by Yugoslav air defenses exploded in this neighborhood. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.172

26. After a reported cluster bomb attack in the vicinity of the village of **Kamena Glava**, Urosevac municipality, in Kosovo at 3:30 p.m. on April 17, three civilians are injured. Two civilians subsequently die on April 18.173

April 19

27. In an 11:07 p.m. attack on the **Nis** airfield and Stefan Sindjelic military barracks in the southeastern Serbian city, one civilian is killed and between nine and eleven are reported wounded. Milen Milojkovic is killed at 5/17 Koste Vujinovica street.174 Tanjug reports that the "industrial area" of Nis to the east of the airfield is hit, killing one and injuring nine.175 The Yugoslav government reports damage to several houses in a Roma quarter, damage to the Duvanska Industrija Nis (DIN) tobacco production plant, the "Kopaonik" trade company (a general merchandise depot), a "cattle fodder silo," and the "Crveni krst" railway station, all east of the airfield.176 Other reports state damage is caused in the Sljaka (Saka) neighborhood just to the southeast of the airfield, and on Bujmirska, Lipovacka, and Sarajevska streets. A "huge" crater is left on Bujmirska street.177

Human Rights Watch visited the sites on August 13, inspected the damage, collected documentation, met with civil defense and DIN company officials, and took eyewitness testimony. The Stefan Sindjelic barracks is located at 12. Februara Boulevard, directly adjacent (to the southeast) of the DIN tobacco production plant. "Kopaonik" trade companyis across the street from the tobacco plant and between the barracks and the railway station. The railway station is between the Kopaonik company and the Nis airfield.
Nis civil defense officials stated that five weapons-four "missiles" and one "guided bomb"-were dropped in Nis on April 19. The Yugoslav government provides forensic detail of the incident in its *White Book*. DIN also provided documentation of damage to the factory from a single weapon which landed some 100 meters outside the perimeters of the military barracks.178

April 21

28. In a 12:00 p.m. attack on an unidentified target near **Djakovica** in Kosovo, five civilians are killed and between sixteen and nineteen are wounded. Killed are: Ivan Ivancevic (7), brothers Davor (29) and Radivoje (27) Ularevic, Marko Ivanovic (4), and Gordana Ilic (75). Predrag Ilkic (5) is reported sent to the Pristina Hospital in critical condition. The "Majino (Majno) naselje" (Maja) refugee camp in the southern part of the town is hit in the attack. Nineteen other Serb refugees from Republika Srpska are in the Djakovica hospital, according to the Yugoslav government.179 According to the Yugoslav government, ten civilians are killed and sixteen are wounded.180 Tanjug reports five killed and sixteen wounded.181 A doctor at the Djakovica hospital told Human Rights Watch that nineteen civilians were admitted to the hospital after the attack on Majno naselje, which he said he thought was an agricultural company.182

The Yugoslav government provides forensic detail of the incident in its *White Book*.

April 22

29. In an afternoon attack on an unidentified target in the southern or southeastern suburban area of **Vranje**, one civilian is killed. Dalibor Tasic (17) is killed.183

April 23

30. In a 2:06-2:20 a.m. attack on the Radio Televizija Srbija (RTS) Studio on 1 Aberdareva street in central **Belgrade**, sixteen are killed and another sixteen are wounded. Killed are: technician Darko Stoimenovski (26), technician Nebojsa Stojanovic (27), security guard Dragorad Dragojevic (27), video mixer Ksenija Bankovic (28), make-up artist Jelica Munitlak (28), security guard Dejan Markovic (30), cameraman Aleksandar Deletic (31), technician Dragan Tasic (31), producer Slavisa Stevanovic (32), program designer Sinisa Medic (33), foreign programming specialist Ivan Stukalo (34), security officer Milan Joksimovic (47), program operator Branislav Jovanovic (50), set decorator Slobodan Jontic (54), mechanic Milovan Jankovic (59), and program director Tomislav Mitrovic (61) .184 The RTS initially reported that morepersons may still be missing who were known to have been inside the building during the bombing,185 but it is now believed that all bodies have been recovered.

About one hundred journalists and technicians were reported working in the complex when the bombing occurred.186 Producing and directing rooms and equipment were completely destroyed. There was damage to neighboring buildings, including the "Dusko Radovic" Theater next door.187
Human Rights Watch visited the site (N4448615/E02028195) on August 5, inspected the damage to RTS and surrounding buildings and took eyewitness testimony. The damage to the St. Trinity Russian Orthodox and the St. Marco Serbian Orthodox churches consisted on broken windows and other minor effects from the nearby blast. The theater, across a courtyard from the RTS building, received major damage. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.188
At least one JDAM precision-guided munition (PGM) dropped by a B-2 bomber was used in the attack, according to Air Force sources.

April 24

31. In an 11:30 a.m. attack on an unidentified target, the Yugoslav government reports that five civilians are killed and two "gravely" injured when cluster bomblets fall in **Doganovic** village in Kacanik municipality south of Urosevac on the Macedonian border in Kosovo.189 Five Albanian boys from the Kodza family are reported killed when they pick up an unexploded bomblet: Edan (3), Fisnik (9), Osman (13), Burim (14), and Valjdet (15).190

32. In a 3:00 p.m. attack on an unidentified target in the village of **Velika Dobrinja**, Lipljan municipality, in Kosovo, one civilian is killed and five are wounded. Arta Lugici (6) is killed, while her brothers Egzon (8) and Neron (7) and sister Arijeta (7) are wounded. Their parents, Gentijana and Arif Lugici, receive light injuries. The wounded boys are placed in the surgical ward of the Pristina hospital.191

April 27

33. In a 12:15-12:30 p.m. attack on the Jovana Jovanovica Zmaja street army barracks in **Surdulica** in southeastern Serbia, eleven civilians are killed and as many as one hundred are wounded. Killed are Vladimir Milic (12), Miljana Milic (15), Miomir Miovanovic (17), Stanisa Djordjevic (22), Vesna Milic (37), Aleksandar Milic (37), Dragan Ivanovic (39), Stana Rasic (47), Stamenka Milic (66). Two corpses could not be positively identified.

Weapons landed outside the barracks perimeter and cause damage and casualties in the nearby residential areas of J.J. Zmaja (Nos. 1-28), Miroljuba Stanojevica (Nos. 4-8), Jugoslovenska (Nos. 51-112), Stojana Stamenkovica (Nos. 1-40), and Drinske Divizije (No. 8-63) streets, with lesser damage on Beogradska, Branislava Nusica, and 5 Septembrastreets.192 There are widespread reports of sixteen dead, twelve of them being children agedfive to twelve.193 Other reports stated some twenty dead, including twelve children, and over one hundred are wounded, including twenty-four seriously.194

Serbian Vice Premier Dragan Tomic escorted more than eighty domestic and foreign correspondents to view the damage in Surdulica. He states that the youngest victim was barely three years old, and that the attack killed "at least" twenty people, sixteen of whom have been identified so far, six of them children. Spokesman for the Yugoslav Foreign Ministry Nebojsa Vujovic told the correspondents in Surdulica that the town has been hit by 175 "missiles" since April 6.195

On April 28, NATO admitted hitting the residential area of Surdulica, when a weapon intended to hit the army barracks overshot its target.196 Speaking at NATO in Brussels, Brig. Gen. Giuseppe Marani said: "After more than 4,000 attack sorties, one bomb went astray. We put all our effort in avoiding collateral damage. Things like this can happen and in fact they happened."

Human Rights Watch visited the site (N4241297/E02210787) on August 12, inspected the damage and took eyewitness testimony. According to eyewitness reports, the civilians killed were in the house belonging to Aleksandar Milic on J.J. Zmaja street. Neighbors took shelter in the Milic house because it was a new house built of strong materials, and had a basement. Eyewitnesses said that eleven corpses were recovered. Stojance Petkovic, a neighbor who was in the Milic house when it was hit, says that there were ten people inside (and all but him died). Another eyewitness said, "Eleven people died in that house, and nobody else was killed" in the neighborhood.197 The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.198

April 28

34. In 12:30-3:00 p.m. attacks on **Golubovac** airfield south of **Podgorica** in Montenegro, one civilian is killed and three are wounded. Paska Prenkovo Juncaj (61), an Albanian, is killed, and three civilians are wounded in **Sipcanik** village. Attacks are reported on the Golubovac airfield near Podgorica, as well as on Montenegrin targets at Bar and Bijelo Polje. Cluster bomblets land in the villages of Gosici and Mataguzi, just to the east of the airfield.199 The Yugoslav government provides forensic detail of the incident in its *White Book*.

35. In an 11:35 p.m. attack on an unidentified target in **Prizren** in Kosovo, four civilians are killed and some twenty are wounded. The names of the dead are reported as two-and-a-half-year-old Kasandra, Becir (14), Maksun (22), and Djulja Zuljfuri (25), all from the Roma settlement on Podrimska street. Djulja Zuljfuri was pregnant at the time of her death.About fifty houses in the Roma settlement, are damaged or destroyed.200 The Yugoslav government provides forensic detail of the incident in its *White Book*.

April 29

36. In an attack on Slatina airfield near **Pristina**, three civilians are killed. Berisha Braim (age unknown) and two sons, Daut and Basri, are killed in **Ariljaca** village (near Goles) (15 km west of Pristina).201

37. In 12:58-4:35 a.m. attacks on the **Ostruznica** highway bridge over the Sava river south of Belgrade, one civilian is killed. Nebojsa Arsic (35) died on the bridge in his car.202 Both the highway and railroad bridges in Ostruznica were bombed.203

Human Rights Watch visited the site (N4444436/02019342) on August 5 and inspected the damage. It also received photo documentation of the death from the Ministry of Health.204 The Yugoslav government provides forensic detail of the incident in its *White Book*. A precision-guided munition (PGM) was used in the attack.

April 30

38. In a 2:20-2:30 a.m. attack on the Yugoslav Army/Ministry of Defense headquarters on Kneza Milosa street in downtown **Belgrade**, one civilian is killed and four are seriously wounded. Another two dozen civilians are lightly wounded. Sofija Jovanovic (23), who sustained injuries, dies on May 2.205 A security guard (policeman), Nenad Nikolic, at his Ministry of Foreign Affairs post across the street from the Ministry of Defense, is also killed.206 The Yugoslav Army/Ministry of Defense headquarters building and the Federal and Serbian Ministries of Internal Affairs, all on Kneza Milosa street, are bombed.207

Human Rights Watch visited the site on August 4, inspected the damage and took eyewitness testimony. Jovanovic was killed at 7 Vardarska street (N4447714/E02028904), about 1,400 meters from the ministry headquarters. There was also a direct hit on 57 Maksima Gorkog street (N4447666/E02028719) and the adjacent "Zlatni ovan" restaurant, and a weapon or shrapnel landed in the street at the corner of Vardarska and Maruliceva streets creating a ten foot crater (N4447698/E02028834). Damage was also observed to surrounding apartments, stores and businesses. The Yugoslav government provides forensic detail of the incident in its *White Book*. Either a JDAM precision-guided munition (PGM) delivered by a B-2 bomber or a cruise missile was used in the attack.

39. In a 3:15 p.m. attack on the "old bridge"over the Zapadna Morava river in the center of **Trstenik** in central Serbia, two civilians are killed and fifteen are wounded, one seriously.208 Dejan Djordjevic (40) and Nadezda Petrickovic (44), both of Grabovac village, are killed on the bridge.209

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch received photo documentation of the deaths from the Ministry of Health.210 A precision-guided munition (PGM) was used in the attack.

40. In a 10:10 p.m. attack on the bridge over the Lim river in **Murino**, Montenegro (near the Albanian border), six civilians are killed and seven are wounded. The dead are reported as Julija Brudar (10), Olivera Maksimovic (12), Miroslav Knezevic (13), Vukic Vuletic (45), Manojlo Komantina (age unknown), and Milka Kocanovic (possibly Kovacevic) (age unknown).211 The Yugoslav government initially reports one person killed and two wounded.212 The next day it reports four people killed and eight wounded.213 Still later it reports five civilians killed and eight children wounded.214

The Yugoslav government provides forensic detail of the incident in its *White Book*. A precision-guided munition (PGM) was used in the attack.

May 1

41. In a 1:40 p.m. attack on a bridge over the Lab river near the village of **Luzane**, twelve miles north of Pristina in Kosovo, a bus is hit, killing thirty-nine and injuring thirteen.215 The "Nis Express" passenger bus is hit on a bridge and plunges into the river.216 The Yugoslav press reports, quoting Leposava Milicevic (the Serbian Health Minister), that forty-seven passengers are killed and sixteen are heavily wounded.217 The Yugoslav government reports that "aircraft also

bombed the ambulance which came to help the victims when one doctor was injured."218

NATO admits destroying a civilian bus, saying that the bus appeared after an attacking aircraft released its weapon against the bridge, which it described as a key military route.219 NATO's Col. Konrad Freytag said: "Unfortunately, after the weapon's release, a bus crossed on the bridge but was not seen by the pilot whose attention was focused on his aim point during weapon trajectory."

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch received photo documentation of the deaths from the Ministry of Health.220 A precision-guided munition (PGM) was used in the attack.

42. In an attack on unidentified targets near the village of **Jablanica** south of Prizren in Kosovo, two civilians are killed and sixteen are wounded. Killed are Azemina Murati (38) and Ahmet Murati (88). Some twenty homes are destroyed and another fifty are damaged.221 The Yugoslav government reports that three children and two adults are killed by a cluster bomb.222 The Yugoslav government provides forensic detail of the incident in its *White Book*.

43. In an attack on unidentified targets in the suburb of Kule in **Prizren** in Kosovo, seven are killed and fifteen are wounded. Four members of the Berisha family are killed and seven are wounded. A weapons crater is caused on Alji Tarambabe street.223 The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 2

44. In a 6:15 p.m. attack on the military barracks in the northern part of the city of **Sremska Mitrovica** in Vojvodina, one civilian is killed. Ljiljana Veliki (39) is killed in her house at No. 123 Milosa Obilica street, 800 meters away from the barracks.224 The Yugoslav government provides forensic detail of the incident in its *White Book*.

45. In a 9:40 a.m. attack on Serbian MUP buildings in **Kosovska Mitrovica** in Kosovo, two civilians are killed. Milomir Aksentijevic (age unknown) and Hashima Meshehrani (age unknown) are killed when a weapon lands on the "Kosmetput" asphalt factory.225

May 3

46. In an attack between 11:45 a.m. and 13:30 p.m. in the area of **Savine Vode** in northwestern Kosovo, a bus and car are hit, killing seventeen and injuring forty-four civilians. Aircraft hit the "Djakovica Prevoz" bus on its regular Pec-Rozaje route and a VW Golf Jetta car.226 After being hit by two weapons, the bus burst in flames. Forty-three casualties from the bus and the adjacent automobiles were reported admitted to the Pec hospital.227 Cluster bomb use is reported.228

NATO denied its planes were responsible for the attack, saying that it could find "no evidence" linking it with the incident.229
The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of cluster bomb remains and of the deaths from the Ministry of Health.230

May 4

47. At 3:00 p.m., a Ford Escort civilian passenger car is destroyed by the delayed explosion of a cluster bomb submunition on the **Pec-Rozaje highway** near the site at which the civilian bus had been hit on May 3. Jovan Otasevic (22) from Plav municipality is killed and one person is reported to be wounded.231

May 7

48. In an 11:20-11:40 a.m. cluster bomb attack on the **Nis** airfield in southeast Serbia, fourteen civilians are killed and twenty-eight are wounded. Those killed are Ljiljana Spasic (26), Gordana Sekulic (29), Sasa Miljkovic (33), Dragisa Vucic (35), Bozidar Veljkovic (38), Ljubisa Stancic (48), Aleksandar Deljanin (50), Bozidar Djordjevic (57), Slobodan Stoiljkovic (61), Vera Ilic (65), Zivorad Ilic (71), Gerasim Jovanovski (84), and Trifun Vuckovic (86). Ljiljana Spasic, killed on the corner of Jelene Dimitrijevic and Sumatovacka streets, is nine months pregnant. A fourteenth victim, Milutin Zivkovic (74), dies on May 8.232

Cluster bomblets fall in three areas: near the Pathology building of the Nis Medical Center in southeast Nis; in the town center near the Nis University Rector's Office, including the area of the central city market place, the bus station near the Nis Fortress, and the "12 February" Health Center; and near a car dealership and the "Nis Express" parking lot across the river from the fortress. Unexploded bomblets are reported on Ljube Nenadovica St., Sumatovacka St., Franca Rozmana St., and Anete Andrejevic St. It is reported that "there are several hundred unexploded cluster bombs in the city center."233

Initial Yugoslav government reports state that fifteen civilians are killed and more than sixty are wounded.234 Later reports state thirteen civilians are killed and twenty-nine are wounded, eighteen gravely and eleven lightly. The Yugoslav government also reports that 120 housing units are damaged and forty-seven destroyed, and that fifteen passenger cars are also destroyed.235

NATO confirms that it attacked the Nis airfield on May 7.236 There are other reports that the Jugopetrol fuel storage depot in northwest Nis is also targeted.237 On May 8, NATO Secretary General Solana states that it "NATO has confirmed that the damage to the market and

clinic was caused by a NATO weapon which missed its target. This strike was directed against the Nis airfield utilizing cluster munitions. The attack was aimed at destroying Serbian aircraft which were parked on the airfield, air defence systems and support vehicles, targets to which cluster munitions are appropriately suited. Once again of course civilian casualties were never intended and NATO regrets the loss of life and injuries inflicted."

NATO states that U.S. aircraft dropped CBU-87 cluster bombs in the airfield attack. According to NATO Maj. Gen. Walter Jertz says: "I can tell you that we did not target-repeat we did not target-civilian hospitals and we do not target any civilian targets whatsoever." He further states: "We were using cluster bombs on the Nis target because, as I already mentioned, cluster bombs are used in aerial targets where we know that collateral damage could not occur, and it would be speculation if I would continue on the reason why some of the clusters obviously did go astray, maybe because of atechnical malfunction or they could have been inadvertently released."238

According to U.S. Air Force sources, the intended target was the airfield and the cluster bomb container failed to open over the airfield, but opened right after release, projecting submunitions to a great distance.

Human Rights Watch visited the sites on August 11, inspected the damage and interviewed eyewitnesses. There were two areas where civilians were killed: near the town marketplace on Anete Andrejevic, Sumatovacka, and Jelene Dimitrijevic streets near the Nisava river; and near the Clinical Center on Ljube Nenadovica street. The closest to the airfield is more than 1.5 kilometers from the base perimeter; the Clinical Center is close to six kilometers from the airfield. Eyewitnesses also said that several people were injured at the "12 February" Health Center on Jelene Dimitrijevic street.

Human Rights Watch also observed a small military barracks on the banks of the Nisava river to the west of the October Revolution bridge, and the 3rd Army Headquarters building in downtown Nis at "Yugoslav Army" square in the downtown. Though NATO did not report attacks on these installations, both were extensively bombed, and could have been the objects of attack on May 7

(see also May 8). Nis civil defense officials stated that eight weapons-four "guided bombs," two cluster bombs, and two unexploded bombs-were dropped in Nis on May 7. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.239

49. In an 11:50 p.m. to midnight attack on what was wrongly identified as the Yugoslav Federal Directorate for Supply and Procurement (Yugoimport FDSP) at 2 Umetnosti Boulevard in **New Belgrade**, the Chinese Embassy compound is mistakenly hit, killing three and injuring twenty Embassy staff members.240 The three Chinese nationals killed include Hi Hinhu (31), Zhu Jing (28), and Shao-Jin Juan (48).241 At the moment of the attack, fifty people were reported in the embassy buildings.242

According to the U.S. government, at 2146 Zulu time (GMT) (about midnight local time in Belgrade) on May 7, 1999, a B-2 dropped five Joint Direct Attack Munitions (JDAM) 2000 lb. GPS-guided bombs on the target designated as the FDSP building but which was, in fact, the Chinese Embassy.243 According to U.S. government sources, the street address of the FDSP headquarters (the intended target) was known as Bulevar Umetnosti 2 in New Belgrade. During a mid-April "work-up" of the target to prepare a mission folder for the B-2 bomber crew, three maps were used in an attempt to physically locate this address within the neighborhood: two local commercial maps from 1989 and 1996, and one U.S. government (National Imagery and Mapping Agency or NIMA) map produced in 1997. None accurately identified the current location of the Chinese Embassy. CIA Director George Tenet says that there were people at the CIA and at the Department of Defense who had an intimate understanding of the Belgrade environment, but they were not consulted in this process. 244
Human Rights Watch visited the Chinese Embassy site (N4449483/E02025147) located at Tresnjin cvet street No. 3 on August 4, and inspected the damage and the surrounding area. It also located the location of the FDSP headquarters at Bulevar Umetnosti 2, some 300 meters away from the Chinese Embassy. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.245

50. In an 11:50 p.m. attack on the Hotel Yugoslavia, on No. 3 Bulevar Nikole Tesle in **New Belgrade**, one civilian is killed and three are wounded. Andjelko Nincic (age unknown) is killed. The Yugoslav *White Book* identifies him as "a refugee residing in the hotel."246 Other reports say he is a member of the board of the Socialist Party of the Republika Srpska.247

A precision-guided munition (PGM) was used in the attack. NATO confirms that it attack the "Hotel Jugoslavia," which it calls "a location being used as a barracks for Arkan's Tigers in Belgrade and as an alternate MUP Headquarters. The hotel has long been under Arkan's control. He owned the casino as well as the sport club. Since the air campaign began, his forces took over the whole building and have used it as a Command Center for operations in Kosovo."248
Human Rights Watch visited the site (N4449267/E02024976) on August 4, inspected the damage and interviewed eyewitnesses. Human Rights Watch was able to confirm that the casino area of the hotel was being used by paramilitary groups. The hotel itself was occupied, eyewitnesses said, mostly by government officials and guests of the government. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.249

May 8

51. In a 4:03-4:25 p.m. attack on the concrete "12 February" bridge over the Nisava river in downtown **Nis** between, two civilians are killed. Initially, it is reported that one person is seriously

and ten people are lightly wounded, and damage is caused to the Greek consulate, a car dealership, and the Nis Express parking lot. A city bus on Stanka Paunovica street is also reported hit.250 Later press reports state that two persons are killed.251

A precision-guided munition (PGM) was used in the attack. NATO confirms that it attacked Nis airfield, a "highway bridge" in Nis, and the Nis petroleum storage site on May 8.252 Human Rights Watch visited the site (N4319395/E02153439) on August 11, inspected the damage and interviewed eyewitnesses. The bridge is located on Oktobarske Revolucije street, an extension of 12. Februara Boulevard. The Greek consulate is on the north bank of the river, on Kej Mike Paligorica street. The bridge was hit with one weapon, which did damage to the west side of the roadway (the bridge was not further damaged). Another crater from an errant weapon was observed further west on the bank of the Nisava river across from the "Rudo" factory. This crater was close to a small military barracks on the banks of the Nisava river (see comments on May 7). The 3rd Army Headquarters building in downtown Nis at "Yugoslav Army" square is also only a few hundred meters away. It seems possible that the bridge was not the object of the attack (the "highway" bridge reported attacked by NATO is assumed not to be this downtown road bridge). Nis civil defense officials stated that ten weapons-five "missiles" and five "guided bombs"-were dropped in Nis on May 8.

May 10

52. In an attack on an unidentified target near the **Lipljan** suburb of **Staro Gacko** (Gradsko) in Kosovo, three civilians are killed and four are wounded. Dragana Dimic (4), Rosa Jankovic (age unknown) and Bosko Jankovic (age unknown)are killed.253 The Yugoslav government says that three civilians are killed and four are "gravely" wounded while several family houses are damaged.254 The incident is reported as occurring both at 1:15 a.m. and at 10:30 a.m.

53. In a 3:11 p.m. attack believed to be on the "Sloboda" factory/ordnance repair facility in **Cacak** in central Serbia, four are killed and twelve to thirteen wounded. Killed are Dragan Obrenic (29) and Velija Dzemailovic (44) on Kulinovacko Polje III street. Milos Jovcic (46) and Nasko Ristic (50) are killed in a truck on the same street.255 The attack occurs in the Cacak eastern industrial zone less then a kilometer from the town center. The "Cer" Appliances factory and the "Hidrogradnja" Construction Company are damaged to the north of the area where civilian casualties occurred.0 Many houses are also reported "leveled to the ground" during the attack on the industrial area.1 The clothing factory "1. Oktobar" is reported damaged.2 Some reports place this attack at 11:05 a.m. on May 11, but they are incorrect.

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.3

May 11

54. In 11:20 a.m. attacks on the **Nis** airfield and the Jugopetrol storage site, two civilian are killed and four are wounded. Zoran Nikolic (possibly Nikovic) (40) is killed immediately and security guard Goran Aleksic dies several days later at the VMA (Military Medical Academy) hospital in Belgrade.4 The Yugoslav government reports that the "Energogas" storage facility in northwestern Nis is attacked during a visit of a Serbian Parliament delegation. It stated at the time that one person was killed, and five were wounded. The Yugoslav government also reported that the Nis Airport was targeted.5 Tanjug reports that the Vice President of the Socialist party of Serbia Dusan Matkovic and the Vice President of the Yugoslav Assembly Republic Council Gorica Gajevic, who were part of a delegation visiting the Jugopetrol complex, were wounded in the attacks.6 Cluster bombs are reported as having been used, but this was disputed by Nis officials.7

NATO confirms attacks on both the airfield and the Nis "petroleum storage site" on May 11.8 Human Rights Watch visited the Jugopetrol site on August 13. inspected the damage and interviewed eyewitnesses. Officials at the site stated that security guard Milorad Cukic was also gravely injured, and at the time of the Human Rights Watch visit, was still rehabilitating. Nis civil defense officials stated that eleven weapons-ten "missiles" and one unexploded weapon- were dropped in Nis on May 11. The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.9

55. In a 9:30 p.m. attack on the **Vladicin Han** road bridge over the Juzna Morava river in southeast Serbia, two civilians are killed and three are wounded. Gordana Nikolic (18) and Milan Ignjatovic (19) are killed.10 The bridge in the center of the town, as well as a nearby department store, are destroyed.11

A precision-guided munition (PGM) was used in the attack. NATO confirms attacking the Vladicin Han bridge on May 11.12
Human Rights Watch visited the site (N4242353/E02203747) on August 12, inspected the damage and interviewed eyewitnesses. Eyewitnesses stated that the bridge was attacked four times on different occasions. The fourth attack was the one which ultimately destroyed the bridge, they said. Milan Ignjatovic and Gordana Nikolic were killed during the first attack. They were some 500 meters away and were knocked down by the blast created by the explosion. Townspeople said that they thought another town bridge was more likely to be attacked (the main one leading to Surdulica). The bridge that was actually attacked was not on the main highway nor was it the access route to the older secondary north-south road in Yugoslavia; it only connects the town center over the banks of the river.
The Yugoslav government provides forensic detail of the incident in its *White Book*.

56. In an attack on an unidentified target south of Nis, one civilian is killed in **Orlane** village, near Doljevac in Serbia. Jagoda Mladenovic (63) is killed by a weapons explosion while working in a field.13

The Yugoslav government provides forensic detail of the incident in its *White Book*. Human Rights Watch also received photo documentation of the death from the Ministry of Health.14

May 13

57. In an 11:50 p.m. attack on Yugoslav Army forces in the field, a refugee camp on the Prizren-Suva Reka primary road, near the village of **Korisa** in Kosovo, is bombed, killing at least forty-eight and as many as eighty-seven, and injuring as many as sixty.15

The Yugoslav government initially reports "at least seventy-nine civilians were killed, and more than fifty wounded," when aircraft attacked a convoy of about 500 ethnic Albanians hiding in the near-by woods.16 Another Yugoslav government report stated that initial and still incomplete data indicates that eighty-four people were killed and over one hundred were wounded ("Yugoslav citizens of Albanian nationality, mainly women, children and the elderly").17 Yugoslav and western press reports ultimately put the death toll at eighty-seven, a number repeated by the U.S. State Department.18 The UN Kosovo High Commissioner for Human Rights also quotes eighty civilians killed.19
The Yugoslav government also claimed the use of cluster bombs, and the *White Book, Volume II*, contains photographic evidence of remains of tactical munitions dispensers (TMDs) from the site.20 Tanjug also reports that NATO used "thermo-vision bombs that develop high temperature of up to 2000 degrees Celsius so that they burn even the stone."21

In an official statement on May 15, NATO says:
This was a legitimate military target.The Serb claims of an attack involving cluster bombs against a non-military target are both false. NATO identified Korisa as a military camp and command post. Military equipment including an armoured personnel carrier and more than ten pieces of artillery were observed at this location. The aircraft observed dug-in military positions at the target before executing the attack. NATO cannot confirm the casualty figures given by the Serbian authorities, nor the reasons why civilians were at this location at the time of the attack. NATO deeply regrets accidental civilian casualties that were caused by this attack.22

Maj. Gen. Jertz states further that
Immediately prior to the attack at 23.30-11.30 p.m.-local time Thursday night an airborne forward air controller confirmed the target, so the identification and attack system of his aircraft, having positively identified the target as what looked like dug in military reveted positions, he dropped two laser guided bombs. Following his attack, he cleared his wingman to also attack the same target using two more laser guided bombs. Approximately 10 minutes later, the third aircraft engaged the target with gravity bombs, with six gravity bombs. A total of 10 bombs were dropped on the target. Contrary to Serbian reports, I want to be very clear that cluster munitions were not used against these targets.23

On May 14, the first rumors emerge that suggest that Serb troops were using civilians as human shields in Korisa. Amnesty International says that Korisa had been under attack by VJ and MUP forces prior to the bombing. On May 15, AFP quotes a spokesman for SHAPE as saying: "The possibility of human shields is one that always exist....But we are not on the ground so we have no way of confirming civilian casualties, their number or why they were there in the first place."24 Visiting Albania the next day, General Clark said: "We know there is a real threat of human shields all the way through Kosovo."25 On May 16, a Kosovar refugee who witnessed the NATO strike on Korisa also reported to Deutsche Welle that FRY police forced some 600 displaced Kosovars to serve as human shields there before the attack.26
On May 15, Assistant Secretary of Defense Kenneth Bacon also says at the DOD News Briefing that

This accident at Korisa did not shake NATO's resolve in any way. The air campaign will continue with increasing force, particularly against Serb ground forces and police units in Kosovo.... NATO deeply regrets civilian casualties.... We try very hard to avoid these casualties, but combat is inherently dangerous and accidents cannot be avoided. ... This mission, like every other, will be reviewed, and the airmen and their commanders will learn what they can from it and continue. But I don't anticipate that there will be a sweeping change. We can't cross legitimate military targets off the list, and we won't.

The Yugoslav government provides forensic detail of the incident documenting civilian deaths in its *White Book*. Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.27

May 17

58. In a 3:30 p.m. attack on the "Jugopetrol" oil depot in **Bor** in central eastern Serbia, one civilian is killed and four are wounded. A tractor on the Bor-Slatina-Zajecar road is hit and Dragoslav Grujic (49) is killed and four other persons are wounded.28 Houses in the "ElektroIstok" neighborhood are also reported to be damaged.29

The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 18

59. In a 12:30-12:40 p.m. attack on the Krusik factory in **Valjevo** in central Serbia, one civilian is killed and eighteen are wounded. Mileva Krunic (72) is killed in the village (suburb) of **Jasenica**, when her home was hit. The home is located some three kilometers from the Krusik factory.30 Tanjug reports that one person is killed and thirteen are wounded.31 The Yugoslav government reports one person killed and twelve "severely wounded." The government reports damage to the "Oslobodioci Valjeva," "Novo Naselje" and "Kolubara 2" residential areas, as well as the Valjevo hospital. The nearby villages (suburbs) of Donja Grabovica and Jasenica (particularly the small village of Krunici) receive damage, and a local blackout was reported.32

NATO states that it attacked the ammunition plant in Valjevo on May 18, the same day as the Krusik plant.33
Human Rights Watch visited the site (N4418058/E01955215) on August 7, inspected the damage and interviewed eyewitnesses. The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 19

60. In a 1:15 p.m. attack on what NATO claimed were Yugoslav army and police forces near the Dubrava penitentiary near **Istok** in Kosovo, four civilians are killed and two are injured (see also May 21). Three weapons reportedly hit the penitentiary. Three prisoners and a guard are killed and two prisoners are wounded. The penitentiary administration building and two wings are hit.34 Tanjug reports "There are fears that the casualty toll will rise, as it is difficult to approach the site, where ruins are being cleared. Material damage is tremendous." Provincial secretary for administration and regulations Jovica Jovanovic said that one of the wounded prisoners is in critical condition. Three penitentiary employees were lightly wounded, he added.35

The Vujindol village on the Istok-Zubin Potok road is also reported hit.36
NATO states that it attacked an "army facility" in Istok on May 19.37 NATO spokesman Maj. Gen. Walter Jertz says that the facility was "a militarily significant target...a military security complex." He says that precision-guided munitions were used in the attack.38
Among those believed killed by NATO bombing are: Enver Topalli, Abdullah Tahiri, and Gjon Ndrecaj.

61. In a 5:30 p.m. attack on an Army facility in **Gnjilane** in Kosovo, five civilians are killed and sixteen are "slightly injured."39 Killed are Djijan Sabija (25), Vesna Cvetanovic (31), Djurdja Savic (34), Dzevat Ademi (39), and Gorica Cuprijanovic (46).40 Sabija and Ademi are killed at the "Binacka Morava" construction enterprise. The others are killed at the PIP "Mladost" company cafeteria.41

NATO states that it attacked an army facility in Gnjilane on May 19.42
The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 20

62. In a 1:00-2:05 a.m. attack on the headquarters and barracks of the State Security Service (Sluzba Drzavene Bezbednosti (SDB), also known as the "Office of State Security") on Bulevar Mira in the Dedinje/Topcider section of **Belgrade**, four civilians are killed at the "Dragisa Misovic" Clinical and Hospital Center (KBC) at no. 64 Bulevar mira. Radoslav Novakovic (47), Branka Boskovic (75), Bosko Vrebalov (82), and Zora Brkic (82) are killed and numerous patients are wounded.43

Two women in the process of giving birth and one new born baby are reported wounded. The

Clinic of Neurology was reported "devastated" and buildings of the center for children lung diseases and tuberculosis and the gynecological clinic and maternity house were reported "demolished."44 Serbia state television reports that emergency services evacuated infants and pregnant women. One woman was in labor when the bombs hit, the report said. Serbian Deputy Premier Milovan Bojic said that NATO's actions had been "something history and mankind would never forget." Two women who just gave birth, three babies, one child and a number of medical staff were also injured.45

There are various unofficial reports regarding the intended target. The Yugoslav government incorrectly reports that a nearby gas station on the "Rakovicki put" in the Topcider sector was hit.46 Tanjug reports attacks on nearby military barracks (without further specification).47 There are also reports of an attack on the "Jugopetrol" fuel depot in Cukarica quarter (Radnicka street), about 2.5kilometers away on May 20.48 There is also damage to the Swedish and Swiss Embassy buildings in the Dedinje neighborhood as a result of the attacks.

NATO states that it attacked "a surface to air missile support facility in Belgrade" and fuel stores "on the outskirts of" Belgrade on May 20, but makes no mention of attacks on the State Security or the adjacent Topcider "White House" compound, where the offices of President Milosevic are located, in its daily list of targets.49 Responding to press questions, NATO spokesman Jamie Shea says "NATO aircraft targeted yesterday evening and struck a Belgrade army barracks-I insist an army barracks- at about 1 a.m. this morning; 7 laser-guided bombs hit the target, one laser-guidedbomb failed to guide correctly and we can confirm that it struck the base of a building about 1,500 feet from the centre of the target area...."50

Human Rights Watch visited the site (N4446580/E02027348) on August 17 and inspected the damage. The Yugoslav government provides forensic detail of the incident in its *White Book.* Human Rights Watch also received photo documentation of the deaths from the Ministry of Health.51

63. In a midnight attack on the northern Vojvodina **Sombor** "Naftagas-promet" depot, one civilian is killed and others are wounded. Nikola Hinic (59) is killed in his home at no. 60 Vuka Karadzica street and the Knezevic and Velimirovic homes are destroyed. Other wounded civilians are taken to the local hospital.52

NATO confirms attacking fuel stores in Sombor on May 20.53

The Yugoslav government provides forensic detail of the incident in its *White Book.*

May 21

64. In a 5:30 p.m. attack on a MUP police station in central **Djakovica** in Kosovo, one civilian is killed and four are "lightly wounded." Ibrahim Gjosi (age unknown) is killed in his home.54 Yugoslav authorities report that the town's center is targeted with "six missiles." "The civilian that was killed was in his house located in this part of the town," the civil defense authorities say, "while the four wounded persons were in a car at the time of the attack."55 Human Rights Watch observed damage only to the Djakovica MUP building. According to a doctor at the Djakovica hospital, twenty-eight people were injured from the attack.56

NATO states that it attacked a militia station supporting the MUP at Djakovica on May 21.57

The Yugoslav government provides forensic detail of the incident in its *White Book.*

65. In an 8:10-10:25 a.m. attack on believed military barracks and assembly areas at Dubrava Penitentiary near **Istok** in Kosovo, at least nineteen prisoners are killed and more are wounded (see also May 19). The Yugoslav government initially reports nineteen people were killed in the Dubrava Penitentiary, and more than ten were "severely or lightly" wounded. It said that twenty-four missiles were launched causing "huge damage to most of the buildings in the penitentiary perimeter."58

On May 25, the Yugoslav press reported from Tanjug that "in days long bombardment of the Penitentiary Institute Istok, some 100 prisoners died, and some 200 were wounded." On May 27, Tanjug quoted Vladan Bojic, judge in Pec's District Court, saying that ninety-six corpses had been pulled from the ruins and that forty wounded are in critical condition. On May 29, the Yugoslav government stated that "The number of casualties in the Correctional Institution in Istok is increasing. Out of 196 people wounded in the vandal bombing of this institution another three persons died, and seven more were taken out from under the rubble, while the search for the dead continues."59 On May 30, Tanjugreports seven more bodies found, bringing the total to ninety-three killed.60 The *White Book* eventually states that ninety-five prisoners are killed and over one hundred are wounded at the Dubrava Penitentiary.61

NATO declares that "a barracks and assembly area for the VJ and MUP forces that conduct ethnic cleansing operations in Kosovo, in the vicinity of a prison, were struck at Istok" on May 21.62 On May 22, NATO Spokesman Col. Freytag states that the prison was on the target list as "an unused prison with an airfield with a large military facility used by the military forces, Serbian ground forces and special police." He says that NATO had bombed the "very large complex" twice before and "caused a lot of damage."63

Human Rights Watch has determined that Yugoslav forces were likely responsible for the majority of deaths which occurred after the bombing (this accounts for the seeming discrepancy between the estimate of at least 19 quoted here and the Yugoslav claims of ninety-five dead). According to a separate investigation undertaken by Human Rights Watch in Kosovo, based upon extensive eyewitness testimony, prisoners were hunted down inside the penitentiary walls after the May 21 attack, eventually killing another eighty or so prisoners. The bombing on May 21 caused chaos in the facility. The Yugoslav government states that some prisoners tried to escape during this time, and the guards were struggling to maintain order. On May 22, according to eyewitnesses, prison officials ordered the approximately 1,000 prisoners to line up in the prison yard. After a few minutes, they were fired upon, and grenades were thrown at them from the prison walls and guard towers, killing at least seventy people. Over the next twenty-four hours, prison guards, special police, and possibly paramilitaries attacked prisoners who were hiding in the prison's undestroyed buildings, basements, and sewers, killing at least another twelve people. There has been extensive press reporting to substantiate this conclusion in addition to the Human Rights Watch investigation.64

Among those believed killed by NATO bombing are: Mehdi Dallosi, Ahmet Hoxha, and Ali Kelmendi.

May 23

66. Tanjug reports that one person is killed and twenty-nine are wounded in **Djakovica** in Kosovo.65

May 25

67. In a 1:35 p.m. attack on the "Mika Mitrovic" Army barracks in the center of **Sabac** in central Serbia, one civilian is killed and five are wounded. Zivorad Nenadovic (69) from no. 6 Stanimira Josipovica street was fatally wounded and later died in the hospital.66 The barracks were targeted with six weapons, according to the Yugoslav government. Damage was reported to the "Laza Lazarevic" elementary school, "Macva" sports stadium, and the "Trkaliste" residential area.67 Electric power supply was also cut to Sabac.68

NATO confirms the bombing of the Sabac army barracks on May 25.69

Human Rights Watch visited the site on August 7, inspected the damage and interviewed eyewitnesses. Neighbors said Nenadovic died in front of his house (N4445178/E01940848) while repairing his car. The barracks were located at N4445027/E01941017, some 1500 meters from the

house. This was reportedly the last of three attacks on the Mika Mitrovic barracks (the previous two were on May 11 and May 18). All of the attacks took place in the afternoon, according to eyewitnesses.
The Yugoslav government provides forensic detail of the incident in its *White Book.*

May 26

68. In a 10:45 p.m. attack on unidentified targets near the village of **Kosovska Vitina**, south of **Gnjilane** in Kosovo, three civilians are killed and two are wounded.70 Yugoslav press reports state that Djelekare and Gornja Budriga villages with no army or police in vicinity are bombed.71

NATO declares that it bombed the nearby Kacanik television and radio transmission and relay site on May 26.72

69. In an 8:30 a.m. attack on unidentified targets in the Kosovo village of **Radoste**, west of Orahovac, two are killed and one is "severely wounded." Kujtim Kastrati (11) and Beg Krasniqi (31) are killed.73 The Yugoslav government provides forensic detail of the incident in its *White Book.*

70. In an 11:15 to 11:30 p.m. attack on the **Ralja** logistic support depot south of Belgrade (Sopot municipality), three civilians are killed and three are wounded. Children Dejana (5) and Stefan (8) Pavlovic are killed, as well as Biljana Momcilovic (29). The home of the Pavlovic family at No. 6 Save Kovacevica street and the Momcilovic home at no. 4 are directly hit.74 According to Yugoslav civil defense authorities, one "missile" hit a block of houses, injuring one child, and another is listed as missing. Authorities also report damage to a private house in the village of Begaljica southeast of Belgrade at 11.30 p.m., with one injury, and an attack on nearby Bubanj Potok.75

NATO states that it bombed the logistic supply depot at Ralja on May 26.76
Human Rights Watch visited the site (N4433785/E02033806) on August 14 and inspected the damage. The Yugoslav government provides forensic detail of the incident in its *White Book.*

May 27

71. In a 1:25 p.m. attack on the Cekavicki bridge over the Jablanica river near **Pertate** between Leskovac and Lebane in southeastern Serbia, two civilians are killed and one is wounded. Branka Stankovic (55) and Veselka Spasic (59) are killed near the bridge.77 The bridge is reported hit with three "missiles." The "Grmija" trading company storage facilityis also reported targeted with two "missiles."78 Later, the Yugoslav government reports a 2:20 p.m. attack on the Cenovacki Bridge on the road to Lebane that kills two civilians, undoubtedly the same incident.79

A precision-guided munition (PGM) was used in the attack. NATO confirms attacking the Pertate bridge on May 27.80
Human Rights Watch visited the site (N4258001/E02151265) on August 12, inspected the damage and interviewed eyewitnesses. The Yugoslav government provides forensic detail of the incident in its *White Book.*

72. In a 4:30-4:35 p.m. attack on the **Palic** meteorological station in Vojvodina near Subotica, one civilian is killed and three are wounded. Jeka Alavanja (70), a refugee from Croatia, is killed in a nearby refugee camp.81 The meteorological station is located at no. 12 Lajosz Vermesz Quay.82 The Yugoslav government reports that four "missiles" are fired at the Palic tourist resort and that four people are severely wounded. It reports that the refugee camp housing refugees from Croatia suffered severe "damage."83 It later reports three people killed at the Palic tourist resort.84

NATO declares it attacked the Subotica AM Broadcast station on May 27, but does not report attacking anything in Palic nearby.85
Human Rights Watch visited the site on August 2, inspected the damage and interviewed eyewitnesses. A Croatian refugee camp (N4605585/E01946001) was hit with two weapons, eyewitnesses said, at about 4:30 p.m. on May 27, killing one woman.
The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 28

73. In a 12:30-12:45 a.m. attack on an unidentified target in **Aleksinac** in southeastern Serbia, three civilians are killed and ten are wounded. Killed are Predrag Nedeljkovic (37), Dusanka Savic (48), and Branislav Mitrovic (79). A single weapon lands in the area of nos. 23 and 25 Niska street in the Svrljig neighborhood.86 The Yugoslav government says "more than ten missiles" hit Aleksinac, destroying ten houses.87 Tanjug reports at least two civilians killed and ten are wounded. It reports "seven missiles" being fired.88

NATO does not report attacks on any Aleksinac targets on May 27 or May 28.89
Human Rights Watch visited the site (N4331817/E02142964) on August 11, inspected the damage, and took eyewitness testimony. The area is some distance from the Deligrad barracks downtown, which was the target of attack in an earlier incident (see April 5).90
The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 29

74. In a 3:15 p.m. attack on the ammunition depot in northwestern **Nis**, two civilians are killed and three are wounded in the village of **Camurlija**. Husband and wife Dusan (64) and Vukosava (61) Mancic died, and their grandchildren Aleksandra (10), Dejan (13), and Daliborka (16) were hospitalized with shrapnel wounds. Two houses in Camurlija are completely destroyed.91

NATO confirms bombing the Nis ammunition depot, "a military vehicle storage area at Nis," as well as TV/FM relay and AM radio broadcasting stations in Nis on May 29.92 The Nis ammunition depot and airfield are also reported bombed on May 30.93 On May 30, NATO spokesman Maj. Gen. Walter Jertz discusses the attack on Camurlija:

First of all let me tell you once again that of course we do only attack military targets. Full stop.... I have a report...that north-west of Nis, Kamrolija (sic), we did attack military barracks. Indeed two bombs, the pilots did guide off intentionally because the target was covered so they couldn't identify the target well enough, so they intentionally discarded these two bombs which fell into a river called Nisavar (sic, Nisava), I hope it is spelt correctly. ... in this incident where they realized that they would not hit the target, they just guided them into a river, which was fortunate enough they did.94

Human Rights Watch visited the site (N4321851/E02150758) on August 14, inspected the damage and interviewed eyewitnesses. NATO discussions of special precautions taken by pilots notwithstanding, there were civilian deaths and damage in the village. Villagers stated that the military "depot" is some 500 meters away. A neighbor told Human Rights Watch that the Mancics were in the house when the explosion occurred. The bomb did not hit their house directly, but the house next to theirs; a wall in their house, however, collapsed, and killed them inside. Another weapon fell some 200 meters away, on the same road, and destroyed a garage. The next day, in the afternoon during the funeral, the "depot" was again bombed. The second incident is reported as having taken place at 5:30 p.m. on May 30.95 Nis civil defense officials stated that four "missiles" were dropped in Nis on May 29. The Yugoslav government provides forensic detail of the

incident in its *White Book.*

75. In an afternoon attack on a tunnel near the village of **Krk Bunar/Gornje Selo** between Prizren and Brezovica in southern Kosovo, one civilian is killed and three are wounded.96 Nebojsa Radojevic (38), a chauffeur, is killed.97

The killed and injured are in a convoy of Western journalists who had snuck into southern Kosovo. There are various reports of the number of civilians wounded: press reports and the Yugoslav civil defense authorities state six are wounded.98 Human Rights Watch could confirm that the three injured were a correspondent for the London *Times*,Eve-Ann Prentice, a journalist with Portuguese national television, Elsa Marujo, and French philosopher Daniel Schiffer. The wounded receive treatment at a nearby field hospital.
Tanjug reported that there were no military or police facilities or units near the scene.99

Yet NATO claimed an attack on "a VJ tunnel staging area in southern Kosovo" on May 29.100 Later on May 31 NATO officials state that despite checks they had "no information" about the possible attacks on the journalist group. Spokesman Jamie Shea commented: "Of course, we cannot guarantee the safety of journalists or individual vehicles in Kosovo."

The Yugoslav government provides forensic detail of the incident in its *White Book.*

76. In a 3:25 p.m. attack on a Jablanica river bridge between Leskovac and **Lebane** in southern Serbia, two civilians are killed and one is wounded. Goran Stojmenovic (32) and Stanoje Stojmenovic (58) are killed, and one person is "seriously wounded." Stanoje Stojmenovic is killed while working nearby in a field.101 The Yugoslav government reports the incident as occurring at 7:10 p.m.102

A precision-guided munition (PGM) was used in the attack. NATO confirms an attack on the "Donje Trnjance" bridge on May 29 (presumed to be the **Donje Trnjane** bridge on the secondary road over the Jablanica river).103
The Yugoslav government provides forensic detail of the incident in its *White Book.*

77. In an 8:00 p.m. attack on an unidentified target in the area of **Kosovska Vitina** in southern Kosovo, five civilians are killed and two are reported as "seriously injured." The deaths and injuries occur in the village of **Gornja Budriga**, and fifteen "missiles" are reported fired.104 The Orthodox cemetery in Kosovska Vitina is also reported hit, as is the area of the village of Drobes.105

NATO does not report hitting any fixed targets in the area on May 29,106 though the attacks could have been directed against Yugoslav forces in the field.

78. The Yugoslav press reports that three civilians are killed in **Brezna** village near the Albanian border southwest of Prizren in Kosovo.107

May 30

79. In a midnight attack intended for an ammunition depot in **Surdulica** in southeastern Serbia, a sanatorium is bombed, and twenty-three civilians are killed and thirty-six are wounded. Milenko Malobabic (16), Rada Malobabic (19), Milena Malobabic (20), Djordje Pavkovic (45), Rada Zigic (52), Bosiljka Malobabic (53), Slavko Popovic (60), Petar Budisavljevic (60), Bogdanka Janjanin (60), Stamen Rangelov (61), Milanka Vuckovic (65), Stana Rasic (66), Desanka Velickovic (67), Bosa Miladinovic (68), Danica Malesevic (68), Nepijal Dragic (70), Dragic Napijalo (70), Dusan Manojlovic (72), Bogdanka Janjanin (74), and Mile Slijepcevic (90) are killed.108 On June 7,

Boris Eremijev (60) from Klisura dies in ahospital in Bosilegrad.109 The bodies of two more victims, names and ages unknown, were reportedly recovered on August 11.

The Special Hospital for Lung Diseases "Sanatorium" in southeastern Surdulica is hit. The complex includes an home for the aged and a refugee center. Directly hit were three widely separated buildings.110 Tanjug reports "at least 17 children and helpless old people lost their lives."111 In all, the Yugoslav government states, twenty civilians are killed and eighty-eight wounded.112
NATO reports the bombing of the Surdulica ammunition storage site on May 30.113 NATO spokesman Col. Konrad Freitag says that aircraft struck an ammunition storage depot and military barracks. "NATO cannot confirm any Serb claims of casualties or collateral damage," he said. On June 1, NATO spokesman Jamie Shea further addresses the Surdulica incident:

when we looked at this incident we clearly saw that the 4 missiles, precision guided missiles, which were fired at the facilities in Surdulica, all hit the target. the military target, the legitimate military target, accurately. There were no errant weapons in this situation.114
In July, while testifying before Congress, Deputy Secretary of Defense John Hamre and CIA Director George Tenet address the Surdulica incident. Hamre says: "We did have an instance where we hit a hospital. It was totally an accident. In this case, that was human error that led in this instance where we hit a hospital." Tenet says: "We hit a hospital. We didn't want to do that. That was the case of the pilot got confused and he was off by about a mile and what he thought was his coordinates."115

Human Rights Watch visited the site (N4240929/E02209910) on August 12, inspected the damage and interviewed eyewitnesses. Guards at the sanatorium said that they observed NATO aircraft flying at a low altitude, and that there was no air defenses active in the area. On August 11, one day before the Human Rights Watch team visited the site, the guards stated that two more corpses were found on the roof of a sanatorium building. Human Rights Watch also inspected a large crater in a field some 400 meters from the sanatorium facility. The Yugoslav government provides forensic detail of the incident in its *White Book*.

80. In a 7:05-7:21 a.m. attack on an army barracks in **Vranje**, one civilian is killed and one is wounded. Mane Andjelkovic (60) is killed and his wife is wounded, and houses on Kraljevica Marka and Nemanjina streets in the town center are damaged.116 Vranje is reportedly attacked for the sixth time: this time the barracks in a densely populated northeast area is said to be the target. Civil defense authorities say that "The missiles dropped on the town this morning rocked the buildings and stirred dense clouds of smoke, which obscured the sun and plunged the area into semi-darkness."117 The villages (suburbs) of Katun and Meredovac are also reported attacked.118

NATO states that it bombed a Vranje Army barracks on May 30.119
Human Rights Watch visited the site on August 12, inspected the damage and took eyewitness testimony. The intended target was the "Simo Pogacerevic" military barracks, which was also hit.

81. In a 1:00-1:25 p.m. attack on the **Varvarin** bridge over the Velika Morava river in central Serbia, nine civilians are killed and some forty are wounded. Reported killed are: Sanja Milenkovic (17), Milan Savic (24), Vojkan Stankovic (31), Zoran Marinkovic (33), Stojan Ristic (56), Ruzica Simonovic (60), priest Milivoje Ciric (66), Dragoslav Terzic (68), and Tola Apostolovic (74).120 Tanjug says local people were attending the town's market on the holiday Svete Trojice when the daylight attack happened at 1 p.m. local time. Witnesses said four cars fell into the river. Rescuers who went to aid of the wounded were hit in a second attack. Tanjug and the Yugoslav government reports eleven killed and at least forty wounded.121 There is damage to the "Plaza" hotel, the St. Bogordica church, and the municipal assembly building.

On June 2, Tanjug reported that six persons have been listed as missing since the NATO attack. It again reported eleven killed and "about forty" wounded. It states that nine victims had so far been identified.122
NATO confirms the attack and states that a precision-guided munition (PGM) was used. Spokesman Jamie Shea said the alliance had bombed a "legitimate designated military target" and stated that "we take the same precautions at midday as we do at midnight." "There is always a cost to defeat an evil," he says. "It never comes free, unfortunately. But the cost of failure to defeat a great evil is far higher."123
Human Rights Watch visited the site (N4343444/E02122405) on August 11, inspected the damage and interviewed eyewitnesses. The attack took place in the afternoon on Sunday, the market day. During the first explosion, no one was killed. In the second explosion, some seven minutes later, according to eyewitnesses, people were killed on and around the bridge. Among them was the priest Milivoje Ciric, who, after the first blast, interrupted the service in the nearby St. Bogorodica church, to go to the bridge. Varvarin is located on a secondary road between the main E-75 Nis-Belgrade highway and Krusevac. The bridge that was destroyed was not the main link to the north (which was not bombed); it was only a local bridge.
The Yugoslav government provides forensic detail of the incident in its *White Book*.

82. In an 8:05-9:15 a.m. attack on targets in the area of Mt. Avala, one civilian is killed and five are wounded in the village of **Ripanj**, fifteen kilometers south of Belgrade.124 Slavica Stojiljkovic (60) is killed in Ripanj village at no. 48 Put za Ivanovice street.125 Three or four weapons reportedly land in the village near the route leading to Ivanovice.126 Tanjug reports that the entire Avala area is bombed.127

NATO states that it attacked the nearby command bunker at Mt. Avala, Belgrade army barracks (possibly at Zuce on the foothills of Avala), a Belgrade military storage area, and a Belgrade AM radio broadcast station on May 30.128
Human Rights Watch visited the area on August 3, inspected the damage and interviewed eyewitnesses. The Stojiljkovic home was located at N4439595/E02031274. The "Suplja stena" (hollow rock) barracks (N4439841/E02032412), which appears to be an entrance and/or support base for underground bunkers, is located some 400 meters from the house. According to local residents, Suplja stena is an ex-coalmine, and now functions as an "ammunition depot." According to eyewitnesses, another weapon made a crater near Ripanj village homes in the woods, though the area was inaccessible to Human Rights Watch. Villagers from Ripanj told Human Rights Watch the mountainside military installations were attacked "every other night."
The Yugoslav government provides forensic detail of the incident in its *White Book*.

May 31

83. In an 8:00-8:40 a.m. attack on the **Vranje** TV/radio transmitter in southeastern Serbia, one civilian is killed in **Neradovac** village to the south of the city: Leposava Ristic (75).129 Yugoslav civil defense authorities state that the intended target was the radio and television transmitter on Mt. Plackovica overlooking Vranje. The transmitter was already damaged in earlier raids, the authorities said.130

NATO confirms attacking a TV/FM relay station in Vranje on May 31.131

84. In a 1:30 p.m. attack on the military barracks in **Novi Pazar** in southern Serbia, eleven civilians are killed and twenty-three are wounded.132 Killed are: Marko Simic (2), Marko Roglic (16), Djordje Pantovic (24), Dejan Milosevic (27), Miodrag Nikic (29), Vladan Simic (30), Golub Ratkovic (32), Zvezdan Jajic (37), Dragomirka Biorac (38), Dragan Simovic (46), and Radun ("Raco") Vranic (47). The Yugoslav government initially reports ten people killed and more than

twenty wounded when an apartment building in the vicinity of the bus station in the town center was hit. The "Jedinstvo" publishing/media company building housing the local Radio Novi Pazar and RTS office was also hit133 as was the "TK Raska" textile factory building near the city bus station.134 Tanjug said that twenty missiles fell on various targets in Novi Pazar with the apartment taking a direct hit. More bodies were believed buried in the rubble. The news agency also reported that the target included the Jedinstvo complex.

NATO confirms attacking a Novi Pazar radio relay site and the Novi Pazar army barracks on May 31.135 NATO states that a weapon went astray during an attack on the army barracks. Spokesman Jamie Shea said that five out of six munitions hit the target but one overshot by about 60 meters. Human Rights Watch visited the site on August 10, inspected the damage and interviewed eyewitnesses. Eyewitnesses said that there were three "groups" of people who died: some were leaving the Jedinstvo offices; some were waiting for the bus at the bus stop adjacent to an apartment building at No. 74 Stevana Nemanje street (or were passing by) (N4308815/E02031202); and some were in the stores located on the ground floor of No. 74 or at a butcher's shop belonging to Djordje Pantovic nextdoor to the building. The bus stop services a route to Novopazarska Banja and to Izbice, villages inhabited mostly by Serbs. This may explain the strange coincidence that all killed were ethnic Serbs, even thoughthe city of Novi Pazar is primarily made up of Muslims. A house on Miodraga Jovanovica street is also reported as destroyed.136
The Yugoslav government provides forensic detail of the incident in its *White Book*.

85. In a 2:00 p.m. attack on the **Raska** highway bridge in southern Serbia, one civilian is killed in the village of **Brvenik**. Sasa Knezevic (31) is killed.137 Telephone lines are reported down with Novi Pazar, Raska, Sjenica and Tutin.138

A precision-guided munition (PGM) was used in the attack. NATO confirms attacking the Raska highway bridge on May 31.139

86. In an attack on an unidentified target near the village of **Drazevac** near **Obrenovac** in central Serbia, one civilian is killed. Jovanka Arsenijevic (76) is killed in her home at no. 192 Baljevacki Put.140

NATO confirms attacking an electric power transmission tower near Obrenovac and the Obrenovac army barracks on May 31.141
The Yugoslav government provides forensic detail of the incident in its *White Book*.

June 6

87. In an attack on a radio relay site in in **Rudnik** near Kosovska Mitrovica in Kosovo, one civilian is killed and another is injured. Dragutin Todorovic (age unknown) from Krusevac dies of injuries caused in the bombing. Milenko Mihajlovic was slightly wounded in the same attack. They both were members of a Krusevac Union delegation carrying out humanitarian aid.142

NATO confirms attacking a radio relay site at Rudnik on June 6.143

88. In a 6:27 p.m. attack on unidentified targets in the **Gnjilane** area in Kosovo, one civilian is killed and one is wounded. Stojanka Aksic is killed and Stanislav Petrovic seriously wounded in the village of **Donja Budriga** near Gnjilane.144

June 7

89. In a 4:30 p.m. attack on the **Podgorac** military storage depot north of Boljevac in southeastern

Serbia, three civilians are killed. Nebojsa Srbulovic (37), Milija Andrejevic (54), and Slavka Trikanovic (59) are killed at the "Ekohrana" livestock farm.145 According to the Serbian civil defense command, two people were killed outright and the third died on the way to hospital.146 Seven buildings at the farm, where 2,500 sheep were being kept, were reported destroyed.147

NATO states that it attacked a military storage depot at Podgorac on June 7.148
The Yugoslav government provides forensic detail of the incident in its *White Book.*

June 8

90. In a 12:15 a.m. attack on the petroleum storage area at the **Novi Sad** refinery in Vojvodina, one civilian is killed and six are wounded. Milan Bajic (37) from 7th street in the nearby Sangaj ("Shangai") settlement is killed. One eleven-year-old boy reportedly suffers heavy injuries.149 Yugoslav civil defense authorities and the Yugoslav press report two detonations, "the biggest so far in the 75 days of bombing."150 The Yugoslav government reports that "The town was illuminated and thick smoke was rising from the oil refinery. A number of missiles have been fired at Mt. Fruska Gora zone."151 According to Dr. Djordje Janjic, director of the clinical center in Novi Sad, six persons who were wounded when a weapon landed in the Sangaj neighborhood were admitted to the center. One soon died of injuries.152

NATO confirms attacking the petroleum storage site at Novi Sad on June 7.153
Human Rights Watch visited the site (N4516822/E01951292) on August 15, inspected the damage and took eyewitness testimony. The Yugoslav government provides forensic detail of the incident in its *White Book.*

86 Federal Republic of Yugoslavia (FRY), Ministry of Foreign Affairs (MFA), *NATO Crimes in Yugoslavia,* vol. I, p.39.

87 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

88 Information provided by the Yugoslav Ministry of Information.

89 Human Rights Watch used a Global Positioning System (GPS) receiver to locate precisely targets and areas of civilian damage. These coordinates are derived from on-the-scene readings.

90 Tanjug, "NATO aircraft destroy bridge linking Novi Sad and Petrovaradin," April 1, 1999.

91 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 39. Page 39 mentions Mahmut (not Mehmet) and states the age as twenty-four. The picture on p. 42 uses the name Mehmet, and the man is obviously much older than twenty-four.

92 Yugoslav press reports (see note about sources); AFP, "NATO Air Strike Kills Two Albanians, Injures Six: Tanjug," April 2, 1999.

93 Tanjug News Headlines, April 2, 1999; Serbian Unity Congress NewsBits, April 3, 1999.

94 FRY, Ministry of Health (MOH), "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999." In all of these cases in this series, photo documentation consisted of portfolios of injured and killed Yugoslavs as a result of NATO attacks.

95 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 39; Tanjug News Headlines, 2 April 1999;Yugoslav press reports; Serbian Unity Congress, NewsBits, April 2-3, 1999; Tanjug,

Kursumlija, April 2, 1999.

96 Yugoslav press reports.

97 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

98 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 45; Yugoslav press reports; War Against Yugoslavia: Cacak (www.inet.co.yu/rat/gradovi/cacak/index.html); Tanjug, Cacak, April 4, 1999; Information provided by Yugoslav civil defense authorities.

99 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

100 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 387. 389.

101 Republic of Serbia, Ministry for the Protection of the Human Environment, South Banat District, "Day to day report about the side-effects of bombardment on human environment and Pancevo citizens' health," June 16, 1999; FRY MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 387; Tanjug, Belgrade, April 4, 1999; Tanjug, Pancevo, 4 April 1999; information provided by Yugoslav civil defense authorities; Yugoslav press reports.

102 See also "Day-to-day report about the side-effects of bombardment on human environment and Pancevo citizen's health," prepared by Republic of Serbia Ministry of the Protection of Human Environment, South Banat district, June 16, 1999, p. 1.

103 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

104 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 355-365; Tanjug, Belgrade, April 4, 1999; Yugoslav press reports; Information provided by Yugoslav civil defense authorities.

105 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

106 Human Rights Watch issued a statement on April 7 calling on NATO to conduct an investigation into the incident. See Kosovo Human Rights Flash no. 21, "NATO Urged to Respect Humanitarian Law," April 7, 1999.

107 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 49-128; *Politika*, April 8, 1999, p. 17, also reports Marina Paovic (26) as killed, but she is not included in the White Book.

108 *Politika*, April 8, 1999, p. 17; *Politika*, April 9, 1999, p. 17.

109 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 56-57, 62-63; Tanjug, NATO aggressor attacks civilian targets in Aleksinac, Aleksinac, 5 April 1999; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; Permanent Mission of the FRY to the UN, "Provisional Assessment," July 3, 1999.

110 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 63.

111 Tanjug, "Aleksinac razed in NATO bombing," Aleksinac, April 6, 1999.

112 Tim Butcher, "Conflict in the Balkans: Harriers Go in with Cluster Bomb Raids: Civilians Are Killed as Allies Raise Stakes," *Daily Telegraph*, April 7.1999, p. 2.

113 Testimony of Gen. Henry Shelton, to the HASC, April 14, 1999.

114 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

115 FRY, MFA, *NATO Crimes in Yugoslavia,* volume. I, pp. 46-48; Yugoslav press reports.

116 Tanjug, Vranje, April 5, 1999.

117 Tanjug, Vranje, April 5, 1999; Permanent Mission of the FRY to the UN, "Provisional Assessment," July 3, 1999.

118 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

119 Yugoslav press reports; Information provided by Yugoslav civil defense authorities.

120 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 130-135.

121 Ibid., pp. 132-135.

122 Ibid., pp. 130-135; information provided by the Yugoslav Ministry of Information and Yudoslva civil defense authorities.

123 "10 Killed in Pristina," *Irish Times*, April 8, 1999, p. 13.

124 FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999; Tanjug, Pristina, April 6, 1999; Yugoslav press reports.

125 AFP (Brussels), "Lengthening List of NATO Errors," May 4, 1999.

126 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

127 "War Against Yugoslavia: Nis" (www.inet.co.yu/rat/gradovi/nis/index.html).

128 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 411-414; Yugoslav press reports; information provided by the Yugoslav Ministry of Information and Yugoslav civil defense authorities during Operation Allied Force via Email.

129 Information provided by the Yugoslav Ministry of Information and Yugoslav civil defense authorities during Operation Allied Force via Email.

130 "War Against Yugoslavia: Uzice" (www.inet.co.yu/rat/gradovi/uzice/index.html).

131 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

132 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 136-139.

133 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, p. 141; information provided by Yugoslav civil defense authorities.

134 *Politika*, April 13,1999, p. 17.

135 Human Rights Watch interview with Dr. Burim Sahatqija, Djakovica, August 4, 1999.

136 Yugoslav press reports.

137 Information provided by Yugoslav civil defense authorities; FRY MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

138 Steven Erlanger, "NATO Bombs Slam Passenger Train," *Seattle Post-Intelligencer*, April 13, 1999, p. A1.

139 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

140 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 257-312; Yugoslav press reports. Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/cwc/fejmel_nato.htm) says thirteen killed and sixteen injured.

141 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

142 AFP (Brussels), "Lengthening List of NATO Errors," May 4, 1999.

143 Statement of the Honorable John J. Hamre Deputy Secretary of Defense Before the House Permanent Select Committee on Intelligence, July 22, 1999.

144 FRY MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

145 Yugoslav press reports; Information provided by Yugoslav civil defense authorities; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

146 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

147 Information provided by Yugoslav civil defense authorities during Operation Allied Force via Email.

148 Yugoslav press reports.

149 Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/cwc/

fejmel_nato.htm). Human Rights Watch believes that the *White Book* figures are accurate, and seventy-three deaths corresponds with almost all the independent press reporting on the incident.

150 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 1, 21-26, 32-37.

151 Tanjug, Pristina, April 15, 1999.

152 NATO, SHAPE News Morning Update, April 15, 1999; Reuters, 150059 GMT April 1999.

153 Paul Watson, "Cluster Bombs May Be What Killed Refugees," *Los Angeles Times*, April 17, 1999, p. A1.

154 Human Rights Watch interview with Safet Shalaj, Djakovica, July 25, 1999.

155 Human Rights Watch interview with Kole Hasanaj, Meja. July 25, 1999.

156 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, p. 10.

157 Joie Chen and Jamie McIntyre, "As Serb Force Grows, Limits of Air Attacks Become Apparent," CNN, *The World Today* broadcast, April 19, 1999; Sarah Chayes, "General Daniel Leaf Explains the Refugee Bombings," NPR, *All Things Considered* broadcast, April 19, 1999.

158 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

159 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 148-150; Yugoslav press reports; Information Provided by the FRY MOD; Information provided by Yugoslav civil defense authorities.

160 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

161 Information provided by the FRY MOD.

162 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

163 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

164 FRY, MFA, NATO raids on civilian and industrial facilities in the night between April 15 and 16, 1999.

165 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999; FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, p. 414 mentions only "minor bodily injuries" suffered by Miodrag Maksimovic.

166 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 414-416.

167 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

168 Yugoslav press reports.

169 Information Provided by the FRY MOD.

170 FRY, MFA, NATO attacks on civilian and industrial plants in the night between April 17 and 18 1999; "War Against Yugoslavia: Beograd" (www.inet.co.yu/rat/gradovi/beograd/ index.html).

171 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 152-163.

172 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

173 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

174 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, p. 168.

175 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; "War Against Yugoslavia: Nis" (www.inet.co.yu/rat/gradovi/nis/index.html).

176 FRY, MFA, "NATO raids on civilian and industrial facilities in the night between April 19 and 20, 1999;" Permanent Mission of the FRY to the UN, "Provisional Assessment," July 3, 1999.

177 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, p. 166; Yugoslav press reports.

178 DIN, "Estimation of a Direct (Immediate) Damage in DP DIN `Tobacco Factory' Nis caused by NATO Alliance Bombing."

179 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. I, pp. 170-172; Information provided by Yugoslav civil defense authorities.

180 FRY, MFA, "NATO raids on industrial and civilian facilities in the night between April 21 and 22 1999."

181 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

182 Human Rights Watch interview with Dr. Burim Sahatqija, Djakovica, August 4, 1999.

183 Yugoslav press reports; FRY, MFA, "NATO raids on civilian and industrial facilities in the night between April 22 and 23 1999."

184 FRY, MFA, *NATO Crimes in Yugoslavia,* vol I, pp. 343-350; FRY, MFA, "Overview of Civilian Destruction in the Territory of the FR of Yugoslavia as a consequence of Barbaric and Criminal NATO Aggression," Belgrade, April 26, 1999; FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999.

185 Yugoslav press reports; *Vecernje Novosti*, April 25, 1999, p. 3; *Politika*, April 28, 1999, p. 16; *Nedeljni Telegraf*, July 21, 1999, p. 7; Information provided by Yugoslav civil defense authorities.

186 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

187 FRY, MFA, "NATO raids on civilian and industrial facilities in the night between April 22

and 23 1999"; information provided by the Yugoslav Ministry of Information.

188 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

189 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

190 Yugoslav press reports; information provided by Yugoslav civil defense authorities.

191 Yugoslav press reports; FRY, MFA, "Overview of Civilian Destruction in the Territory of the FR of Yugoslavia as a consequence of Barbaric and Criminal NATO Aggression, Belgrade, April 26. 1999."

192 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 19-82.

193 Yugoslav press reports; FRY, MFA, "NATO raids on industrial and civilian facilities on April 27 and in the night between April 27 and 28 1999."

194 Tanjug, "Chronology of Crimes and Dishonor of NATO," 5 June 1999; FRY MFA, "NATO Crimes Against Civilians," May 10, 1999; Permanent Mission of the FRY to the U.N., "Provisional Assessment," July 3, 1999; Yugoslav press reports.

195 Tanjug, Surdulica, April 28, 1999.

196 AFP (Brussels), "Lengthening List of NATO Errors," May 4, 1999.

197 See also *NATO Crimes in Yugoslavia,* vol. II, pp. 80-82.

198 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

199 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 92-94; FRY, MFA, "NATO raids on industrial and civilian facilities on April 28 and in the night between April 28 and 29 1999"; "War Against Yugoslavia: Podgorica" (www.inet.co.yu/rat/gradovi/

podgorica/index.html); Yugoslav press reports.

200 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 83-85; Yugoslav press reports; *Politika,* 30 April 1999, p. 17; FRY, MFA, "NATO raids on industrial and civilian facilities on April 28 and in the night between April 28 and 29 1999"; Tanjug, "Chronology of Crimes and Dishonor of NATO,"June 5, 1999.

201 Yugoslav press reports; *Pobjeda,* May 1, 1999, p. 2.

202 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 334-335.

203 FRY, MFA, "NATO raids on industrial and civilian facilities on April 28 and in the night between April 28 and 29 1999"; "War Against Yugoslavia: Beograd" (www.inet.co.yu/rat/gradovi/beograd/index.html).

204 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from

24.03 until 20.05.1999."

205 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, 100-109.

206 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

207 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; Information provided by Yugoslav civil defense authorities; "War Against Yugoslavia: Beograd" (www.inet.co.yu/rat/gradovi/beograd/index.html).

208 FRY, MFA, "NATO raids on industrial and civilian facilities on April 30th and in the night between April 30 and May 1, 1999"; information provided by Yugoslav civil defense authorities; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

209 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 340; Yugoslav press reports.

210 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

211 Yugoslav press reports; FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 110.

212 FRY, MFA, "NATO raids on industrial and civilian facilities on April 30 and in the night between April 30 and May 1, 1999."

213 FRY, MFA, "NATO raids on civilian and industrial facilities on May 1, and in the night between May 1 and 2, 1999."

214 FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999.

215 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 341-346.

216 Yugoslav press reports; FRY, MFA, "NATO raids on civilian and industrial facilities on May 1, and in the night between May 1 and 2, 1999."

217 *Pobjeda*, May 3, 1999, p. 2; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

218 FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999.

219 AFP (Brussels), "Lengthening List of NATO Errors," May 4, 1999.

220 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

221 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 83-87.

222 FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999.

223 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 88-91.

224 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 112; Yugoslav press reports.

225 Yugoslav press reports.

226 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. II, pp. 349-353; FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

227 FRY, MFA, "NATO raids on industrial and civilian facilities on May 3 and in the night between May 3 and 4, 1999."

228 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

229 AFP (Brussels), "Lengthening List of NATO Errors," May 4, 1999.

230 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

231 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999; Yugoslav press reports.

232 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. II, pp. 118-121; Yugoslav press reports; *Vijesti*, May 4, 1999, p. 4; *BLIC*, May 10, 1999, p. 9; *Vreme*, May 15, 1999, p. 5. Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/

cwc/fejmel_nato.htm) says fourteen killed and thirty injured.

233 Yugoslav press reports; "War Against Yugoslavia: Nis" (www.inet.co.yu/rat/gradovi/nis/index.html).

234 FRY, MFA, "NATO Crimes Against Civilians," May 10, 1999; Information Provided by the FRY, MOD.

235 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

236 NATO (SHAPE), ACE News Release - Press Release 99-05-02, May 8, 1999.

237 "War Against Yugoslavia: Nis" (www.inet.co.yu/rat/gradovi/nis/index.html).

238 Transcript of Press Conference given by the NATO Secretary General, Mr. Javier Solana, in Brussels, on Saturday, May 8, 1999 (including Maj. Gen. Jertz).

239 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

240 Oral Presentation by Under Secretary of State Thomas Pickering on June 17 to the Chinese government regarding the Accidental Bombing of the PRC Embassy in Belgrade, released July 6, 1999.

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Against Civilians," May 10, 1999.

242 Information Provided by the FRY, MOD.

243 Oral Presentation by Under Secretary of State Thomas Pickering on June 17 to the Chinese government regarding the Accidental Bombing of the PRC Embassy in Belgrade, released July 6, 1999.

244 U.S. Congress, House Permanent Select Committee on Intelligence, Hearing on the Bombing of the Chinese Embassy, July 21, 1999.

245 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

246 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 543.

247 Yugoslav press reports.

248 NATO (SHAPE), ACE News Release - Press Release 99-05-02, May 8, 1999.

249 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

250 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999; "War Against Yugoslavia: Nis" (www.inet.co.yu/rat/gradovi/nis/index.html).

251 Yugoslav press reports; "Dva pesaka poginula na mostu," (Two Pedestrians Died on the Bridge), *BLIC*, May 10, 1999, p. 9.

252 NATO, Operation Allied Force Update, May 9, 1999.

253 *Vijesti*, May 12, 1999, p. 4; FRY, MFA, "NATO raids on civilian and industrial facilities on may 11 and in the night between may 11 and 12 1999."

254 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

255 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 137-162, 365-366.

0 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 155; Yugoslav press reports; FRY MFA, "NATO raids on civilian and industrial facilities on may 10 and in the night between may 10 and 11, 1999."

1 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

2 "War Against Yugoslavia: Cacak" (www.inet.co.yu/rat/gradovi/cacak/index.html); Permanent Mission of the FRY to the UN, "Provisional Assessment," July 3, 1999.

3 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

4 Human Rights Watch interviews and inspections at the site, 13 August 1999; See also FRY, MFA, *NATO Crimes in Yugoslavia,* vol.II, p. 516; Yugoslav press reports.

5 FRY, MFA, "NATO raids on civilian and industrial facilities on May 11 and in the night between may 11 and 12 1999."

6 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

7 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999.

8 NATO, Operation Allied Force Update, May 12, 1999, 0900.

9 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

10 Yugoslav press reports; FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 375-377, incorrectly reports this incident as occurring on May 18.

11 FRY, MFA, "NATO raids on civilian and industrial facilities on may 11 and in the night between May 11 and 12 1999."

12 NATO, Operation Allied Force Update, May 12, 1999, 0900.

13 FRY, MFA, *NATO Crimes in Yugoslavia,* vol.II, p. 163; Yugoslav press reports.

14 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

15 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 1-17. Though the *White Book* states that there were "only" forty-eight victims in Korisa, the Yugoslav and western press cite eighty-seven victims. The Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/cwc/fejmel_nato.htm) says eighty-one killed and seventy injured. Based upon Human Rights Watch investigations, it was clear that the overall impression in Yugoslavia was that more that forty-eight people died in the Korisa attack, nevertheless forty-eight is the latest official figure.

16 FRY, MFA, "NATO raids on manufacturing and civilian facilities on may 14 and in the night between may 14 and 15 1999."

17 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999; FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 17.

18 Yugoslav press reports; *DAN*, May 20, 1999, p. 2; Kosovo Chronology, Timeline of events 1989-1999 relating to the crisis in Kosovo, released by the Department of State, Washington, DC, June 18, 1999.

19 Report by the High Commissioner for Human Rights on the Situation of Human Rights in Kosovo, Report by the High Commissioner for Human Rights on the Situation of Human Rights in Kosovo, May 31, 1999.

20 FRY, MFA, "Aide-Memoire on the Use of Inhumane Weapons in the Aggression of the North Atlantic Treaty Organization Against the Federal Republic of Yugoslavia," May 15, 1999; FRY, MFA, *NATO Crimes in Yugoslavia*, vol. II, p. 17.

21 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; Yugoslav press reports.

22 NATO, Subject: Press Release (99) 079, Statement by the NATO Spokesman on the Korisa Incident, May 15, 1999.

23 Transcript of Backgrounder given by Peter Daniel and Major General Walter Jertz, in Brussels, May 15, 1999.

24 SHAPE News Summary and Analysis, May 15, 1999.

25 SHAPE News Morning Update, May 16, 1999.

26 Kosovo Chronology, Timeline of events 1989-1999 relating to the crisis in Kosovo, released by the Department of State, Washington, DC, June 18, 1999.

27 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

28 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. II, pp. 518-532.

29 FRY, MFA, "NATO raids on civilian and industrial facilities on May 17, and in the night between May 17 and 18, 1999"; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

30 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. II, pp. 174-190; Yugoslav press reports.

31 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

32 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 18 and in the Night Between May 18 and 19 1999."

33 NATO, Operation Allied Force Update, May 19, 1999, 0930 CET.

34 Human Rights Watch has conducted a separate investigation into the deaths at the Dubrava prison (report forthcoming). In the May 19 attack, according to eyewitnesses, three prisoners were killed. FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May19th and in the Night Between May 19 and 20, 1999," says two prisoners and a guard were killed.

35 Tanjug, "NATO Kills Two, Wounds several in attack on Istok Wednesday," May 20, 1999.

36 Yugoslav press reports.

37 NATO, Operation Allied Force Update, May 20, 1999, 0930 CET.

38 Transcript of NATO Press Conference, May 20, 1999.

39 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

40 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 484-487.

41 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 484-490. See also FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 20 and in the night between May 20 and 21, 1999"; Yugoslav press reports.

42 NATO, Operation Allied Force Update, May 20, 1999, 0930 CET.

43 FRY, MFA, *NATO Crimes in Yugoslavia,* vol II, pp. 246-251. FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 20 and in the night between May 20 and 21 1999"; and Yugoslav press reports state that three patients and a hospital worker were killed but these reports seem to be in error.

44 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

45 FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 20 and in the night between May 20 and 21, 1999."

46 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May19 and in the Night Between May 19 and 20, 1999."

47 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

48 FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 20 and in the night between May 20 and 21, 1999"; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

49 NATO, Operation Allied Force Update, May 21, 1999, 0900 CET.

50 Transcript of Backgrounder given by Jamie Shea in Brussels on Thursday, May 20, 1999.

51 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

52 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 191-194; FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 20 and in the night between May 20 and 21, 1999."

53 NATO, Operation Allied Force Update, 21 May 99, 0900 CET.

54 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 194.

55 Information provided by Yugoslav civil defense authorities.

56 Human Rights Watch interview with Dr. Burim Sahatqija, Djakovica, August 4, 1999.

57 NATO, Operation Allied Force Update, May 22, 1999, 0930 CET.

58 Information provided by Yugoslav civil defense authorities; FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 21 and in the night between May 21 and 22, 1999."

59 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 29 and in the Night Between May 29 and 30 1999."

60 Yugoslav press reports; "Identifikovano 86 mrtvih," (Eighty-six Bodies Identified), *DAN*, May 27, 1999, p. 2; "Jos sedam leseva," (Seven More Bodies), *DAN*, May 30, 1999.

61 FRY, MFA, *NATO Crimes in Yugoslavia,* vol.II, p. 319.

62 NATO, Operation Allied Force Update, May 22, 1999, 0930 CET.

63 Transcript of Press Conference given by Mr. Jamie Shea and Colonel Konrad Freytag in Brussels on Saturday, May 22, 1999.

64 Jacky Rowland, "Bombs, Blood and Dark Despair," *Scotland on Sunday*, 23 May 1999; Paul Watson, "NATO Bombs Ignite Prison Chaos-KLA Officers Reported to be Among Inmates," *Toronto Star*, May 22, 1999; AP, "NATO Hits Kosovo Jail Again Friday Night," May 21, 1999; Jacky Rowland, "Istok Prison's Unanswered Questions," BBC World News, May 25, 1999; Daniel Williams, "Kosovo Revisited: At War's End, Old Places Seen in New Light," *Washington Post*, June 26, 1999; Carlotta Gall, "Stench of Horror Lingers in a Prison in Kosovo,"*New York Times*, November 9, 1999.

65 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

66 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 195; Yugoslav press reports.

67 FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 25 and in the night between May 25 and 26, 1999."

68 Information provided by Yugoslav civil defense authorities.

69 NATO, Operation Allied Force Update, 26 May 1999, 09:30 CET.

70 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

71 Yugoslav press reports.

72 NATO, Operation Allied Force Update, May 27, 1999, 09:00 CET.

73 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 196-197; FRY, MFA, "NATO raids on the civilian and manufacturing facilities on May 26 and in the night between May 26 and 27, 1999."

74 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 198-201; Yugoslav press reports; FRY, MFA, "NATO raids on the civilian and manufacturing facilities on May 26 and in the night between May 26 and 27, 1999."

75 Information provided by Yugoslav civil defense authorities.

76 NATO, Operation Allied Force Update, May 27, 1999, 09:00 CET.

77 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 385-388.

78 FRY, MFA, "NATO Raids on the Civilian and Manufacturing Facilities on May 27 and in the Night Between May 27 and 28, 1999."

79 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

80 NATO, Operation Allied Force Update, May 28, 1999, 09:30 CET.

81 Yugoslav press reports.

82 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 315.

83 FRY, MFA, "NATO Raids on the Civilian and Manufacturing Facilities on May 27 and in the Night Between May 27 and 28, 1999."

84 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

85 NATO, Operation Allied Force Update, May 28, 1999, 09:30 CET.

86 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 201-205; "Aleksinac drugi put broji zrtve," (Aleksinac Counts Dead For the Second Time), *Politika*, May 29, 1999, p. 15; FRY, MFA, "Nato Raids on Manufacturing and Civilian Facilities on May 28 and in the Night Between May 28 and 29, 1999"; Information provided by Yugoslav civil defense authorities.

87 FRY, MFA, "NATO Raids on the Civilian and Manufacturing Facilities on May 27 and in the Night Between May 27 and 28, 1999."

88 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

89 NATO, Operation Allied Force Update, May 28, 1999, 09:30 CET; NATO, Operation Allied Force Update, May 29, 1999, 09:30 CET.

90 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

91 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 207; Yugoslav press reports; Information provided by Yugoslav civil defense authorities.

92 NATO, Operation Allied Force Update, May 30, 1999.

93 NATO, Operation Allied Force Update, May 31, 1999, 09:30 CET.

94 Transcript of Press Conference given by Mr. Jamie Shea and Major General Walter Jertz in Brussels on Sunday, May 30, 1999.

95 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 29 and in the Night Between May 29 and 30, 1999."

96 Yugoslav press reports time this incident at 6:10 p.m. on May 29, while FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 393-399, says it occurred at 4:30 p.m. on May 30.

97 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 393-399; Yugoslav press reports.

98 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 29 and in the Night Between May 29 and 30, 1999"; Information provided by Yugoslav civil defense authorities.

99 Tanjug, "NATO aircraft target convoy of reporters, kill one, wound two," May 31, 1999.

100 NATO, Operation Allied Force Update, May 30, 1999.

101 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 385-388.

102 Yugoslav press reports; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 29 and in the Night Between May 29 and 30, 1999."

103 NATO, Operation Allied Force Update, May 30, 1999.

104 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 29 and in the Night Between May 29 and 30, 1999."

105 Information provided by Yugoslav civil defense authorities.

106 NATO, Operation Allied Force Update, May 30, 1999.

107 Yugoslav press reports.

108 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 252-294.

109 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on June 7 and in the Night Between June 7 and 8, 1999."

110 FRY, MFA, *NATO Crimes in Yugoslavia,* vol.II, pp. 252-294; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 31 and in the Night Between May 31 and June 1, 1999."

111 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

112 Permanent Mission of the FRY to the UN, "Provisional Assessment," July 3, 1999.

113 NATO, Operation Allied Force Update, May 31, 1999, 09:30 CET.

114 Transcript of Press Conference given by Mr. Jamie Shea and Major General Walter Jertz in Brussels on Tuesday, June 1, 1999.

115 U.S. Congress, House Permanent Select Committee on Intelligence, Hearing on the Bombing of the Chinese Embassy, July 21, 1999.

116 Yugoslav press reports; Serbian Unity Congress, NewsBits, May 30, 1999; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

117 Information provided by Yugoslav civil defense authorities.

118 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

119 NATO, Operation Allied Force Update, May 31, 1999, 09:30 CET.

120 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 400-413; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 31 and in the Night Between May 31 and June 1, 1999." Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/cwc/fejmel_nato.htm) says ten killed and sixteen injured

121 Yugoslav press reports; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

122 Tanjug, "Six persons listed as missing after NATO attack on bridge in Vavarin," June 2, 1999.

123 Transcript of Press Conference given by Mr. Jamie Shea and Major General Walter Jertz in Brussels on Tuesday, June 1, 1999.

124 Tanjug, "Eight persons wounded in NATO's overnight raid on Belgrade area," May 31, 1999; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 31 and in the Night Between May 31 and June 1, 1999"; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 30 and in the Night Between May 30 and 31, 1999."

125 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 214-215, report this incident as taking place on May 31. See also Serbian Unity Congress, NewsBits, May 31, 1999; Yugoslav press reports; *Danas*, June 1, 1999, p. 3.

126 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999; Information provided by Yugoslav civil defense authorities.

127 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

128 NATO, Operation Allied Force Update, May 31, 1999, 09:30 CET.

129 Yugoslav press reports.

130 Information provided by Yugoslav civil defense authorities.

131 NATO, Operation Allied Force Update, June 1, 1999, 09:30 CET.

132 Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/cwc/fejmel_nato.htm) says eleven killed and twelve injured

133 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on May 31 and in the Night Between May 31 and June 1, 1999"; Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

134 "War Against Yugoslavia" (www.inet.co.yu).

135 NATO, Operation Allied Force Update, June 1, 1999, 09:30 CET.

136 FRY, MFA, *NATO Crimes in Yugoslavia,* vol.II, pp. 217-227; Yugoslav press reports; *DAN*, June 3, 1999, p. 2; "War Against Yugoslavia" (www.inet.co.yu). The area of civilian deaths was much greater than sixty meters from the barracks; the bus station was as far as about 1,000 meters from the target.

137 Yugoslav press reports.

138 Information provided by Yugoslav civil defense authorities.

139 NATO, Operation Allied Force Update, June 1, 1999, 09:30 CET.

140 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, p. 216.

141 NATO, Operation Allied Force Update, June 1, 1999, 09:30 CET.

142 "War Against Yugoslavia" (www.inet.co.yu).

143 NATO, Operation Allied Force Update, June 7, 1999, 09:30 CET.

144 Yugoslav press reports; information provided by Yugoslav civil defense authorities; FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on June 6 and in the Night Between June 6 and 7, 1999."

145 FRY, MFA, *NATO Crimes in Yugoslavia,* vol. II, pp. 504-507; Yugoslav press reports.

146 Information provided by Yugoslav civil defense authorities.

147 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on June 7 and in the Night Between June 7 and 8, 1999."

148 NATO, Operation Allied Force Update, June 8, 1999, 09:00 CET.

149 FRY, MFA, *NATO Crimes in Yugoslavia, vol.* II, p. 228; Yugoslav press reports; "War Against Yugoslavia" (www.inet.co.yu).

150 Information Provided by Yugoslav civil defense authorities.

151 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on June 7 and in the Night Between June 7 and 8, 1999."

152 FRY, MFA, "NATO Raids on Manufacturing and Civilian Facilities on June 7 and in the Night Between June 7 and 8, 1999"; Serbian Unity Congress Newsbits, June 8, 1999.

153 NATO, Operation Allied Force Update, June 8, 1999, 09:00 CET.

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Appendix B: Civilian Victims of NATO Bombing During Operation Allied Force

DATE

LOCATION

NAME (AGE)

March 25

Rozaje (Montenegro)

Senad Dacic (16)

April 1

Novi Sad (Vojvodina)

Oleg Nasov (29)

April 2

Orahovac (Kosovo)

Hysni Eljsani (20)
Hysen Zinici (29)
Qazim Krasniqi (30)
Mahmut Krasniqi (age unknown)

Kursumlija area (Serbia)

Vucina Stepanovic (44)

April 4

Cacak (Serbia)

Mileva Kuveljic (73)

Pancevo (Vojvodina)

Mirko Dmitrovic (39)
Dusko Bogosavljev (50)
one unidentified civilian

New Belgrade (Serbia)

Slobodan Trisic (53)

April 5

Aleksinac (Serbia)

Marina Paovic (26)
Snezana Miladinovic (40)
Velimir Stankovic (52)
Ljubica Miladinivic (63)
Dragomir Miladinovic (67)
Bogomir Arsic (69)
Jovan Radojicic (75)
Sofija Radojicic (80)
Radojka Jovanovic (86)
Vojislav Jovanovic (92)
Gvozden Milivojevic (93)
Dragica Miladinovic (age unknown)

Vranje (Serbia)

Goran Eminovic (33)
Milica Grujic (68)

April 7

Pristina (Kosovo)

Adem Berisha (age unknown)
Radovan Aleksic (age unknown)
Dejan Vitkovic (age unknown)
Mesud Gashi (age unknown)
Diana Gashi (age unknown)
Dea Gashi (age unknown)
Rea Gashi (age unknown)
Demis Gashi (age unknown)
One unidentified civilian woman

Nis (Serbia)

Miroslav Stojkovic (age unknown)

April 8

Tornik peak (Serbia)

Milenko Savic (25)
Nedjo Urosevic (31)
Radoje Marjanavic (34)

Cuprija (Serbia)

Zlatka Lukic (54)

April 10

Merdare near Kursumlija (Serbia)

Bojana Tosovic (1)
Bozina Tosovic (30)
Dragan Bubalo (31)
Goran Djukic (age unknown)
Srdjan Cvetkovic (age unknown)

April 12

Grdelica Klisura gorge (Serbia)

Branimir Stanijanovic (6)
Ivan Markovic (26)
Ana Markovic (26)
Jasmina Veljkovic (28)
Simeon Todorov (31)
Zoran Jovanovic (35)
Petar Mladenovic (37)
Verka Mladenovic (37)
Divna Stanijanovic (41)
Vidosav Stanijanovic (45)
Radomir Jovanovic (45)
Svetomir Petkovic (65)
five unidentified remains, three civilians missing

Pristina-Kosovo Polje road (Kosovo)

three unidentified civilians

Djakovica-Klina road (Kosovo)

"several" unidentified civilians

April 13

Pristina (Kosovo)

Sefcet Trnova (22)

April 14

area between Djakovica and Decani (Kosovo)

Violeta Pajaziti (16)
Vjolca Pajaziti (18)
Ferat Bajrami (age unknown)
Imer Celja (age unknown)
Sali Gjokaj (age unknown)
Skendi Gjokaj (age unknown)
Martin Hasanaj (age unknown)
Lek Hasanaj (age unknown)
Ram Maloku (age unknown)
Arton Maloku (age unknown)
Tazija Pajaziti (age unknown)
Nevrija Pajaziti (age unknown)
Hasan Pajaziti (age unknown)
Flora Pajaziti (age unknown)
Adem Seljmani (age unknown)
Besarde Smajlji (age unknown)
Fikrije Sulja (age unknown)
Nerdjivane Zeqiri (age unknown)
eight members of the Ali Ibraj family
four members of the Spend Nuraj family
four members of the Fatmir Nuraj family
three members of the Sejdi Nuraj family
36 unidentified persons

Pavlovac near Vranje (Serbia)

Milica Stojanovic (12)
Mijalko Trajkovic (65)

April 15

Raljan near Presevo (Serbia)

eight unidentified civilians

Kopaonik (Serbia)

Mladen Stanojevic (age unknown)

April 16

Ribnice near Vranje (Serbia)

Irena Mitic (16)

April 17

Valjevo (Serbia)

Milisav Micic (37)

Batajnica near Belgrade (Serbia)

Milica Rakic (3)

Kamena Glava near Urosevac (Kosovo)

two unidentified civilians

April 19

Nis (Serbia)

Milen Milojkovic (age unknown)

April 21

Djakovica (Kosovo)

Marko Ivanovic (4)
Ivan Ivancevic (7)
Radivoje Ularevic (27)
Davor Ularevic (29)
Gordana Ilic (75)

April 22

Vranje (Serbia)

Dalibor Tasic (17)

April 23

Belgrade (Serbia)

Darko Stoimenovski (26)
Nebojsa Stojanovic (27)
Dragorad Dragojevic (27)
Ksenija Bankovic (28)
Jelica Munitlak (28)
Dejan Markovic (30)
Aleksandar Deletic (31)
Dragan Tasic (31)
Slavisa Stevanovic (32)
Sinisa Medic (33)
Ivan Stukalo (34)
Milan Joksimovic (47)
Branislav Jovanovic (50)

Slobodan Jontic (54)
Milovan Jankovic (59)
Tomislav Mitrovic (61)

April 24

Doganovic near Kacanik (Kosovo)

Edan Koxha (3)
Fisnik Koxha(9)
Osman Koxha (13)
Burim Koxha (14)
Valjdet Koxha (15)

Velika Dobrinja near Lipljan (Kosovo)

Arta Lugiqi (6).

April 27

Surdulica (Serbia)

Vladimir Milic (12)
Miljana Milic (15)
Miomir Miovanovic (17)
Stanisa Djordjevic (22)
Vesna Milic (37)
Aleksandar Milic (37)
Dragan Ivanovic (39)
Stana Rasic (47)
Stamenka Milic (66)
two unidentified civilians

April 28

Golubovci near Podgorica (Montenegro)

Paska Prenkovo Juncaj (61)

Prizren (Kosovo)

Kasandra Zylfuri (2.5)
Beqir Zylfuri (14)
Maksun Zylfuri (22)
Gjulja Zylfuri (25)

Ariljaca near Pristina (Kosovo)

Brahim Berisha (age unknown)
Daut Berisha (age unknown)
Basri Berisha (age unknown)

April 29

Ostruznica (near Belgrade)

Nebojsa Arsic (35)

April 30

Belgrade

Sofija Jovanovic (23)

Trstenik (Serbia)

Dejan Djordjevic (40)
Nadezda Petrickovic (44)

Murino (Montenegro)

Julija Brudar (10)
Olivera Maksimovic (12)
Miroslav Knezevic (13)
Vukic Vuletic (45)
Manojlo Komantina (age unknown)
Milka Kocanovic (possibly Kovacevic) (age unknown)

May 1

Luzane near Pristina (Kosovo)

39 unidentified civilians

Jablanica near Prizren (Kosovo)

Azemina Murati (38)
Ahmet Murati (88)

Prizren (Kosovo)

four members of the Berisha family
three unidentified civilians

May 2

Sremska Mitrovica (Vojvodina)

Ljiljana Veliki (39)

Kosovska Mitrovica (Kosovo)

Milomir Aksentijevic (age unknown)

Hashima Meshehrani (age unknown)

May 3

Savine Vode (Kosovo)

17 unidentified civilians

May 4

Savine Vode (Kosovo)

Jovan Otasevic (22)

May 7

Nis (Serbia)

Ljiljana Spasic (26)
Gordana Sekulic (29)
Sasa Miljkovic (33)
Dragisa Vucic (35)
Bozidar Veljkovic (38)
Ljubisa Stancic (48)
Aleksandar Deljanin (50)
Bozidar Djordjevic (58)
Slobodan Stoiljkovic (61)
Vera Ilic (65)
Zivorad Ilic (71)
Milutun Zivkovic (74)
Gerasim Jovanovski (84)
Trifun Vuckovic (86)

New Belgrade (Serbia)

Zhu Jing (28)
Hi Hinhu (31)
Shao-Jin Juan (48)

New Belgrade (Serbia)

Andjelko Nincic (age unknown)

May 8

Nis (Serbia)

two unidentified civilians

May 10

Lipljan (Kosovo)

Dragana Dimic (4)
Rosa Jankovic (age unknown)
Bosko Jankovic (age unknown)

Cacak (Serbia)

Dragan Obrenic (29)
Velija Dzemailovic (44)
Milos Jovcic (46)
Nasko Ristic (50)

May 11

Nis (Serbia)

Zoran Nikolic (Nikovic?) (40)
Goran Aleksic (age unknown)

Vladicin Han (Serbia)

Gordana Nikolic (18)
Milan Ignjatovic (19)

Orlane near Doljevac (Serbia)

Jagoda Mladenovic (63)

May 13

Korisa near Prizren (Kosovo)

48-87 unidentified civilians

May 17

Bor (Serbia)

Dragoslav Grujic (49)

May 18

Jasenica near Valjevo (Serbia)

Mileva Krunic (72)

May 19

Dubrava penitentiary near Istok (Kosovo)

Enver Topalli (Greme/Grebno) (age unknown)
Abdullah Tahiri (Malishevo) (age unknown)

Gjon Ndrecaj (Djakovica) (age unknown)
one unidentified guard

Gnjilane (Kosovo)

Djijan Sabija (25)
Vesna Cvetanovic (31)
Djurdja Savic (34)
Dzevat Ademi (39)
Gorica Cuprijanovic (46)

May 20

Belgrade (Serbia)

Radoslav Novakovic (47)
Branka Boskovic (75)
Bosko Vrebalov (82)
Zora Brkic (82)

Sombor (Vojvodina)

Nikola Hinic (42)

May 21

Djakovica (Kosovo)

Ibrahim Gjosi (age unknown)

Dubrava penitentiary near Istok (Kosovo)

Mehdi Dallosi (Lipljan) (age unknown)
Ahmet Hoxha (Urosevac) (age unknown)
Ali Kelmendi (Pec) (age unknown)
at least 16 other prisoners and/or guards

May 23

Djakovica (Kosovo)

one unidentified civilian

May 25

Sabac (Serbia)

Zivorad Nenadovic (69)

May 26

Kosovska Vitina (Kosovo)

three unidentified civilians

Radoste near Orahovac (Kosovo)

Kujtim Kastrati (11)
Beg Krasniqi (31)

Ralja near Sopot (Serbia)

Dejana Pavlovic (5)
Stefan Pavlovic (8)
Biljana Momcilovic (29)

May 27

Pertate between Leskovac and Lebane (Serbia)

Branka Stankovic (55)
Veselka Spasic (59)

Palic near Subotica (Vojvodina)

Jeka Alavanja (70)

May 28

Aleksinac (Serbia)

Predrag Nedeljkovic (37)
Dusanka Savic (48)
Branislav Mitrovic (79)

May 29

Carmurlija near Nis (Serbia)

Vukosava Mancic (61)
Dusan Mancic (64)

Krk Bunar/Gornje Selo between Prizren and Brezovica, (Kosovo)

Nebojsa Radojevic (38)

bridge between Leskovac and Lebane (Serbia)

Goran Stojmenovic (32)
Stanoje Stojmenovic (58)

Gornja Budriga near Kosovska Vitina (Kosovo)

five unidentified civilians

Brezna near Prizren (Kosovo)

three unidentified civilians

May 30

Surdulica (Serbia)

Milenko Malobabic (16)
Rada Malobabic (19)
Milena Malobabic (20)
Djordje Pavkovic (45)
Rada Zigic (52)
Bosiljka Malobabic (53)
Slavko Popovic (60)
Petar Budisavljevic (60)
Bogdanka Janjanin (60)
Boris Eremijev (60)
Stamen Rangelov (61)
Milanka Vuckovic (65)
Stana Rasic (66)
Desanka Velickovic (67)
Bosa Miladinovic (68)
Danica Malesevic (68)
Nepijal Dragic (70)
Dragic Napijalo (70)
Dusan Manojlovic (72)
Bogdanka Janjanin (74)
Mile Slijepcevic (90)
two unidentified civilians

Vranje (Serbia)

Mane Andjelkovic (60)

Varvarin (Serbia)

Sanja Milenkovic (17)
Milan Savic (24)
Vojkan Stankovic (31)
Zoran Marinkovic (33)
Stojan Ristic (56)
Ruzica Simonovic (60)
Milivoje Ciric (66)
Dragoslav Terzic (68)
Tola Apostolovic (74)

Ripanj near Belgrade (Serbia)

Slavica Stojiljkovic (60)

May 31

Neradovac near Vranje (Serbia)

Leposava Ristic (75)

Novi Pazar (Serbia)

Marko Simic (2)
Marko Roglic (16)
Djordje Pantovic (24)
Dejan Milosevic (27)
Miodrag Nikic (29)
Vladan Simic (30)
Golub Ratkovic (32)
Zvezdan Jajic (37)
Dragomirka Biorac (38)
Dragan Simovic (46)
Radun Vranic (47)

Brvenik near Raska (Serbia)

Sasa Knezevic (31)

Drazevac near Obrenovac (Serbia)

Jovanka Arsenijevic (76)

June 6

Rudnik near Kosovska Mitrovica (Kosovo)

Dragutin Todorovic (age unknown)

Donja Budriga near Gnjilane (Kosovo)

Stojanka Aksic (age unknown)

June 7

Podgorac near Boljevac (Serbia)

Nebojsa Srbulovic (37)
Milija Andrejevic (54)
Slavka Trikanovic (59)

June 8

Novi Sad (Vojvodina)

Milan Bajic (37)

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Appendix C: Incidents Involving Unsubstantiated Reports of Civilian Deaths

March 25

In an attack on a **Prizren** Ministry of Interior (MUP) building or headquarters in Kosovo, Dragan Barac and Dragan Renic are reported killed. Though the Ministry of Health provided photographs of the bodies,154 they are mentioned nowhere else in the press or the Yugoslav government's *White Book* and it is doubted whether these two casualties were civilians.

The field (war) headquarters of the 3rd Army in **Kursumlija** in southern Serbia is hit "on the first night of the campaign and ... badly damaged." According to the British government, "This is the HQ from which the Yugoslav Army is controlling its Kosovo campaign and this will give the Yugoslavs key command and control problems. We know that their army has been badly rattled by this attack."155 The Yugoslav government initially reports that a refugee center was bombed, killing eleven "refugees" from Bosnia-Herzegovina and Croatia, and wounding twenty-four.156 Human Rights Watch was unable to verify Yugoslav claims of civilian casualties in this incident, the bombing of a refugee center, and it suspects that those killed were not refugees but military or MUP personnel. The Kursumlija refugee center incident is not reported in the Yugoslav government *White Book*, nor does it figure in later Yugoslav compilations.157 In the May 29, 1999 "espionage" verdict for three Care Australia workers (Steve Pratt, Peter Wallace, and Branko Jelen) handed down by the Military Court of the 1st Army command in Yugoslavia (No. I.K.14/99), the court stated that a March 29 report compiled by Pratt refers to the initial bombing of Kursumlija. In that report, according to the verdict, Pratt stated that "what was hit in Kursumlija and Pristina were not refugee camps, but Army depots and a paramilitary police headquarters."158

March 29

Tanjug reports that refugee camps near **Nis** in southern Serbia and **Pristina** in Kosovo are "bombed," killing fifteen refugees.159 The refugee camps are managed by CARE Australia on behalf of the U.N. High Commissioner for Refugees (UNHCR). Steve Pratt of CARE Australia is quoted by Australian ABC radio as saying that his staff could confirm that nine refugees died when NATO hit buildings in Pristina near the agency's refugee centers. Pratt is later arrested by Yugoslav authorities for espionage, and it is later learned that the attacks were actually on police facilities. The Ministry of Health reports that in an attack on the Pristina MUP building on March 29, Radoica Kovac is killed.160 The death is not reported again in the press, is not mentioned in Yugoslav government compilations, nor in the *White Book*. Human Rights Watch accordingly concludes that Kovac was likely not a civilian.161

April 6

At 8:45 p.m., in an attack on the Sjenica airfield in eastern central Serbia, one person is killed in the village of **Stavaljska breza**.162 Civilian buildings were reported struck with cluster bombs at Dubinje in the vicinity of Sjenica causing substantial damage to the management building of the agricultural complex "Pester," as well as to the dairy, workers' accommodation facilities, and a number of auxiliary buildings and motor vehicles. Telephone, power, and water supply lines are reported hit, cutting water and power supply and telephone service.163

The Yugoslav *White Book* reports the bombing in Dubinje and Sjenica at 8:45 p.m. on April 6, but do not report any civilian casualties.164 The Yugoslav press states that a "person" was killed in the attack, not a "civilian."165 Human Rights Watch concludes that it is likely that a member of the military or police was killed.

April 11

Yugoslav authorities claim that in a 5:00 a.m. attack on the village **Turekovac** near Leskovac in southeastern Serbia, "there were some damages on civilian objects and some civilians have been killed."166 The Yugoslav *White Book* mentions the attack, which it says "heavily damaged a large number of family houses," but it does not include any further reports of civilian casualties.167 Human Rights Watch thus doubts that there were any civilian casualties.

April 26

Tanjug reports that civilians are killed in an attack on a bridge on the outskirt of **Kastrat** just east of Kursumlija. "The number of civilians killed in Kursumlija as a result of air strikes rose up to 17," Tanjug reports.168 The incident on April 26 is not mentioned in the Yugoslav government *White Book*, nor is there any further corroboration or reporting in the Yugoslav press. The Tanjug reference to "up to 17" killed in Kursumlija area likely refers to deaths from attacks on March 25, April 2, and April 10 (see above and Appendix A).

May 21

In an 11:00 a.m. attack on the **Smederevo** "Jugopetrol" depot in eastern Serbia, seven people are reported killed. The depot is reportedly targeted with three weapons for the sixth time. One weapon hit the grounds of "Trudbenik-Buducnost" factory and the other Godominsko Polje near the Smederevo medium wave (MW) radio transmitter.169

NATO reports attacking the petroleum storage facility in Smederevo on May 21,170 but the Yugoslav government *White Book* does not mention any civilian deaths in the attack, nor was there any reporting of the deaths in the Yugoslav press. Human Rights Watch visited Smederevo and was able to verify the attack, but could not verify any civilian deaths in this incident.

See also Appendix A, incident **65**.

Table 1
Leading Incidents involving Civilian Deaths

Date Location Civilians Killed

May 13 Korisa, Kosovo 48-87
April 14 Djakovica-Decane, Kosovo 73
May 1 Luzane, Kosovo 39

May 30 Surdulica, Serbia 23
April 12 Grdelica Klisura, Serbia 20
May 21 Istok (Dubrava), Kosovo at least 19
May 3 Savine Vode, Kosovo 17
April 23 Belgrade, Serbia 16
May 7 Nis, Serbia 14
April 27 Surdulica, Serbia 11
May 31 Novi Pazar, Serbia 11
April 5 Aleksinac, Serbia 10

154 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

155 Statement by Gen. Charles Guthrie. See Briefing By the Secretary of State for Defence, Mr. George Robertson, and the Chief of the Defence Staff, Gen Sir Charles Guthrie, London, March 27, 1999.

156 Yugoslav press reports; FRY, MFA, "Consequences of NATO aggression against the FRY," Belgrade, March 27, 1999.

157 For instance, the incident is not listed on the compilation of the Committee for Compiling Data on Crimes Against Humanity and International Law (http://www.gov.yu/

cwc/fejmel_nato.htm).

158 Judgment of the Military Court of the 1st Army Command, I.K. No. 14/99, May 29, 1999.

159 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

160 FRY, MOH, "Photo Documentation of Civilians Who Were Killed By NATO Attacks, from 24.03 until 20.05.1999."

161 Ibid.

162 Yugoslav press reports.

163 FRY, "Aide-Memoire," May 15, 1999.

164 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 129.

165 *Vecernje Novosti*, April 6, 1999, p. 4.

166 Information provided by Yugoslav civil defense authorities.

167 FRY, MFA, *NATO Crimes in Yugoslavia*, vol. I, p. 141.

168 Tanjug, "Chronology of Crimes and Dishonor of NATO," June 5, 1999.

169 FRY, MFA, "NATO raids on manufacturing and civilian facilities on May 21 and in the night between May 21 and 22, 1999."

170 NATO, Operation Allied Force Update, May 22, 1999, 0930 CET.

ACKNOWLEDGMENTS

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Europe and Central Asia Division

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SUMMARY

Principal Findings

Minimizing harm to civilians was central to governmental and public consent for NATO's bombing campaign in the Federal Republic of Yugoslavia-an air war officially justified as humanitarian intervention. The decision to intervene was taken with the awareness that the use of force would be subjected to close scrutiny through the lens of international humanitarian law-and in the court of public opinion.

From the beginning of Operation Allied Force, NATO and allied government and military officials stressed their intent to limit civilian casualties and other harm to the civilian population. The practical fulfilment of this legal obligation and political imperative turned upon a range of decisions relating to targeting, weapons selection, and the means of attack.

Despite precautions, including the use of a higher percentage of precision-guided munitions than in any other major conflict in history, civilian casualties occurred. Human Rights Watch has conducted a thorough investigation of civilian deaths as a result of NATO action. On the basis of this investigation, Human Rights Watch has found that there were ninety separate incidents involving civilian deaths during the seventy-eight day bombing campaign. Some 500 Yugoslav civilians are known to have died in these incidents.

We determined the intended target in sixty-two of the ninety incidents. Military installations account for the greatest number, but nine incidents were a result of attacks on non-military targets that Human Rights Watch believes were illegitimate. (Human Rights Watch is currently preparing a separate report with a full analysis of our legal objections to the choice of certain targets.) These include the headquarters of Serb Radio and Television in Belgrade, the New Belgrade heating plant, and seven bridges that were neither on major transportation routes nor had other military functions.

Thirty-three incidents occurred as a result of attacks on targets in densely populated urban areas (including six in Belgrade). Despite the exclusive use of precision-guided weapons in attacks on the capital, Belgrade experienced as many incidents involving civilian deaths as any other city. In Nis, the use of cluster bombs was a decisive factor in civilian deaths in at least three incidents. Overall, cluster bomb use by the United States and Britain can be confirmed in seven incidents throughout Yugoslavia (another five are possible but unconfirmed); some ninety to 150 civilians died from the use of these weapons.

Thirty-two of the ninety incidents occurred in Kosovo, the majority on mobile targets or military forces in the field. Attacks in Kosovo overall were more deadly-a third of the incidents account for more than half of the deaths. Seven troubling incidents were as a result of attacks on convoys or transportation links. Because pilots' ability to properly identify these mobile targets was so important to avoid civilian casualties, these civilian deaths raise the question whether the fact that pilots were flying at high altitudes may have contributed to these civilian deaths by precluding proper target identification. But insufficient evidence exists to answer that question conclusively at this point.

Another factor in assessing the higher level of civilian deaths in Kosovo is the possible Yugoslav use of civilians for "human shields." There is some evidence that Yugoslav forces used internally displaced civilians as human shields in the village of Korisa on May 13, and may thus share the blame for the eighty-seven deaths there.

In an important development, sensitivity to civilian casualties led to significant changes in weapons use. Widespread reports of civilian casualties from the use of cluster bombs and international criticism of these weapons as potentially indiscriminate in effect led, according to senior U.S. Department of Defense officials interviewed by Human Rights Watch, to an unprecedented (and unannounced) U.S. executive order in the middle of May to cease their further use in the conflict. The White House issued the order only days after civilians were killed by NATO cluster bombs in the city of Nis on May 7. U.S. cluster bomb use did apparently stop at about that time, according to Human Rights Watch observations, although British cluster bomb use continued. Human Rights Watch released its own report on May 11 questioning the civilian effects of cluster bombs and calling for a moratorium on their use.

International Humanitarian Law and Accountability

In its investigation Human Rights Watch has found no evidence of war crimes. The investigation did conclude that NATO violated international humanitarian law. 1 Human Rights Watch calls on NATO governments to establish an independent and impartial commission, competent to receive confidential information, that would investigate violations of international humanitarian law and the extent of these violations, and would consider the need to alter targeting and bombing doctrine to ensure compliance with international humanitarian law. Such a commission should issue its findings publicly. Human Rights Watch also calls for NATO to alter its targeting and bombing doctrine in order to bring it into compliance with international humanitarian law.

With respect to NATO violations of international humanitarian law, Human Rights Watch was concerned about a number of cases in which NATO forces:

· conducted air attacks using cluster bombs near populated areas;
· attacked targets of questionable military legitimacy, including Serb Radio and Television, heating plants, and bridges;
· did not take adequate precautions in warning civilians of attacks;
· took insufficient precautions identifying the presence of civilians when attacking convoys and mobile targets; and
· caused excessive civilian casualties by not taking sufficient measures to verify that military targets did not have concentrations of civilians (such as at Korisa).

One disturbing aspect of the matter of civilian deaths is how starkly the number of incidents and deaths contrasts with official U.S. and Yugoslav statements. U.S. officials, including Secretary of Defense William Cohen, Deputy Secretary of Defense John Hamre, and Gen. Wesley Clark, have testified before Congress and stated publicly that there were only twenty to thirty incidents of "collateral damage" in the entire war. The number of incidents Human Rights Watch has been able to authenticate is three to four times this number. The seemingly cavalier U.S. statements regarding the civilian toll suggest a resistance to acknowledging the actual civilian effects and an indifference to evaluating their causes.

The confirmed number of deaths is considerably smaller than Yugoslav public estimates. The post-conflict casualty reports of the Yugoslav government vary but coincide in estimating a death toll of at least some 1,200 and as many as 5,000 civilians. At the lower end, this is more than twice the civilian death toll of around 500 that Human Rights Watch has been able to verify. In one major incident-Dubrava prison in Kosovo-the Yugoslav government attributed ninety-five civilian deaths to NATO bombing. Human Rights Watch research in Kosovo determined that an estimated nineteen prisoners were killed by NATO bombs on May 21 (three prisoners and a guard were killed in an earlier attack on May 19), but at least seventy-six prisoners were summarily executed by prison guards and security forces subsequent to the NATO attack. The countervailing claims about the civilian death toll underscore the need for full accountability by NATO for its military operations.

The Objective of This Report

This report has the limited goal of assessing the number of civilian deaths from NATO attacks, as a step toward assessing NATO forces' compliance with their obligation to make protection of civilians an integral part of any use ofmilitary force. The benchmarks to be used for judging NATO's attacks are those of

international humanitarian law, also known as the laws of war.

In concentrating on civilian deaths, this report addresses only peripherally the damage to civilian property and infrastructure upon which civilian welfare depends, an issue to be addressed in a later report. Nor does this report address other broad issues which are important for an assessment of the war. These include the obligations of the international community to act effectively to prevent crimes against humanity and war crimes; the legality under international law of NATO's launching the operation; the constraints arising from issues of sovereignty; and the modalities of international consensus and decision-making. The report also does not address the war crimes and crimes against humanity committed by Serbian and Yugoslav forces against ethnic Albanians. These gross violations of international humanitarian law, as well as abuses committed by the Kosovo Liberation Army (KLA), have been documented in numerous Human Rights Watch reports in 1998 and 1999, and continue to be the focus of investigations.

Compiling and Evaluating the Evidence

A fundamental challenge in the analysis of the war over Kosovo is to distinguish the facts of civilian deaths from the propaganda. In order to investigate civilian deaths resulting from NATO bombing, a Human Rights Watch team conducted a twenty-day bomb damage assessment mission in Serbia (including Vojvodina) and Montenegro in August 1999. The team visited ninety-one cities, towns, and villages, and inspected forty-two of the ninety sites of incidents in which civilian deaths occurred. Human Rights Watch researchers also conducted ongoing investigations inside Kosovo beginning June 12, the day NATO entered the province. While most of this research was on war crimes committed by Serbian and Yugoslav forces against ethnic Albanians, several cases relevant to this report were investigated, including the case of Dubrava prison, and incidents involving refugee convoys. Many of the remaining sites in Kosovo at which NATO attacks resulted in civilian deaths have been visited by independent observers whose findings are on the public record.

The Human Rights Watch team in Serbia and Montenegro met with officials from a dozen ministries in Belgrade, and in other locations met with regional, municipality, factory, and utility representatives. Taking eyewitness testimony and inspecting bomb damage, they were able to verify individual events and assess the veracity of wartime and post-war reporting. Human Rights Watch also met with or requested information from a range of officials of NATO countries, in particular the United States, although little new official information on the bombing incidents apart from official press statements has so far been released.

During the war, the research team compiled a master chronological database from military sources and from Yugoslav media and Internet reports, collating these with press and governmental reporting from the NATO countries. Research also drew upon a variety of bomb damage assessments undertaken by Yugoslav government agencies which, in some cases, have produced meticulous documentation on incidents. In order to assess sometimes contradictory renditions, we reviewed these data sets against other information from Yugoslav sources, while comparing this with information from NATO states, in particular the United States and the United Kingdom.

In the end, Human Rights Watch confirmed ninety incidents involving civilian deaths (see Appendix A). The field mission visited forty-two of the ninety confirmed incident locations and collected primary source information on thirty other incidents. Sufficient corroborating information existed on twenty-two others to recognize their credibility (including five about which NATO has officially confirmed that it attacked nearby targets at the same time). Eight incidents were eliminated altogether because they could not be verified or because the reported civilian deaths were actually deemed to be paramilitary troops or army soldiers (see Appendix C).

NATO has offered explanations for what went wrong or merely confirmed attacks in eighteen incidents. After May 7, when NATO began to publicly release a daily list of fixed targets, it confirmed attacking nearby targets in thirty-one of forty-three incidents that occurred between May 7 and the end of the war. NATO is on record as disputing three of the ninety confirmed incidents; Human Rights Watch was able to verify the authenticity of two of these (the other was in Kosovo) through on-the-ground inspections. Still, with the exception of the highly publicized incidents in which NATOhas been forced to offer explanations of what happened (for example, the attacks on the Chinese Embassy, the Djakovica-Decane convoys, and the Grdelica gorge), no information has been released on individual targeting missions, strike aircraft, or pilots.

The Civilian Deaths

This report documents civilian deaths in Operation Allied Force. Some 500 Yugoslav civilians were killed

in ninety separate incidents over seventy-eight days of bombing, although it must be acknowledged that this evidence may be incomplete. In sixty-nine of ninety incidents, the precise number of victims and the names of the victims are known (see Appendix B). In another seven incidents, the number of victims is known and some of the names have been confirmed. In eleven incidents, the number of victims is known but the names are unknown. In three incidents, the names and precise numbers of victims are unknown.

Human Rights Watch concludes on the basis of evidence available on these ninety incidents that as few as 488 and as many as 527 Yugoslav civilians were killed as a result of NATO bombing. Between 62 and 66 percent of the total registered civilian deaths occurred in just twelve incidents. These twelve incidents accounted for 303 to 352 civilian deaths. These were the only incidents among the ninety documented in which ten or more civilian deaths were confirmed.

Available data on each incident are presented in Appendices A and B. They include descriptions of the physical destruction observed at the forty-two sites visited by Human Rights Watch, accounts by witnesses interviewed at each site and elsewhere in regard to particular incidents, documentation on individual incidents, and other available information compiled from public and private Yugoslav and NATO sources. In each incident report the emphasis is upon the evidence of civilian deaths, although any available evidence concerning the apparent target, the means of the attack, and the resulting physical damage is also presented.

Information drawn from the ninety incident reports allows a general picture to be drawn of the civilian deaths by the time, place, and circumstances in which they occurred. The deaths resulted from attacks on a range of targets, under different circumstances, and using a variety of munitions. Fifty-five of the incidents occurred in Serbia (including five in Vojvodina), three in Montenegro, and thirty-two in Kosovo. But between 278 and 317 of the dead-between 56 and 60 percent of the total number of deaths-were in Kosovo. In Serbia, 201 civilians were killed (five in Vojvodina) and eight died in Montenegro. A third of the incidents-a total of thirty-three-occurred as a result of attacks on targets in densely populated urban areas.

Human Rights Watch was able to determine the intended target in sixty-two of the ninety incidents (68 percent). Of these, the greater number of incidents were caused as a result of attacks on military barracks, headquarters, and depots; thirteen were a result of attacks on bridges (and one tunnel); six resulted from attacks on telecommunications and air defense facilities; five each resulted from attacks on industrial facilities, oil installations, and airfields; and seven were as a result of attacks on convoys or on what were perceived to be military forces in the field. These latter incidents were the most deadly, though two of the ten worst incidents occurred as a result of attacks on bridges.

Almost half of the incidents (forty-three) resulted from attacks during daylight hours, when civilians could have been expected to be on the roads and bridges or in public buildings which may have been targeted. Overall, forty incidents occurred in April, forty-five occurred in May, four in June, and one in March. May 29 saw the most incidents (with five), followed by four on April 14, May 30, and May 31. The pace of the air war peaked at the end of May.

Human Rights Watch was able to determine the weapons involved in the cause of the civilian deaths in only twenty-eight of the ninety incidents. Of these, twenty-one are incidents about which it can be confirmed that precision-guided munitions (PGMs) were used (though there could be others). This includes all of the attacks on bridges or targets in and around the Belgrade area. Cluster bomb use can be positively determined in seven incidents (another five are possible but unconfirmed). In almost all of the other instances, it is impossible to establish the weapon used.

Other than a factual statistical analysis of attacks, insufficient evidence exists to determine the cause of civilian deaths. U.S. Deputy Defense Secretary John Hamre has provided the only analysis regarding the "30 instances of unintended damage" that the Pentagon seems to acknowledge. Of those, he says one third occurred when the target was hit but innocent civilians were killed at the same time. Of the remaining twenty, three were said to be caused by human error when the pilot identified the wrong target, and two were caused by technical malfunction. In the other fourteen instances, the Pentagon has not yet announced whether human error or mechanical failure was responsible.

The Standards Applied

The conduct of warfare is restricted by international humanitarian law-the laws of war. International humanitarian law applies expressly and uniquely to armed conflict situations, with distinct provisions to regulate international and non-international (internal) armed conflicts. In evaluating NATO's use of military force in the Federal Republic of Yugoslavia, the laws of war provide the most relevant standards. With the initiation of the NATO bombing on March 24, 1999, the conflict in Kosovo and all of the Federal Republic

of Yugoslavia became an international armed conflict to which the full body of international humanitarian law applied.

Protocol I additional to the Geneva Conventions of 1949 provides the basis for the evaluation here of NATO's bombing. This Protocol has been ratified by most NATO members, and the U.S. government has declared that it accepts all of the relevant standards. The basic principle of Protocol I, and of the laws of war generally, is that the civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. This turns in large part on the requirement that attackers must distinguish between civilians and combatants and between military objectives and civilian objects. They must take all feasible precautions to avoid or minimize harm to civilians, and to this end may not attack civilians exclusively, or combatants and civilians indiscriminately.

Damage to civilian objects and civilian casualties that are incidental to lawful attacks on military objectives are known in military terminology as "collateral damage." The legality of an attack turns upon various factors. Firstly, the attackers must do everything feasible to verify that they are aiming at something specific-they cannot lash out blindly. Secondly, the attackers must establish that the objective to be attacked is a legitimate military objective. And thirdly, the attackers must establish whether an attack would endanger civilians and civilian objects, and must weigh this risk against the military advantage to be gained. Attacks which may be expected to cause incidental loss of life or injuries to civilians, or to cause damage to civilian objectives *are indiscriminate* if this harm to civilians is "excessive in relation to the concrete and direct military advantage anticipated" (Protocol I, article 57 (2)). The International Committee of the Red Cross (ICRC), the principal authority on the interpretation of international humanitarian law, has cautioned that the argument of proportionality can never justify very high civilian casualties and damage whatever the military advantage envisioned.

In researching each of the incidents involving civilian deaths we have sought to gather the facts that can enable analysts to assess the legitimacy of the real or perceived military objectives targeted; the care taken and procedures and criteria employed to confirm the military nature of the targets; the proportionality of the civilian deaths and the means employed in the attack to the express military objectives, where these were known; the correlation of civilian deaths to the location and nature of the targets selected; the timing of target selection as a factor in its appropriateness and the minimization of civilian harm; the methods and conditions under which distinct weapons systems were employed; and the potentially indiscriminate nature of some weapons systems in general and under certain conditions.

In assessing specific attacks, with a view to general observations on the conduct of the air war, the primary issue is whether due care was taken for the protection of civilians. Was the prospect of civilian deaths sufficiently taken into account in the targeting, the weaponry employed, and the means and conditions under which weapons were employed? This involves a review of the selection of targets, and the procedures through which these are determined, matters beyond the scope of the present report. So too is the larger question of whether the military objectives identified and targeted by NATO forces were wholly within what is permissible under humanitarian law. A separate report is being prepared by Human Rights Watch that will provide a full legal analysis of this aspect of the conduct of Operation Allied Force, as well as documentation concerning another 150 incidents in which civilians were injured in NATO attacks and scores of incidents in which there was damage to civilian property. The present report addresses the air war only throughits cost in civilian lives, as an indicator to be taken into account in assessing the larger picture of compliance with international humanitarian law.

Conclusions and Recommendations

Yugoslav civilian deaths in Operation Allied Force occurred under all circumstances, day and night, during good and bad weather, from the use of "smart" and "dumb" bombs, in attacks on almost every type of target. The number of incidents increased (and peaked) in the last three days of May. During this period, the intensity of the attacks also peaked. This was also a time when the percentage of precision-guided munitions being used by NATO aircraft was declining (due to inventory shortages and cost considerations). Most of the increased bombing effort, particularly in the large number of dumb bombs being dropped by B-1 and B-52 heavy bombers, was taking place in western and southern Kosovo. Attacks at a greater intensity in this area, which was largely depopulated, did not result in any increase in civilian deaths.

Throughout the air war, then, the incidents of civilian deaths per number of strikes seem to have remained fairly constant. Human Rights Watch therefore concludes that civilian deaths in Operation Allied Force were not necessarily related to the pace or intensity of the war, but occurred as a result of decisions regarding target and weapons selection, or were caused by technical malfunction or human error. This suggests that affirmative measures-restrictions on certain daylight attacks, prohibitions on the use of cluster

bombs in populated areas, greater care in attacking mobile targets, better target selection-could indeed have been taken to further reduce the level of civilian harm during these military operations.

Five of the ten worst incidents involving civilian deaths (see Table 1 following Appendix C) were attacks on presumed Yugoslav military convoys or transportation routes, four in Kosovo. NATO Gen. Wesley Clark stated after the war that NATO often observed military vehicles moving on roads in Kosovo "intermixed with civilian convoys," particularly during bad weather. This does not exempt NATO from the obligation to take fundamental precautions to focus their effort on military objectives. In fact, after the first two incidents, on April 12 and 14, the civilian deaths led to changes in rules of engagement. While pilots had previously been required to visually identify the military nature of traffic before attacking, after the initial incidents new guidance directed that if military vehicles were intermingled with civilian vehicles, they were not to be attacked.

Similarly, after a mid-day attack on the bridge in the town of Varvarin on May 30 which resulted in civilian deaths (incident no. 81), NATO again provided excuses for the incident but then changed the rules of engagement for attacks on bridges. NATO Spokesman Jamie Shea publicly stated that the alliance had bombed a "legitimate designated military target" and stated that "we take the same precautions at midday as we do at midnight." Yet after the incident at Varvarin, according to Lt. Gen. Michael Short, the air war commander, pilots were directed not to attack bridges during daylight hours, on weekends, on market days, or on holidays. There is no evidence that the daylight timing of the attack at Varvarin (or on many other fixed targets) was critical to the destruction of the target-the attack was not directed specifically against military traffic. Around-the-clock bombing in these and other cases rather seems to have been part of a psychological warfare strategy of harassment undertaken without regard to the greater risk to the civilian population.

With respect to target selection itself, one of the worst incidents of civilian deaths, and certainly the worst in Belgrade, was the bombing of state Serb Radio and Television headquarters in Belgrade on April 23 (incident no. 30). There was considerable disagreement between the United States and French governments regarding the legality and legitimacy of the target, and there was a lively public debate regarding selection of Yugoslav civilian radio and television as a target group. There is no evidence that the radio and television headquarters meet the legal test of military necessity in target selection, as it made no direct contribution to the military effort in Kosovo. In this case, the purpose of the attack again seems to have been more psychological harassment of the civilian population than to obtain direct military effect. The risks involved to the civilian population in undertaking this urban attack grossly outweigh any perceived military benefit.

Another issue of intense public interest in the war is NATO's use of cluster bombs. There are seven confirmed and five likely incidents involving civilian deaths from cluster bomb use by the United States and Britain. Altogether, someninety to 150 civilians died from cluster bomb use. The first confirmed incident was on April 10 (incident no. 14) and the last was on May 13 (incident no. 57). After the technical malfunction of a cluster bomb used in an attack on the urban Nis airfield on May 7 (incident no. 48), the White House quietly issued a directive to restrict cluster bomb use (at least by U.S. forces). Cluster bombs should not have been used in attacks in populated areas, let alone urban targets, given the risks. The use prohibition clearly had an impact on the subsequent civilian effects of the war, particularly as bombing with unguided weapons (which would otherwise include cluster bombs) significantly intensified after this period. Nevertheless, the British air force continued to drop cluster bombs (official chronologies show use at least on May 17, May 31, June 3, and June 4), indicating the need for universal, not national, norms regarding cluster bomb use.

What is striking about the Yugoslav conflict, given the level of intense media coverage and public interest it has received in the United States and abroad, is that there is almost a complete lack of any public accountability by any of the national NATO members for missions undertaken in the NATO alliance's name. Little information has been released on nations or aircraft involved in bombing missions, on specific targets, and there is sparse information on weapons used in individual circumstances.

Human Rights Watch calls on NATO and its individual member states to:

· establish an independent and impartial commission, competent to receive confidential information, that would investigate violations of international humanitarian law and the extent of these violations, and would consider the need to alter targeting and bombing doctrine to ensure compliance with international humanitarian law;

· alter NATO's targeting and bombing doctrine to reflect the rules of engagement adopted during Operation Allied Force to increase civilian protection, as an important step toward bringing the doctrine fully into

compliance with international humanitarian law;

· conduct an impartial and independent investigation of the nine incidents which were the result of attacks on inappropriate targets that Human Rights Watch believes were illegitimate. (Human Rights Watch will identify other examples of inappropriate targets in a separate report currently in preparation);

· carry out a full review of the compliance with international humanitarian law of the psychological warfare strategy of harassment of the civilian population evident in many of the attacks;

· acknowledge and evaluate all instances of civilian deaths and "collateral" damage-and not just some twenty or thirty select incidents-if there is to be a publicly relevant post-war analysis;

· declassify all NATO and national operations reports that could establish the precise nature of munitions employed in each attack to enable a comprehensive evaluation of the humanitarian dimension of the use of cluster bombs or other weapons, and suspend the use of cluster bombs until such evaluation has occurred;

· release comprehensive information on their operations-including chronologies of attacks, target lists, numbers and types of weapons expended, as well as any analysis or evaluations of the causes of incidents of civilian deaths or damage-that would enable independent observers to carry out a proper analysis of these operations under international humanitarian law; and

· examine targeting emphasis and weapons selection during the war and take whatever corrective measures are needed in the future to further minimize the civilian effects of the use of military force.

Rules of international humanitarian law arise from international agreements such as the Geneva Conventions, or develop as international customary law. States have an obligation to ensure compliance with all provisions of international humanitarian law, and to suppress all violations. War crimes constitute some of the most serious violations of international humanitarian law, known as grave breaches. These violations give rise to the specific obligation to search for and punish those responsible, regardless of the nationality of the perpetrator or the place where the crime was committed. Examples of war crimes are wilful killing, torture or inhuman treatment of noncombatants, wilfully causing great suffering or serious injury to body or health of noncombatants, or launching an indiscriminate attack in the knowledge that the attack will cause excessive loss of life or injury to civilians.

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