Canada

IHF FOCUS: Protection of asylum seekers and immigrants; protection of indigenous peoples.

The influx of hundreds of Chinese refugees to Canada triggered a discussion on both the role Canada plays in protecting immigrants and refugees and the process of determining refugee status. A new Immigration Act was pending at the end of 1999.

The situation of indigenous peoples raised concerns primarily in terms of land claims and the right to self-government. Other human rights concerns included the comparatively high number of incarcerated aboriginals and their high suicide, unemployment and infant mortality rates. These social factors, together with difficulties related to land ownership and illiteracy, all contributed to the growing number of problems facing indigenous peoples in Canada.

Protection of Asylum Seeker and Immigrants[1]

In 1999, a debate developed within the country about whether Canada should be an open or closed society with regard to refugees and immigrants. The discussion was triggered by the arrival of some 600 Chinese individuals smuggled from China's Fujian province to Canada.

Determination System

In contrast to the U.S., Canadian law did not recognize two mistakes of the U.S. law: high seas interdiction and detention as deterrence – both of which violate international law.[2]

The Fujan People

In light of China's poor human rights record, Chinese migrants could be refugees in need of real protection. The Fujan people arrived in three boats; 92 persons were denied access to the refugee determination process because they had failed to make claims before removal orders were issued against them. After court challenges, the government relented and 59 persons were subsequently able to gain access the refugee determination system. However, the government maintained its position in relation to the remaining 33 persons, who had arrived on the third boat.

The reason for the differential treatment between the two groups was the fact that the government had imposed detention orders on the group of 59 before officials had issued removal orders. For the remaining 33, the sequence was reversed.

Canadian constitutional law required that persons have access to legal counsel and be informed of this right upon, but not prior to, constitutional detention. A person in immigration proceedings was considered constitutionally detained once a detention order had been issued. Needless to say, no lawyers were present when both groups of Fujan people let removal proceedings go by without making refugee claims.

Of course, practically speaking, the 33 persons were also detained, although no detention orders had been issued against them. Canadian law on detention was unique in its distinction between constitutional detention and actual detention. In any case, the reality was that 33 Fujian Chinese boat people were, at the time of this writing, being denied access to the refugee determination system without good reason.

By failing to sort through the claimants from China and determine who was in

[1] Based on Canadian Helsinki Watch Group Report 1999.
[2] See also the U.S. Section of this report.

need of protection, the system left immigrants in a particularly vulnerable position. There were proposals that Canadian authorities should have a preliminary screening of the claimants reminiscent of an inadequate model used between 1989 and 1993 against Portuguese individuals making false claims in order to be granted asylum. In practice, before a claimant could attend a hearing at which refugee status was determined, the individual must prove, at a preliminary hearing, that the claim had a "credible basis".

The "credible basis" stage of determination was abandoned in the early 1990s, partly because over 90 percent of the claimants were found to have a "credible basis" – thus the procedure only wasted time and money, but mainly because for the few who did fail the "credible basis" stage, the unfairness of the preliminary procedures cast doubt on the accuracy of the results.

While the U.S. used detention as a method of deterrence, Canadian law allowed for the detention of illegal migrants where the person was a danger to the public, the person would not appear for further immigration proceedings, or the identity of the person was unknown. The third ground presented difficulties, but the first two were considered reasonable.

Ineffective Human Rights Policies and Visa Rejections

With regard to the Fujian refugees, the Canadian Helsinki Watch Group (CHWG) noted that although the present system of determining refugee status was adequate, Canada could work more efficiently against the trafficking of migrants and refugees while maintaining, at the same time, a fair and humane determination system. First, it should work more directly and effectively against human rights violations in China, and thus prevent individuals from having to flee to the country. Secondly, the government should improve the dysfunctional processing system at the Beijing visa office, which had by far the highest rate of rejection (61 percent) for visa applications, including students wishing to study in Canada.[3] The high rate of rejection also applied to spousal sponsorships, with the rejection of nearly one in every five cases (January–August 1997); apparently because the marriages on which the sponsorships were based were not "genuine".[4]

The Federal Court of Canada had overturned more Beijing visa office rejections than any other visa office. In 1997, the Federal Court overturned 44 percent of all visa office rejections, and 63 percent of Beijing rejections.

The Appeal Division of the Immigration and Refugee Board, which kept statistics on applicants' nationality, presented a similar picture. Between April 1997 and December 1998, the board overturned 31 percent of all visa office decisions; the overturn rate for Chinese nationals was 45 percent.

■ In June 1999, Winnipeg suffered the ravages of the Beijing visa office when the office rejected temporary working visas for 74 Chinese garment workers recruited by Western Glove Works of Winnipeg, al-

[3] In comparison, the rejection rate of the visa office in London was 1 percent, in Paris 4 percent, in Seoul (South Korea) 4 percent, in Hong Kong 16 percent, and in Taipei (Taiwan) 1 percent. Source: Donald Cameron, Student Visa Applicants from China, February 1999.

[4] The comparable rejection rate for Hong Kong was 3 percent , for New Delhi, India 8 percent, for Manila, the Philippines, 0.1 percent. Source: Lila Sarick, Spousal sponsor rejection rate queried Globe and Mail, page A8, 4 November, 1997.

though the workers were qualified to do the work.

Moreover, China was not included on the list of seven countries from which Canada allowed persecuted individuals who could not flee to neighboring countries to come to Canada directly. The CHWG demanded that China be included on the list and stated that risk assessment at visa offices should be carried out by an overseas component of the Refugee Division of the Immigration and Refugee Board, by a specialized independent tribunal. The CHWG added that it was little wonder illegal immigration from China thrived, when legal immigration was so often frustrated for no good reason.

Consolidation of Refugee Determination System

The CHWG stated that instead of including an additional step – a preliminary screening stage of the sort Canada once had – parliament should be consolidating the three-step system into a one-step system. In the system in force in 1999, all claimants must have their eligibility determined by an immigration officer. In this system, which processes nearly 30,000 claims a year, only a few hundred were found to be ineligible. According to the CHWG, the time and money spent on this stage was wasted. The Group believes that the eligibility tests should remain, but should be applied by the Refugee Division of the Immigration and Refugee Board at a full hearing of the claim, rather than at a separate interview with an immigration officer in advance.

Furthermore, the system distinguished between two risks: risks that made a person a refugee and risks such as torture, which may not qualify the person for refugee status. The Refugee Division of the Immigration and Refugee Board Refugee assessed the risks first, and where refugee status was refused, government officials completed any further risk assessment.

Draft Immigration Act

While Canadians were going through the throes of deciding what to do about the Fujian boat people, the Canadian government proposed the reform of the entire Immigration Act. The government, as part of its overall reform of the Immigration Act, proposed that the two risk determinations – for refugee risks and other risks – be consolidated into one. A newly constituted Protection Division of the Immigration and Refugee Board would hear all evidence concerning risks and decide whether the person was entitled to protection either as a refugee or on any other ground. The proposal was heartily endorses by the CHWG.

By eliminating two unnecessary steps, consolidation would also allow the introduction of an additional procedure that has been sorely lacking in the Canadian system: an appeal, with leave of the appeal tribunal. For all the complexity of the Canadian system, it has suffered from one glaring omission, i.e., the inability to correct factual mistakes. Mistakes of law can be corrected by the Federal Court, but there are no means by which to correct mistakes of fact. If parliament were to consolidate what are now three steps into one, and introduce an appeal with leave, Canada would end up with a cheaper, quicker, fairer and more accurate system.

Protection of Indigenous Peoples[5]

By the end of 1999, Canada had not yet ratified or implemented the International Labour Organisation (ILO) Convention

[5] This term does not refer to one homogenous group but to four categories; North American (First Nations) Indians registered and not registered under the Indian Act, Metis people and Inuit.

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169 which addresses the right of indigenous people to control their lives and maintain their own identities, languages and religion. In its review of Canada's Fourth Periodic Report in April 1999, the United Nations Human Rights Committee[6] raised questions regarding the right to self-determination (article 1 of the ICCPR) and some members of the Committee asked how this right related to aboriginal peoples' claims for self-government. The issue of aboriginal self-government remained a topical issue in 1999.

In 1996, the Royal Commission on Aboriginal Peoples issued a report urging increased self-governance and more federal spending for aboriginal peoples, cautioning that failure to improve the conditions of aboriginal peoples could lead to more violence like that which erupted in Oka, Quebec, in 1990.[7] 1999 saw confrontations between aboriginals seeking to enforce their aboriginal and treaty rights and the police from coast to coast. Several legal measures and Supreme Court rulings in 1999 increased the rights of aboriginal peoples and increased their control over land and resources. However, further confrontations were expected in 2000. The failure to resolve land claims, and the related myriad of social and economic problems confronting the aboriginal community, continued.

Social Factors

Compared to the Canadian population in general, aboriginal peoples experienced the lowest rates of literacy and education and the highest rates of incarceration, suicide, unemployment and infant mortality.[8]

In 1999, Canada was again ranked number one on the United Nations Development Program's Human Development Index. The Department of Indian and Northern Affairs noted that if aboriginal peoples living on reserve in Canada were classified as a separate country, it would rank below Mexico, on a par with Brazil. Although the federal government has tried to narrow this gap in recent years, the social, economic and health indicators in aboriginal communities have remained far below those of non-aboriginal communities.

Nunavut[9]

On 1 April, a new Canadian territory named Nunavut ("our land" in Inuktitut, the language of the majority Inuit inhabitants) was born. It is the first territory or province in Canada with an aboriginal majority. After years of negotiation, the Inuit regained a degree of self-government over their ancestral lands. It was the largest comprehensive land claim in Canadian history.

Innu

The 1999 report by Survival International,[10] entitled *Canada's Tibet: the Killing of the Innu*, claimed that "the Mushua Innu of Utshimassits are the most suicide-ridden people in the world." Traditionally a hunting people, many were forcibly relocated by the government thirty years ago, with a devastating impact on their way of life. The Innu have suffered from high rates of severe alcoholism, domestic violence and teen suicide. The Innu have been engaged in lengthy land claim negotiations with the

[6] http://www.unhchr.ch
[7] In the summer of 1990, a 90-day standoff between Mohawk Indians and provincial and federal authorities took place in Oka, Quebec. One Quebec provincial police officer was killed during the standoff which was triggered by a dispute over land rights.
[8] For details please see http://www.inac.gc.ca./strength/socio.html
[9] http://www.tapirisat.ca
[10] http://survival.org.uk

government, but in the meantime they have suffered immense social and economic problems. Their sacred hunting grounds have continued to be plagued by ultra high-speed low-level practice flights by Canada's military and its allies. In 1999, Italy was considering Canada's offer to carry out such training runs over land claimed by the Innu. The Innu argued that these training flights had an adverse affect on the land, animals and environment and prevented them from living normally. Controversy over the development of a huge nickel-mining project at Voissey's Bay and massive hydroelectric projects (the Lower Churchill Project) on land claimed by the Innu continued as of the end of 1999.

On 24 November an "agreement in principle" was reached between the Innu Nation, Canada and Newfoundland that aimed to provide the Innu with the tools necessary to address the issues confronting their community. However, this was an interim step that did not fully address Innu land claims or self-government.

Nisga'a Final Agreement[11]

The Nisga'a Final Agreement granting the Nisga'a title to 2,000 square kilometres of the lower Nass Valley, limited self-government, extensive fishing and logging rights, other treaty rights and a cash settlement moved closer to ratification. At the beginning of 1999 it required federal legislation and the signature of the minister of Indian affairs and northern development. The minister signed the agreement in May 1999. In late October 1999, a bill entitled the Nisga'a Final Agreement Act was introduced into parliament. If passed by parliament, it will go to the Senate for consideration. If ratified, the local decision-making powers and increased control over land and resources would allow the Nisga'a a greater degree of autonomy.

Dudley George[12]

In 1995, Dudley George, an Aboriginal activist, was shot dead by Ontario Provincial Police at Ipperwash Provincial Park. His death is thought to be the first killing of an aboriginal person in the 20th century in a land-claims dispute. In April 1999, the UN Human Rights Committee urged Canada to hold a public inquiry into the shooting, stating it was "deeply concerned" that no inquiry had yet been held in the more than three years since Dudley George's death.

Incarceration

In its judgment in R. v. Gladue[13], the Supreme Court noted that prisons had replaced residential schools as the likely fate of too many aboriginal Canadians. It noted that while less than 3 percent of the Canadian population was aboriginal, aboriginal people represented 15 percent of the federal inmate population. In the Prairie region of the Correctional Service of Canada, aboriginal people accounted for 64 percent of the inmate population. A male treaty Indian was 25 times more likely to be incarcerated in a provincial prison than a non-aboriginal; a female treaty Indian was 131 times more likely to be incarcerated in a provincial prison than a non-Aboriginal.

[11] http://www.inac.gc.ca/news/sep99/1-99158.html
[12] http://www.unhcr.ch
[13] File number of R v. Gladue in the Supreme Court of Canada is 26300.

Croatia[1]

IHF Focus: Elections; freedom of the media; judicial system and independence of the judiciary, fair trial and detainees' rights; conditions in prisons and detention facilities; security services and right to privacy; protection of returnees; protection of ethnic minorities; international humanitarian law; social and economic rights.

Political violence increased significantly in Croatia in 1999. Intolerance towards minorities and critics of the government and verbal and physical violence, coupled with a markedly tolerant attitude on the part of the government towards the perpetrators of violent acts clearly signaled a lack of political will among the highest state officials to tackle the fear and insecurity in Croatian society.

With the December death of President Tudjman – who had had most sectors of Croatian society under his direct or indirect control – a new era appeared to open to Croatia. In the January 2000 parliamentary elections the Croatian electorate said a clear "no" to the Tudjman-led Croatian Democratic Community (HDZ) that had ruled the country since its independence.

Elections

Parliamentary Elections

On 3 January 2000, some 3.85 million Croatian went to the polls to elect a new parliament. The main Croatian opposition coalition won in nine out of ten districts. The Social Democratic – Social Liberal coalition won 71 seats, while an allied coalition of four smaller centrist parties received 24 seats. The HDZ, which had governed Croatia since 1990, won only 40 seats. International monitors reported no serious irregularities.[2]

Role of the Media

Since past elections in Tudjman's Croatia were generally considered "free but not fair," the Croatian Helsinki Committee (CHC) established "Voice 99," a coalition of 140 human rights NGOs to monitor elections, and particularly media activity and elections.[3] The first phase of the project was carried out during the time when the exact date of the forthcoming elections was not known (4–14 October 1999). Not only media coverage of political parties and representatives of the government, but for the first time, media coverage of NGOs' activities to promote civil society and their access to the media were analyzed.

The research concluded that the Tudjman-led HDZ and its government representatives had dominated coverage in the print media and in broadcast media. The analysis showed that the Croatian TV was still highly dependent on the ruling party, and that the media had little interest in NGOs except for the Catholic Church.

The initial research identified a new strategy introduced by the ruling party in an attempt to keep control over the most influential media, i.e. television. As a response to the close scrutiny and supervision by domestic and international monitors, the Editor-in-Chief of the Croatian television and HDZ party member, Obrad Kosovac, suddenly extended TV broadcasting hours to encompass a 24-hour broadcasting program on all three TV channels. That was surprising move considering the supposed chronic "lack of money" that as often used as a pretext in order not to fund the prepa-

[1] Unless otherwise mentioned, based on report by the Croatian Helsinki Committee for Human Rights, Zagreb, 7 February 2000.
[2] RFE/RL Newsline, 5 January 2000.
[3] Special CHC Project "Media and Elections 2000."

ration of better programs. Most airtime was taken up with cheap entertainment programs, while it became clear that the changes enabled the ruling party to further promote its political interests.

The government-controlled television used the occasion of the death of President Tudjman to arouse nationalistic sentiments and gain potential voters for the increasingly unpopular HDZ. Tudjman's long hospitalization after which his death was declared on 11 December to the nation, was instrumentalized by the HTV to the benefit of the HDZ, involving three days of national mourning and broadcasting Tudjman's funeral live as the biggest media spectacle of the year.

On 14 December, only a day after Tudjman's funeral, the election campaign began. It lasted until the election day on 3 January 2000. The CHC extended the monitoring of the media coverage showing that the ruling HDZ predominated in coverage by all three media (television, radio and print media).

During the period monitored, the majority of advertisements broadcast by Croatian television concerned a movie directed by Jakov Sedlar called "Four Rows." The film dealt with the suffering of Croat patriots in Bleiburg in 1945, an event for which the ruling HDZ had accused Tito's partisans and communists, passing on the blame to the current Social Democratic Party (former communist), the strongest opposition party in Croatia.

The research indicated that the ruling party used its influence over Croatian TV to promote its values and understanding of history to the voters on all TV channels during the sensitive period just before the elections. Other examples of controversial programming included a documentary serial titled, "Croatia in the 20th Century," which included testimony by former political prisoners in which they accused the former communist regime. Meanwhile, the public criticism towards the Croatian TV following the broadcast of the film "Four Rows" forced the HTV to give up on broadcasting a sequel to the film during the election campaign.

The government-controlled media (dailies such as *Vecernji list* and *Vjesnik*, and especially HTV) led a series of attacks against NGOs involved in the election monitoring project. Croatian TV accused the CHC and VOICE'99 of the illegal use of financial support received from abroad for political purposes. The report aimed at stigmatizing the CHC as mercenary organization working against the interests of the Croatian state.[4]

The CHC filed a constitutional complaint against Croatian TV not only for the above-mentioned report but also for banning the broadcast of two video clips by VOICE'99 because they would allegedly influence voters unfairly. The CHC argued that there was no law providing for NGOs and civil society associations to be prevented from expressing their political opinion freely (on public television), regardless of the political content of the opinion or possible impact it could have on voting results. The Constitutional Court accepted the CHC's argument.

Freedom of the Media

The CHC's continued monitoring of media freedom revealed that pressure against the independent media increased in this pre-electoral year. All public criticism against the ruling party and President Tudjman was systematically proscribed by the highest state authorities. All available means were used to control the independent media. Court proceedings against journalists and publishers increased up to one thousand

[4] *See IHF open letter to Hina, Central News Agency of Croatia, 23 December 1999.*

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(ChC Media department collected a record of 1,047 cases); exorbitant compensation claims for having caused "emotional anguish"; covert surveillance of journalists, with details held in police files; political and economic pressures; and in some cases, physical attacks on journalists.

Noting the HDZ's record regarding media in recent years, the CHC considered the moves an indication that the ruling party wanted to take absolute control over media activity in Croatia, fearing a loss of support in forthcoming elections.

Intimidation

Until 1999, the authoritarian regime of Franjo Tudjman held one advantage over the previous regime: it did not resort to the imprisonment of political opponents. During a plenary session in late June, however, Tudjman announced a broad campaign against "internal enemies". These included NGOs, including the Croatian Helsinki Committee (accused of being "Soros mercenaries" and U.S. spies); opposition and trade union leaders; and journalists. The government embarked upon a repressive campaign to arrest dissenting voices.

■ The interrogation and mistreatment of Ivo Pukanic, chief editor of the weekly magazine *Nacional*, marked a clear shift in the nature of repression by the Tudjman regime. Pukanic's arrest coincided with a HDZ plenary session, and was believed to relate to his magazine obtaining secret service documents reveal the repressive nature of the Croatian regime. The CHC claimed that the in the democratic setting, secret service should be the first to be called to account when classified documents were released, and not the media outlets that had published the information.

The CHC on several occasions warned that the incompetence and slowness of police investigations into the violence against dissenting journalists and political opponents was encouraging further violence. The assailants who had severely beaten the chief editor of the daily *Karlovacki list*, Nenad Hlaca, at the end of 1997, had still not been apprehended by the end of 1999. The same was the case with the attackers who bombed the daily weekly *Imperial* editorial office in Zagreb in 1998.

Numerous new cases of violence against journalists were reported, including, as a rule, verbal or physical assault, or attempted murder.

■ Robert Frank, a journalist working for *Novi List* (Rijeka) was kidnapped and physically ill-treated. The writer's hand was – apparently symbolically – repeatedly hit with a stone and injured. Frank was hospitalized for a couple of months and had to undergo several operations. The case was not solved as of this writing. It was deemed politically motivated because *Novi List* was a known of HDZ policy in Bosnia and Herzegowina.

■ The former boss of the intelligence service threatened journalist Zeljko Peratovic of the weekly *Globus* with a pistol.

■ Journalist Zeljko Peratovic was physical assaulted by a member of the so-called Mercep Unit,[5] Munib Suljic. The attacker was charged with misdemeanour and fined.

■ A member of the Mercep Uunit threated the former Editor-in-Chief of *Globus*, Djurdjica Klancir, that he will "saw her through with a saw." No judicicail proceedings were initiated.

[5] This was a unit led by Tomislav Mercep that committed crimes against Serbs during the war and afterwards. Its members included e.g. Munib Suljic, Siniša Rimac, and Igor Mikola. The unit was, for example, acquitted of the charges of killing the Serb Family Zec although they had admitted to the crime.

■ An assassination attempt ws carried out against *Globus* journalist Antun Masle, presumably in connection to his articles on crime. The journalist suffered a a bullet wound in his arm. The perpetrator was not found.

Libel Charges

Libel charges for damages required in criminal proceedings for alleged insult, slander or libel by journalist was another form of pressure against journalists of independent weeklies. This sophisticated form of pressure was used particularly by private plaintiffs in high-raking offices of the ruling party, mainly represented by the same lawyer. Prosecutors would take a number of sentences out of an article and context and use them as evidence to prove that a criminal offence had been perpetrated or that the defendant had suffered damages.

Judicial System and Independence of the Judiciary

There were many complaints about the work of the courts in Croatia, especially concerning lengthy court procedures. According to a report by the Ministry of Justice, the Croatian court system still had 1,200,000 unsolved or pending cases. The CHC and other organizations faced difficulty in helping citizens with problems in this respect after the former president of the Supreme Court, Milan Vukovic, forbade all courts in Croatia to contact NGOs. The CHC was mainly able to help by writing letters to the Ministry of Justice.

Fair Trial and Detainees' Rights

The CHC activists monitored the trial against former commander of the Jasenovac concentration camp Dinko Šakic. The CHC concluded that the whole procedure within limited framework allowed by the indictment was carried out in a professional and competent manner. The only essential complaint could be directed at the Public Prosecutor's Office, had defined Šakic's criminal acts too narrowly in the indictment. Šakic was sentenced to 20 years in prison.

Conditions in Prisons and Detention Centers

During 1999, CHC activists visited the biggest penal institution in Croatia, the Lepoglava detention center, the Detention Hospital, and a collection center for asylum seekers in Jezevo.

The conditions regarding accommodation and nourishment were generally satisfactory in prisons and detention centers. The prisoners and detainees were mostly treated according to the law. The CHC assisted in resolving problems with the behaviour of certain guards and urged the Ministry of Interior to take measures against them, but received no reply.

Security Services and Right to Privacy

The CHC noted with concern the existence of nine separate secret service institutions in Croatia, which could be used by the government to discipline and silence its opponents and critics. After President Tudjman's death in December, the newly appointed Interior Minister Sime Lucin revealed that the security archives of Croatia contained c. 95,000 files holding information on individuals, indicating that the HDZ government under Tudjman had routinely monitored opposition politicians, journalists and civil society activists.[6]

[6] *Dragutin Hedl, Institute of War and Peace Reporting, "Croatia's Secret Files," 6 March 2000.*

Croatia

Protection of Returnees

During the year, the CHC received 500 new cases of human rights violations, a significant reduction on previous years. The majority of cases concerned the return of refugees, and particularly housing problems. The inefficient work of the government housing commissions, their inability to implement decisions made by the courts in practice remained the most common problems cited by people seeking help from the CHC.

The difficulties facing people wishing to return to Croatia increased after the beginning of NATO military operations on the territory of the Federal Republic of Yugoslavia. As a result of growing tensions between resettled Croats and Serb returnees. The CHC registered an increasing number of cases of violence against younger Serb returnees, especially in the Knin region and in Eastern Slavonia. Several ethnically-motivated murders were also reported. The CHC wrote an open letter to the Croatian prime minister in August, calling for urgent action to halt the dramatic deterioration of inter-ethnic relations in Knin.

The Government Office for Refugees and Displaced Persons was still proving inefficient at solving requests for return by non-Croats. The process for selecting those people allowed to return was not transparent. The government allowed mostly elderly citizens to return who were incapable of working and who had nobody to take care of them. The CHC office, in cooperation with the Helsinki Committee in Serbia, was working to facilitate the return of greater numbers of Serb refugees who wanted to return to their homes in Croatia because of the NATO bombing in Serbia.

The most frequent problem facing returnees still related to housing. Refugees wishing to return to Croatia were not allowed to enter their houses because displaced persons – mostly Croats from Bosnia-Herzegovina – were occupying the premises. The government established housing commissions with the stated aim of solving promptly any problems regarding the return of private houses and flats to their rightful owners. However, these commissions proved to be completely inefficient and they failed to implement the government's Program of Return. At the same time, Croats from Republika Srpska refused to leave Serb houses because they were not allowed to return to their original homes.

Most of all returnees were Croats returning to their houses in Eastern Slavonia, while Serbs were not able to return to the former Krajina region, which they had left during the military operation "Storm." Serb residents were often not allowed to return to their houses even if the houses had been abandoned, or where a Croat family had taken over several Serb houses in one village. In March, the CHC published a statement regarding the inefficiency of the housing commissions, listing specific cases. The statement was sent to the Croatian government, and to domestic and foreign NGOs. No reply was received from the Croatian authorities.

■ The Trajbar-Beronja family lived in Dvor, a small town on the border between the Republic of Croatia and Bosnia and Herzegovina, during the temporary occupation by the Serb rebel army. During the military operation "Storm," the husband (of Serb ethnicity) and two sons fled the region while the wife (of Croat ethnicity) remained at the family home. The family owned a restaurant providing their only source of income. A few days after the military operation "Storm" took place, a member of the Croat army, Ivica Knezevic, occupied the restaurant. When Gordana Trajbar-Beronja turned to the housing commission for help, they legalized Knezevic's "trespass" by issuing a decision allowing the temporary use of the "aban-

doned property" although the property had never been abandoned. After some time, Ivica Knezevic took over several other restaurants in Dvor, abandoning the one owned by the Trajbar-Beronja family. However, the rightful owner was unable to obtain the key from the housing commission. The CHC took up the case several times with the housing commission, each time without success. Finally, CHC fieldworkers traveled to Dvor to help the owners to get their property back again. A crowd of angry settlers, Croats from Bosnia and Herzegovina, temporarily living in Dvor, prevented them from entering the premises. Only after Vesna Škare Ozbolt, a president of the Housing Commission for Re-establishing Mutual Trust, and Stjepan Šterc, a deputy to the Minister for Reconstruction and Development, personally intervened in the Trajbar-Beronja case was it resolved positively. This case clearly demonstrated not only the failure of the housing commission to carry out its work properly but also its collusion with those who illegally took over the property of non-Croats.

Protection of Ethnic Minorities

Violence against Non-Croats

There were fewer cases of terror and violence perpetrated against non-Croats than previously. However, the planting of mines became a more common occurrence, especially in the region of Lika and Senj.

■ CHC fieldworkers carried out interviews with the witnesses of a recent incident in the village of Brlog in which one person lost his life and one police officer was injured. On 2 February Nikola Karleusa (77), was killed by a "booby-trap" explosive device concealed in a haystack. During the police investigation to secure the area, Zvonko Delaj (35) a local police officer, was severely wounded when a second mine exploded. The CHC published a statement regarding the case.[7] Although no progress was recorded in identifying the perpetrators, the CHC noted that the evidence pointed to the mine having been planted by people with expert knowledge of such devices.

Also, the CHC wrote an open letter to the government, giving information about 24 cases where mines had been planted and asking to be informed of progress in criminal investigations to find the perpetrators. Not one case had been solved by the end of the year.

The CHC published a detailed report in May, titled, "Military Operation Storm and its Aftermath, Former Sector South." The report consisted of 219 pages giving detailed coverage of the events during the 1995 military operation "Storm" as well as the events which took place immediately afterwards.

According to the report, during the military operation and the 100 days which followed, members of the Croatian army (or armed persons in military and police uniforms) killed more then 100 civilians who were offering no resistance. Mass executions were reported in the villages of Radljevac, Uzdolje, Grubori, Gošic, Varivode, and Korenica.

After a thorough investigation carried out in that region, the CHC gathered data on 410 killed civilians (including the abovementioned 100 civilians) and 22,000 burnt or mined houses. Most other houses were plundered and devastated in some way or the other. The report included photographs and names of the civilians killed during operation "Storm" and thereafter. Cases of terrorism and violence against

[7] *Croatian Helsinki Committee for Human Rights, Statement No. 89, 8 February 1999.*

non-Croats were also listed, together with data regarding missing persons and extra-judicial executions.

The aim of the report was not to discredit the military operation itself but to uncover details of alleged war crimes and shed light on the events which occurred after the military operation. The CHC aimed not to discover perpetrators of alleged war crimes but to provide the government with credible data and information enabling the authorities to find the perpetrators and bring them to justice. However, no reply was received from either the Ministry of Justice or the Ministry of Interior Affairs concerning specific information in the report.

Systematic monitoring of human rights in Sector South provided clear evidence that numerous serious violations of human rights had been and were still being committed following operation "Storm." Between 1 January 1996 and May 1999, 24 murders had been registered in the region. The perpetrators were discovered only in cases where they had turned themselves in to the police. The CHC held a press conference after the report was published. The state-controlled media, the Ministry of Justice and the Ministry of the Interior attacked the CHC report, while the government held its own press conference in order to discredit the report. It is significant, however, that they did not provide a single argument to refute the data published in the report.

International Humanitarian Law

Bowing to great international pressure, the Croatian government extradited the Bosnian Croat Vinko Martinovic Stela to the International Criminal Tribunal in the Hague, but failed to extradite Mladen Naletelic Tuta, who (it was believed) could implicate the highest officials of the Croatian army in military actions in BH and crimes against Bosniaks. Croatia also refused to extradite Fikret Abdic, a Bosniak who was wanted on an international warrant for suspected war crimes against Bosniak civilians and prisoners of war.[8]

While on one hand Croatian courts gave ambiguous rulings, for example, the acquittal of a group charged with killing Serbs in Pakrac, on the other, Minister of Justice Zvonimir Šeparovic promised that Croatia would not persecute any Croat for crimes committed during and after operation "Storm."

Social and Economic Rights

The CHC also dealt with labor conditions and the right to work. These problems were directly related to the process of privatizing state-owned property – particularly with the manner in which privatization was carried out. In order to get their hands on valuable real estate and property, certain individuals were allowed to buy various companies for a low price, regardless of the interests of the employees. Many employees were fired, and the companies declined into bankruptcy. Consequently, the number of unemployed people in Croatia increased.

■ One of the most significant cases involved the "Gradski podrum" company that closed a leading city center restaurant in Zagreb on 31 December and fired all its employees. The CHC reacted immediately in co-operation with the Association of Independent Trade Unions of Croatia (SSSH) by arbitrating to try to save the workers' jobs. Representatives of the ruling party, the privatization fund and the owners of "Gradski podrum" were invited to take

[8] *Annual Report 1999 of the Helsinki Committee for Human Rights in Bosnia and Herzegovina.*

part in negotiations. The CHC and SSSH called for "Gradski podrum" to continue with its work immediately and for the plan to fire all employees to be annulled. Miroslav Kutle, one of the new breed of Croatian tycoons, had acquired the majority of shares in the company by forcing minor shareholders to sell to him. He later sold his shares to "Zagrebacka banka," which closed the restaurant in order to build a modern shopping center in its place. In spite of the attempts by the CHC and SSSH to intervene, the employees of "Gradski podrum" remained out of work, although the redevelopment of the building was postponed.

According to the CHC, a fundamental problem with the privatization process, as in the case above, lay with the pressure applied to minor shareholders to sell their shares and threats that they might otherwise lose their jobs.

Many banks in Croatia were faced with bankruptcy. The crisis in banking affected a great number of local firms which were clients of the banks. In the case of the Commercial Bank of Zagreb, the CHC together with the SSSH proposed plans for the rescue of the Commercial Bank. As a result of these activities, new contracts were offered to all employees of the bank. A rescue package for the bank had been all the more urgently needed because substantial finances belonging to the city of Zagreb were deposited with the bank, holding out the possibility that Zagreb citizens might eventually get their money back.

The CHC in co-operation with trade unions tried to draw attention to the problems of the privatization process, organizing round table meetings on the subject. However, precisely those people who were responsible for the crisis in the economy did not attend the meetings. In some cases the CHC gave legal advice to employees who had lost their jobs on how to assert their employment rights, as well as how to turn to the state working inspectorate and how to demand their basic working rights in dealings with the Ministry of Employment and Social Affairs.

At the end of the year, the CHC helped a great number of citizens from Bosnia and Herzegovina regarding pension problems. These qualified for a pension in Bosnia and Herzegovina, but were currently accommodated in Croatia. Their pensions for the month of November were annulled without any concrete explanation, and the most obvious reason was that the Retirement Fund had refused to give them their pensions on the basis of their ethnic origin. That was evident from the fact that out of a total of 21,000 pensioners from Bosnia and Herzegovina living in Croatia, only 1,000, all non-Croats from Bosnia-Herzegovina, pensioners did not receive their pensions. The CHC reacted immediately by sending letters to the Retirement Fund of the Republic of Croatia (MIORH) as well as publishing a statement protesting against this act of discrimination. ■