



On the Record: Civil Society in Kosovo – Rebuilding After the War

Issue 2: War Crimes as a Catalyst of Civil Society, March 29, 2000

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From the AP Editorial Desk by Iain Guest

Rape, massacres, torture, 'ethnic cleansing,' disappearances: these are the tools that Serbia employed to try to reassert control over its former neighbors in Yugoslavia during the 1990s.

In November 1999, Carla del Ponte, the current prosecutor of the Hague tribunal, told the U.N. Security Council that her office had received reports of 11,334 bodies in 529 grave sites throughout Kosovo. Before winter set in, making investigations difficult, about 195 sites had been examined by tribunal investigators, and 2,108 bodies exhumed.

Adding to the trauma of these terrible crimes is the illegal detention of hundreds of Kosovo Albanians in Serbia, who were taken by Serbian forces when they left Kosovo last summer. It is hard to know how many are detained. According to a February 24 report from the International Committee of the Red Cross (ICRC), 4,434 names of missing Kosovars have been collected from families. Of these, 1,297 have been visited by ICRC delegates in Serbian prisons, and 415 persons have been released by the Serbian authorities.

But the ICRC has been unable to visit all the detention centers, including Sremska Mitrovica, where conditions are said to be very bad. The best estimate is that around 1,600 Albanians are

still detained in Serbia, which would still leave many thousands of Albanians still unaccounted for. The detentions have further inflamed relations between Kosovo's Albanians and Serbs. Busloads of young men from Gjakova (where many of the detainees lived) have been stopped by NATO troops as they headed north to participate in the protests in the divided town of Mitrovica.

Perhaps paradoxically, the immensity of the crimes committed in the war has given civil society in Kosovo a renewed sense of purpose. The Humanitarian Law Center is a case in point. The Center was founded in Belgrade in 1992 and opened a branch in Prishtina in 1996. This allows the Center to work on both sides of the troubled frontier. It has exploited this unique asset to investigate those who are missing in Kosovo and also those who are detained in Serbian jails.

Many other Kosovar groups are organizing around war crimes. The Council for the Defense of Human Rights and Freedoms was the foremost human rights organization in Kosovo during the 1990s, with local branches throughout the country. But the network collapsed in the war, and the Council is struggling to recover. Recording war crimes provides it with a new mission. Several other local groups have been assisting at exhumations -- sometimes on their own, sometimes working with the Hague tribunal.

If war crimes have galvanized Kosovar activists, they are also mobilizing ordinary people (if such a term is appropriate) all over the world. Some of their activities are described below. This issue also looks at two international projects that were set up to document war crimes for the International Criminal Tribunal for the Former Yugoslavia, based in the Hague (often referred to as the 'Hague tribunal').

The Hague tribunal should be a powerful partner in the international campaign for justice. Set up in 1993, it has an open-ended mandate and can investigate crimes anywhere in the former Yugoslavia -- including Kosovo. Last summer, the tribunal's prosecution deployed 16 different international teams in Kosovo to uncover mass graves.

But for many human rights groups, the tribunal has yet to prove its value. Its existence did not deter Serbian forces from committing war crimes in Kosovo. Even its indictment of Slobodan Milosevic last May failed to slow the expulsion of refugees. In spite of prosecutor del Ponte's determination to exhume all the graves and collect the evidence, she has decided not to prosecute low-level war criminals -- preferring to leave them to the U.N.-administered justice system in Prishtina. Yet months after the arrival of the United Nations, a functioning justice system is still a long way off. In what would be the supreme snub to the relatives of those missing, the killers may not be brought to justice.

From Iain's diary:

We travel to Peja/Pec with Michael Stechow, who works for the International Crisis Group in Gjakova/Djakovica. Some of the worst atrocities occurred in this western part of Kosovo, and Michael arrived soon after the departure of Serbian forces. He was, in his own words, 'a fresh-faced lawyer from California.'

Gjakova and Peja provided Michael a rude awakening. Bodies were everywhere. They were

found in apartments, on the streets, in wells. Distraught relatives of the dead sought advice from the heavily armed North Atlantic Treaty Organization (NATO) troops, who told them not to disturb anything that suggested a war crime but offered no practical help. Dogs began to tear at the corpses. Body parts and heads turned up among the garbage and on the sidewalks.

Eventually people began to bury their own dead, while trying to note any details that could help the Hague tribunal. Michael borrowed some body bags from KFOR, NATO's Kosovo force, and did what he could. It was two months before investigators from the Hague tribunal showed up in Gjakova. (November 18, 1999)

Putting a Face to War Crimes: Kosovare Kelmendi, on the Track of War Criminals and Serbia's Hostages

Kosovare Kelmendi is a lawyer from Prishtina who heads the Prishtina branch of the Humanitarian Law Center. Like many Kosovars, she can put a face on war crimes. The night after NATO bombing began on March 24, 1999, intruders dragged her father, Bajram, a noted human rights lawyer, and two of her brothers out of their house. Kosovare discovered their bodies by the side of a road two days later. Bajram was one of many prominent Kosovars targeted by the paramilitaries.

This terrible experience helps Kosovare to see the victims of war crimes as people, not statistics. When we met, she was in anguish about 36 children who had been taken from the one village of Qirez and disappeared completely. 'What did they do? What was their crime?' she asked.

The ghosts of crime are everywhere in Kosovo. Some -- not so ghostly -- are even walking the streets. One old man from the village of Marevc saw his son driven away by a group during the fighting. He recognized the Serbian driver and even knows his address (in the town of Kamanica). He appealed to KFOR, which was protecting the Serbs in the Kamanica region but received no reply. He then went to Kamanica in the hope of talking to the man but was prevented from approaching him by KFOR troops. In desperation, he asked KFOR to launch an inquiry. Nothing happened.

This particular exercise in futility could still turn ugly. After the man brought his story to the Humanitarian Law Center, Kosovare Kelmendi sent it on to the Organization for Security and Cooperation in Europe (OSCE), which monitors human rights. Two months passed without a reply. Kosovare fears that the old man is being slowly driven crazy by the lack of information and the knowledge that his son's killer might be enjoying KFOR protection. Just before I talked to Kosovare, he came to her office and warned her that he was going to shoot an international aid worker 'just to wake them up.'

Detention in Serbia

The attention of Kosovare Kelmendi, like so many Kosovars, is focused on jails in Serbia, where hundreds of Albanians are illegally detained. In a vicious postscript to their vicious war, Serbian forces rounded up the prisoners as they left Kosovo in June 1999 and took them back to jails in Serbia. Ever since, they have been used as human bargaining chips in the Serbian government's

efforts to win concessions from the international community.

Some of those detained were prominent civic leaders like Flora Brovina (head of the League of Albanian Women) and Albin Kurti (the Kosovar student leader). Others happened to be in the wrong place at the wrong time. According to Natasa Kandic, head of the Humanitarian Law Center in Belgrade, at least ten of those seized were minors. They included six-year-old Sabri Musliu. One of the detainees, Igbale Xhafaj, even gave birth in Pozarevac prison. The mother and baby were finally released in December, in response to public pressure.

Conditions in the jails are said to be terrible. According to Rreman Olluri, who was released from Pozarevac prison in December 1999, 40 men and boys were handcuffed so tightly that their hands bled and then detained in a tiny room, 35 meters square. In the Sremska Mitrovica prison, which is off-limits even to the ICRC, the food is said to be inadequate and wounds have been left untreated. Among those detained are Nait Hasani and Avnia Memija, who lost an arm during a May 22, 1999, massacre at Dubrava.

One of the most squalid features of the detention is the way that Kosovar families pay to have relatives released. Serbian police let it be known how many releases will be permitted in the near future, and this information finds its way to their families in Kosovo (some say that the information might come through KFOR). Families then travel to the border crossing north of Podujevo where so-called lawyers from Belgrade present themselves as middlemen and arrange a deal. Because so many in the Serbian system take a cut, the cost has at times reached \$50,000.

The Humanitarian Law Center is working on detention because it is an unacceptable abuse, but also because it helps to resolve the fate of the missing in Kosovo. Once a prisoner is confirmed as alive in a Serbian jail, another name can be struck off the list of missing. It may be scant consolation to their relatives, but at least their loved one is alive. Taking advantage of its office in Belgrade, the Center's lawyers have made an effort to visit as many detainees as possible.

The obstacles are daunting. The lawyers are unable to visit military prisons, and so have no way of knowing how many detainees may be there. Even when visits are permitted, the Serbian authorities require written permission from the prisoner's family in Kosovo and do not allow interpreters in the jails. This is a problem for the Albanian prisoners who don't speak Serbian (the language of the Center's Belgrade lawyers). Guards listen in on the conversations between lawyer and prisoner, making it hard to inquire about other prisoners. All of which explains why there is still no clear estimate on the number of detainees.

Although most prisoners welcome assistance, some spurn it altogether. Albin Kurti, the Albanian student leader, has steadfastly refused to accept the services of a lawyer because it would mean cooperating with the Serbian justice system and tacitly admitting to a wrong. On March 13 Kurti was sentenced to 15 years in prison. Among the charges against him -- donating blood to wounded KLA members. (For a photo of Kurti at his trial, consult the [website](#)).

The work of the Humanitarian Law Center on both sides of the border makes it the only truly multiethnic human rights organization in Kosovo. It also means that the Center's Serbian director, Natasa Kandic, is one of the few Serbians respected in Kosovo.

But the work is difficult and dangerous. On December 3, Teki Bokshi, one of the Center's lawyers, was kidnapped while he and two colleagues were returning to Belgrade after visiting clients in the Sremska Mitrovica Detention Center. The kidnapers stopped the car, seized the keys, and took Bokshi off for questioning -- leaving the other two by the side of the road for several hours. He was released after 13 days in detention, once his family had paid 100,000 DM to five kidnapers. The ransom was negotiated by a Belgrade-based Serb attorney formerly from Prishtina. Natasa Kandic has been repeatedly threatened and intimidated.

The Grass-Roots Campaign

The detention issue is tailor-made for advocacy, and it has energized an extraordinary grass-roots campaign around the world. One of the leaders is Alice Mead, an author of children's books, who first visited Kosovo in 1994 armed with a camera. Two years ago, she co-founded the Kosova Action Network. With the outbreak of war, she has been working tirelessly to generate interest and support for the Kosovars. (Visit [Alice's home page](#)).

Last September the Kosova Action Network joined forces with Naida Dukaj, 23, who runs the [Kosova Humanitarian Aid Organization](#) in between working in her father's machine tool factory in California. Together, Naida and Alice collect all the information available on prisoners and issue it in the form of a weekly newsletter (Contact [Albanian Prisoner Advocacy List](#), or Prisoner Pals).

Some of the strongest reactions in Europe have come from Sweden, where hunger strikes have been organized around the detentions. The unofficial European archivist is [Wolfgang Plarre](#) in Germany, who committed himself to the hostages last summer and has proven a relentless networker. [Bart Staes](#), a Belgian member of the European parliament, is one of the most active parliamentarians. The standard-bearer in the US Congress has been Representative [Elliot Engel](#), who has a large Albanian-American constituency and has long championed the Albanians of Kosovo.

The campaigners have stepped up their advocacy in recent weeks, and with some success. They collected 100,000 petitions, organized hunger strikes, and pushed lawmakers on both sides of the Atlantic. This has produced two resolutions in the European parliament and U.S. Congress, respectively.

They are now determined to get the issue into the American presidential campaign. On February 27, 2000, Alma Rosa, a member of the American network, handed a petition to U.S. Vice President Gore, during his campaign visit to Las Vegas. Support groups have even sprung up in Malaysia.

In spite of these successes, the campaign still lacks a political champion at the highest levels. The 100,000 petitions have been languishing for weeks in Prishtina and Brussels because there is no one willing to take them and act. In spite of the web sites and information sharing, information about the detainees is still relatively unfocused. No one has yet conducted methodical interviews with released prisoners to get a rounded picture of conditions in the prisons.

Targets and Dilemmas

Although the issue of the hostages seems clear cut and straightforward, the targets for any campaign have to be carefully chosen. The issue would seem tailor-made for Serbia's democratic opposition. Yet they have been largely silent, with the exception of students. On January 15, the student forum of the Helsinki Committee for Human Rights in Serbia met in Skopje, Macedonia, and demanded the immediate release of all Albanians who had not been charged, and the revision of all court proceedings against those charged since March 1989.

The question is how far the international campaign should go in putting pressure on Milosevic's democratic opponents to protest -- and whether this would weaken their support in Serbia. At first sight, the Serbian judiciary would seem to be fair game, because on the few occasions that a case has come to court, the Serbian judges have shown very little sense of justice or independence. The most flagrant example was the recent 12-year sentence handed down to Flora Brovina, on a trumped-up charge of terrorism. This case was well attended by foreign observers, and many advocates would like to see much more monitoring like this. Even more recently, Albin Kurti, another high profile case was sentenced to 15 years. He refused to mount a defense or respond to prosecution questions, saying he did not recognize the legitimacy of the court. He said 'This court has nothing to do with truth and justice, it serves the policies of Milosevic's regime which has kept Kosovo under occupation.' Some even favor publishing the names of judges and details of the decisions, in an effort to shame the judiciary into holding fair trials. Dragoljub Draskovic and Dragoljub Zdravkovic are two judges who have been handing out particularly severe sentences in the Serbian town of Nis. Judge Milomar Lazic sentenced 8 Albanians to terms of 15 years, based on confessions extracted by torture. 'The entire prison and judicial service is a torture machine,' argues Alice Mead. 'It has to be exposed.'

But others feel that too much publicity and pressure could backfire, by making it impossible for judges to defy the Serbian authorities at so public a setting. The severe sentence given to Flora Brovina, they say, was a case in point.

Should humanitarian assistance be used as a lever? Serbia has 800,000 refugees and displaced persons -- the largest caseload in Europe. Some advocates, such as the Washington-based Balkans Action Council, feel that Serbia should not receive humanitarian aid as long as any detainees are in jail. Others argue that Serbia's huge population of displaced and refugees should not be made to suffer for the cruelty of Milosevic's regime -- and that to do so would be to follow his example and politicize humanitarianism.

Pressuring the United Nations

Virtually everyone agrees that European governments, the United States, and the United Nations must be made to keep up a drumbeat of pressure on Serbia, and that there can be no normalization of relations as long as a single detainee remains behind bars. For months, activists in Kosovo like Kosovare Kelmendi were gravely disappointed by the muted international response particularly that of UNMIK in Kosovo itself.

Eventually, UNMIK formed a working group to coordinate action on the issue among its

sprawling components. The group began meeting every two weeks and recommended that Serbia be asked to produce a complete list of the prisoners and set some clear priorities for release, with humanitarian cases coming first. Bernard Kouchner, head of UNMIK, made a public commitment to keep up the U.N. pressure.

But the U.N. group lost some of its momentum when its coordinator, Barbara Davis, moved to Belgrade to work from there under the auspices of the U.N. High Commissioner for Human Rights. Kouchner's enthusiasm also seemed to wane -- to the point that he rarely even addressed public meetings called to protest the issue.

The Association of Political Prisoners (APP) in Prishtina became so disillusioned at the United Nation's lack of urgency that it bypassed UNMIK entirely in favor of an email lobby under which families of detainees sent a personal email (via the APP's computer) to members of the European parliament. This helped to prod the European parliament into drafting a tough new resolution that includes sanctions. A vote is expected soon.

To the relief of many, Kouchner and his UNMIK colleagues seem to have rediscovered their interest in the issue. Kouchner has asked the Kosovo Transitional Council (KTC) to issue a joint statement with him to the international community. The Council issued its own appeal after meeting on February 23 this year. A sign of progress is the fact that Shukrie Rexha of the APP has been invited to attend Council meetings.

Many of those frustrated by the lack of progress on this issue would even like to see some pressure exerted on the ICRC, which visits the prisoners in jail but discloses no information about conditions. The ICRC argues that any such publicity would instantly put an end to its visits. Yet its mere involvement brings a veneer of normality to the detention without any improvement in conditions or reassurance to the families. Some of the misgivings may be laid to rest by a new statement from the ICRC, which points out that each passing day increases the anguish of relatives and makes it harder to find peace in the region.

Documenting War Crimes

The Hague tribunal provides campaigners with an outlet for war crimes information and -- more important -- a way of punishing the guilty. At least in theory.

The tribunal has stepped up its involvement in Kosovo, after a cautious start. Many human rights groups urged the tribunal's then-prosecutor Louise Arbour to intervene in early 1998 after Serbian forces started killing civilians around Drenica. Arbour hesitated out of concern that a protest would make the Serbian government less inclined to cooperate with her attempts to arrest indicted Bosnian Serbs, many of who had fled to Serbia. But this muted response to the first round of crimes in Kosovo damaged the tribunal's credibility and probably reduced its ability to deter atrocities when the fighting erupted a year later.

A major shift occurred in May 1999 when Arbour indicted Slobodan Milosevic, the Yugoslav president, and four senior members of his government for directing the ethnic cleansing of Kosovo. The indictment showed that the prosecutor was prepared to prosecute a head of state.

Arbour also mounted a huge investigation in Kosovo itself. At the height of last summer, 16 international forensic teams were deployed in Kosovo, comprising over 400 pathologists. After exhuming 2,108 bodies from graves, they stopped exhumations in mid-November because the ground was frozen. The tribunal plans to resume this spring, with another 10 to 15 teams, in hopes of emptying all of the graves.

Civil society has assisted the tribunal in collecting evidence. No Peace Without Justice (NPWJ, a group based in Brussels) started to interview Kosovar refugees in the Albanian camps last June, in a project known as the Humanitarian Law Documentation Project. Around the same time, the American Bar Association (ABA) also started interviews in the refugee camps. Both initiatives were encouraged by Albanian human rights groups and the Albanian Prosecutor General, who was also monitoring abuses against the Kosovar Albanians.

The two projects followed the refugees back into Kosovo with the same goal of collecting evidence of war crimes in accordance with the tribunal's own strict guidelines. At the time, this seemed likely to be very useful. During the early stages of the Bosnian war, the tribunal had suffered from a shortage of investigators, which limited its ability to put together indictments. At the same time, however, much of the information it received from well-meaning NGOs was technically deficient. In addition, many NGOs had interviewed the same witnesses, creating a risk of duplication and discrepancies.

The two Kosovo projects hoped to avoid this. On July 26, 1999, the documentation project set up an office in Gjakova in partnership with the International Crisis Group (ICG), and attracted a broad coalition of interested organizations that demonstrated once again the power of war crimes as a mobilizing issue. Funding came from the European Community. They found office space at the city's museum, which was being rented out by the ICG. The Swedish branch of Doctors Without Borders provided trauma counselors to help those overcome by the ordeal of remembering the crimes. (Even some team members required counseling after recording the grim details.)

The Gjakova project recruited 20 international legal experts to supervise the collection of testimony and also engaged 70 Kosovars. Many came from the Gjakova branch of the Council for Defense of Human Rights and Freedoms, which at one point employed up to 2,000 volunteers throughout the region. By the time the interviewing had come to an end on December 19, 1999, the team had collected evidence from 4,000 different witnesses and put together a formidable dossier for the Hague tribunal. The data collected was standardized and entered into computers at the project center in Gjakova as soon as it was collected by the interviewers themselves, so as to ensure its veracity.

According to the ICG web site, this process was a 'way of training the Kosovar interviewers on the requirements of the tribunal database.' But in fact, training civil society was never one of its goals. Whatever benefits accrued, they seemed likely to be fleeting.

The project was due to end on December 19, and only two of the 70 interviewers had found employment by early December. The chances were that the rest would scramble for employment with a foreign aid agency, where their English would be useful. The project was also due to leave

behind scores of computers and other technical equipment -- and by December it was still not clear how that would be put to good use. In short, this was an expensive project, heavily dependent on foreign expertise and technology. It might well benefit the Hague tribunal, but will probably do little for Kosovar civil society.

The ABA initiative on documenting war crimes tried from the start to build local capacity. It hired only two internationals working from Prishtina and Tirana and tried hard to train local counterparts along the way.

The aim of this training was partly to ensure that the collection of data would continue after the ABA withdrew. But much more importantly, it aimed to strengthen the capacity of the Albanian groups in management, fundraising, and advocacy -- none of which was specifically linked to the collection of testimony. Eight Albanian groups formed a coalition known as The Center for Peace through Justice to work with the ABA team. In addition, the project seems likely to have funding through to the end of 2000, ensuring some continuity.

Surprisingly, both of these documentation projects told *On the Record* that there was almost no coordination between them and even some competition. Both teams collected information separately, put it on separate CD-ROMs, and designed separate search engines. This raised the possibility that they even interviewed the same witnesses -- something they had been determined to avoid. Adding to the potential confusion, OSCE teams also collected war crimes information.

A major effort is now under way at the tribunal in the Hague to standardize all of the information from the three separate sources, and a single search engine is also being developed for the database. The hope is that once this is achieved, it might create an electronic model for the future collection of such information. Yet it is hard to avoid the conclusion that much money might have been saved and much more done for Kosovo civil society, if both projects had worked together from the start.

A much bigger question is whether the information will be used. Heather Ryan, a representative of the Coalition for International Justice (a Washington-based NGO), works with the tribunal's investigators in the Hague. While they keep tightlipped on specifics, her impression is that they find the information useful. It could, she says, even help to build the case against Milosevic and his colleagues.

But will it produce further prosecutions? This is the million-dollar question. The answer lies in Kosovo, not the Hague.

Why War Criminals Escape Prosecution

According to officials at the Hague tribunal, the tribunal's prosecutor has no intention of prosecuting those who committed war crimes in Kosovo. She may decide to add more names to last May's indictment against the five Yugoslav government leaders, and she may also expand the list charges as new information becomes available, but she has no plans to prosecute those who pulled the trigger. That will be left to the U.N.-administered system of justice in Kosovo.

This is a staggering blow to groups like the Humanitarian Law Center in Prishtina. In the first place, it appears to exclude the vast majority of those who committed crimes, because they have already fled from Kosovo. Second, it is unlikely even to affect those suspects who remain in Kosovo. This is because after almost eight months of U.N. administration, the justice system in Kosovo is still barely functioning.

The failure is apparent at all stages of the process -- arrests, imprisonment, and prosecution. In theory, once someone is arrested by KFOR, he or she is handed over to U.N. civilian police (CIVPOL) for detention. But the CIVPOL is still severely undermanned, which leaves KFOR taking on most of the arrests.

It is not publicly known whether war criminals are being arrested, partly because KFOR gives out so little information. On the Record in Prishtina was told recently that 674 persons had been arrested since January 1 (in the Prishtina, Mitrovica, Prizren, Gjilan, and Peja areas of operation.) The ICRC visits 54 persons in KFOR detention.

It is not clear how many of these may be suspected war criminals. U.N. officials say that their main concern is to stop the current crime wave, particularly attacks on minorities -- but not crimes that occurred in the war.

KFOR has an additional reason for not arresting suspects. All of them have sought refuge among the dwindling pockets of Serbs that remain in the province. Any attempt by KFOR to root them out risks provoking a wholesale flight by the Serbs, further whittling away at Kosovo's multiethnic character. Several suspects were known to be hiding in villages near the town of Orahovac, which was the scene of several massacres in the war. For weeks last year, Dutch and German troops from KFOR even carried the photos of suspects on patrol. After weeks of hesitation, several were eventually arrested.

But because figures are not available, there is no way of knowing whether they are still detained or have been released -- and whether they will be charged for war crimes or common crimes. CIVPOL has a central investigative unit that is trying to investigate crimes that happened during the war but are not necessarily war crimes. On the Record was told that 30 people have been arrested so far.

UNMIK does not yet have the capacity to prosecute or imprison any significant numbers. By the end of 1999 there were still only 47 judges practicing in Kosovo, and not one was a Serb. Another 137 judges, lay judges, and prosecutors were appointed on January 24, 2000, and started work. But the ability to process cases lags far behind the caseload. As a result, UNMIK has issued a directive allowing for the indefinite detention of suspects (which carries its own risk to due legal process).

Officials at the Hague tribunal say that they are doing what they can to boost the U.N.'s feeble capacity in Kosovo. Their investigators hand over reliable information to KFOR and UNMIK and even suggest names to prosecute. An experienced official from the tribunal has joined UNMIK to help establish a prosecution.

But, they repeat, the actual prosecutions will rest with Prishtina, not the Hague. The United Nations, on the other hand, insists that the indictment of war criminals rests with the Hague. In other words, these crimes -- so terrible in scope as well as nature -- may well go unpunished.

Some groups are determined to prevent this from happening. UNMIK is exploring the possibility of creating a Kosovo war crimes tribunal with international judges and lawyers. The ABA (which has one representative in Prishtina) plans to work with Kosovar groups to push the proposal. Until such time, however, the Hague tribunal will have mounted one of the most comprehensive, systematic investigations in the history of war crimes, without any assurance that it will lead to prosecutions. Five indictments seem very little to show for so many crimes and the loss of so many lives.

Outreach: The Hague Tribunal's Great Failure

There has been no charm offensive by the Hague tribunal to explain all this to grieving relatives like Kosovare Kelmendi. Some find the tribunal's inability to reach out inexplicable. Others describe it as appalling.

Kosovare argued that the tribunal could do much more to explain and promote its work. She pointed out that when an arrest occurs, Kosovars hear about it through the radio, instead of directly from the tribunal. Carla del Ponte, the current prosecutor, has visited Prishtina and talked to Natasa Kandic, the Humanitarian Law Center's director (who visits regularly from Belgrade).

Such contacts provide a valuable opportunity for del Ponte, who is forbidden to investigate in Serbia. But they do little to inform Kosovars. Occasionally someone from del Ponte's staff will talk to victims, like the families of the 36 children taken from Qirez. But this is very much the exception. Usually, said Kosovare, tribunal staff are extremely secretive and only interested in acquiring evidence. They shrink from providing information.

Can the tribunal do more to reach out to civil society, without compromising its need for discretion? Tribunal officials sometimes plead, like the Red Cross, that they must remain neutral. Yet the sensational and highly political nature of the tribunal's work -- not to mention the psychological and judicial impact of its decisions -- has always made it much more than a legal instrument. From exhumations to trials, the Hague tribunal has responsibilities far beyond that of any normal court.

Some things are changing for the better. In Bosnia, for example, the tribunal's investigators would open a grave and only exhume as many bodies as were needed for evidence. Bodies were left in the grave, regardless of the needs of relatives. Now, in Kosovo, its forensic teams appear more sensitive. Nazlie Bala, a human rights leader who now works with the OSCE recalls how one exhumation, at Grastitica, was advertised in advance in the papers. After the exhumation, all of the bodies were brought out and put in one place. They were then searched carefully for any form of identification, which were shown to the families by Nazlie and her colleagues. 'It was hard, but they wanted to know. They had prepared themselves,' says Nazlie of the victims' families.

Tahil Demaj, from Peja, also commends the tribunal's forensic teams for the sensitive way in which they conducted exhumations. It is important not to raise expectations. Often identification is impossible, because the killers took elaborate precautions to cover their tracks and disfigure the evidence. Many wore ski masks as they went about their murderous business. In one massacre in the village of Krusha e vogel (in the region of Has), villagers were herded into a house and shot. Acid was then thrown on the bodies, which were then burned and bulldozed. Remarkably, four people escaped. They were 'woken up' by the acid and managed to hide. But this was exceptional. Out of the 74 bodies taken from a grave at Glogosc, near Drenica, only 11 could be identified. Adding to this is the immense trauma that comes to a community when a grave opened.

All of this serves to underline the social and psychological importance of the tribunal's work and shows why it needs to reach out more to Kosovars. The tribunal has received a million dollars from the U.S. Department of State for outreach and has deployed officials in Banja Luka and Zagreb. It plans to recruit a third for Kosovo soon. For Kosovare Kelmendi and other relatives, it cannot happen too soon.

But even that will not be enough. The tribunal can open all the graves in Kosovo and spread its message far and wide. But, say relatives, until there is some assurance that war criminals will be brought to justice, its efforts will be viewed as a broken promise.

From Iain's diary:

Michael Stechow tells us that the people of Gjakova are furious with the Italian NATO troops who are enforcing security in this part of Kosovo for taking the former Serb mayor through the town on a bizarre sightseeing expedition. The man is detested here because he allowed paramilitaries to work from his office during the war and is even reported to have planned the burning of the old part of town. No one knows why the Italians would do something so provocative, and the story may be simply a rumor or fabrication. But no one is surprised either, because the Italians have a lousy reputation for standing by and watching houses burn. What makes the story even more bizarre is that the former Serb mayor was reportedly dressed as a priest. (November 18, 1999).

The Advocacy Corner: Prominent Expert to Lobby on Detention in Prishtina

Alice Mead, the noted Kosovo expert, is spending a month in Prishtina on behalf of the Advocacy Project, as of March 16. She will advocate with the international agencies and embassies for the release of the hostages and also endeavor to focus the efforts of Kosovar groups around the issue. Alice will collect and synthesize information, including interviews with released detainees. This information will then be distributed to web sites and by the Advocacy Project to subscribers of On the Record.

Voices that Matter

- The Center for Humanitarian Law, Prishtina and Belgrade
- The Association of Political Prisoners (Prishtina) is using the Internet to campaign for the

release of prisoners. The web page is hosted by the Kosova Humanitarian Aid Organization and the Kosova Action Network. The Association distributes a newsletter and posts biographies of prisoners. It also appeals for funds to support its work, and the work of other human rights groups in Kosovo (such as the Council for the Defense of Human Rights and Freedoms). The Kosova Action Network publishes a weekly 'Prison Pals Newsletter,' which is distributed by Albnet.

- The International Crisis Group recently issued a report on the hostages: 'Kosovo Albanians in Serbian Prisons: Kosovo's Unfinished Business,' (January 26, 2000).