



BOSNIA AND HERZEGOVINA

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I am trying to get two foreigners' department officers fired. They were from PSC [public security center] Prijedor. A seventeen-year-old from Romania had 500 clients, was beaten and maltreated.... I met the girl again, [and she refused to speak to the local police inspector. She told us that] the inspector [went] to the brothel and stamped the passports with the inspectors from the foreigners' department who used the girls for free.

Testimony to Human Rights Watch

Hundreds of nightclubs dot the landscape throughout Bosnia and Herzegovina. Some contain trafficked women and girls trapped in debt bondage.
(c) Human Rights Watch

HOPES BETRAYED: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution

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N Bosnia & Herzegovina



ABBREVIATIONS

BiH	Bosnia and Herzegovina
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
ECHR	European Court of Human Rights
EUPM	European Union Police Mission
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organization for Migration
IPTF	International Police Task Force
KM	Convertible Mark
MEJA	Military Extraterritorial Jurisdiction Act
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights
OHR	Office of the High Representative
OSCE	Organization for Security and Cooperation in Europe
RS	Republika Srpska
SFOR	NATO-led Stabilization Force
SRSB	Special Representative of the U.N. Secretary-General
STOP	UNMIBH Special Trafficking Operations Program
UNMIBH	United Nations Mission in Bosnia and Herzegovina

I. EXECUTIVE SUMMARY

From 1992 through 1995, thousands of women and girls¹ suffered rape and other forms of sexual violence during the conflict in Bosnia and Herzegovina, including abuse in rape camps and detention centers scattered throughout the country. With the signing of the Dayton Peace Agreement in December 1995, violence against women and girls in Bosnia and Herzegovina did not cease. The grim sexual slavery of the war years has been followed by the trafficking of women and girls for forced prostitution.

According to experts of nongovernmental organizations (NGOs) and the United Nations Mission in Bosnia and Herzegovina (UNMIBH), trafficking first began to appear in 1995. As of October 2002, UNMIBH suspected 227 of the nightclubs and bars that dot Bosnian cities and towns of involvement in trafficking in human beings. Experts from the U.N. mission's Special Trafficking Operations Program (STOP) stated in a 2001 press conference that approximately 25 percent of the women and girls working in nightclubs and bars were trafficked.² NGO experts working to stop trafficking in Bosnia and Herzegovina, cautioning that the statistics remain woefully unreliable, estimated that as many as 2,000 women and girls from the former Soviet Union and Eastern Europe have found themselves trapped in Bosnian brothels.

Trafficked women and girls are held in debt bondage, forced to provide sexual services to clients, falsely imprisoned, and beaten when they do not comply with demands of brothel owners who have purchased them and deprived them of their passports. In dozens of interviews with Human Rights Watch and other NGOs, women and girls, mostly trafficked from Moldova, Romania, and Ukraine, described brutality—including physical violence and rape en route to Bosnia and Herzegovina—at the hands of traffickers. Such victim testimony is confirmed by internal reports of the International Police Task Force (IPTF, UNMIBH's police monitoring force) and local police reports. Many of the women and girls had expected that they would travel to Italy or other Western European countries to work legally. Their ages ranged from seventeen to thirty-three years. The International Organization for Migration (IOM), which arranged for temporary shelter and voluntary repatriation of 498 trafficking victims from Bosnia and Herzegovina between August 1999 and October 2002, has reported victims as young as thirteen.

In an investigation from 1999 through 2001, Human Rights Watch uncovered conclusive evidence of widespread trafficking of women and girls into the sex industry throughout both Bosnian entities, the Federation of Bosnia and Herzegovina and Republika Srpska. Human Rights Watch researchers interviewed five trafficking victims from Ukraine, Romania, and Moldova and reviewed thirty-one other trafficking cases obtained from NGOs, court documents, and verbatim victim statements to identify trends and common abuses along the trafficking chain. Researchers obtained: twelve verbatim (or handwritten), signed transcripts of victims' interviews by IPTF officers after a series of well-publicized raids in Prijedor in November 2000; five sworn witness statements provided under oath by trafficking victims to local courts in criminal cases; twelve case summaries provided by Lara, an anti-trafficking NGO in Bijeljina; and two IPTF case summaries drawn from official, confidential IPTF incident reports. Human Rights Watch also interviewed dozens of UNMIBH officials, IPTF officers, representatives of international organizations, leaders of NGOs, as well as Bosnian judges, prosecutors, and police officers. In addition, Human Rights Watch reviewed hundreds of pages of documents, both open source and internal UNMIBH and U.S. military documents.

The interviews and transcripts revealed with few exceptions that traffickers, most of them local Bosnians, needed harbor little fear of criminal prosecution or punishment for their crimes: trafficking laws went largely unenforced, providing no protection for the victims of these serious human rights abuses. Corruption within the Bosnian police force allowed the trafficking of women and girls to flourish. Local police officers facilitated trafficking both directly and indirectly—as part owners of nightclubs and bars holding trafficked women, as guards and

¹ The term “girls” used in this report means girls under the age of eighteen, who, under the Convention on the Rights of the Child, are children.

² Between July 25, 2001 and October 2002, STOP teams conducted 720 raids and interviewed 2,120 women and girls in the clubs. Of those, 230 trafficked women and girls requested assistance.

employees in those establishments, as clients of the brothels, and as informants to brothel owners. Trafficked women and girls reported that brothel owners forced them to provide free sexual services to police, particularly to officers employed in the foreigners' department, the unit responsible for issuing work and residency permits. Brothel owners received tip-offs about raids and document checks from local police, allowing them to hide the trafficked women and girls before a police sweep. Some local police participated in the creation and validation of false documents for trafficking victims. Such participation by the police often made it impossible for trafficking victims to turn to the police for help.

Human Rights Watch also found evidence of involvement in trafficking-related offenses by individual members of the IPTF. The unarmed IPTF monitors do not have an executive mandate to carry out police work, but the U.N. Security Council has mandated that the IPTF supervise local police and ensure that investigations into police violations of human rights receive appropriate attention. Deployed to promote the rule of law, a small number of IPTF monitors instead have engaged in illegal activities, either as customers of trafficked women or as outright purchasers of trafficked women and their passports. Rather than request that U.N. headquarters waive the immunity from criminal prosecution enjoyed by IPTF monitors in Bosnia and Herzegovina, UNMIBH has merely repatriated police monitors accused of involvement in trafficking, acting under the legal fiction that countries will prosecute or reprimand their own nationals. Eighteen monitors who purchased trafficked women, visited brothels, or faced trafficking-related charges have returned home, either voluntarily or through disciplinary repatriation for "sexual misconduct," but as this report goes to press in November 2002, Human Rights Watch has not yet confirmed a single case in which an IPTF officer accused of activities related to trafficking faced criminal investigation or prosecution.

IPTF monitors who attempted to alert their superiors to evidence of trafficking or involvement by fellow IPTF monitors alleged that they faced retaliation. Investigations stalled when high-level UNMIBH officials failed to assign investigators, or ordered investigators—in the words of one internal affairs investigator who worked on trafficking cases—"not to dig too deep" into allegations.

UNMIBH took positive steps between 1999 and 2001 to protect the human rights of trafficked persons, particularly through support for an IOM program to shelter and repatriate victims and the creation of the STOP anti-trafficking law enforcement units. The STOP units began to intervene more aggressively to identify potential trafficking victims during raids of brothels and nightclubs. The STOP teams claimed some success, including identification of victims and an increase in prosecutions.

However, serious problems remained. Some NGO experts charged that the STOP raids simply pushed the trafficking underground, with trafficking victims moved into private apartments or houses. Until mid-2001, UNMIBH continued to use a definition of trafficking that contravened the international legal definition and excluded trafficking victims who knew that they would work in the sex industry. In addition, UNMIBH failed to provide the necessary shelter to trafficked women and girls outside the capital, Sarajevo, a measure that would not only have offered them a degree of safety while their status was being determined, but would have allowed them the time and opportunity to testify against their traffickers. In September 2001, the IOM stepped in to provide temporary safehouses, one each in Banja Luka, Mostar, Bihac, and Doboje. Lara, a local NGO, continued to provide shelter to women and girls in Bijeljina. These temporary safehouses allowed women and girls to remain in the local region while UNMIBH determined their status. If a woman or girl gained acceptance into the IOM program and expressed a wish to return to her country of origin, police then escorted her to one of two shelters in Sarajevo, one for women and girls facing high risk and one for trafficking victims facing low risk.

Human Rights Watch investigators also found evidence that some Stabilization Force (SFOR) contractors—civilians hired to provide logistical support for military forces based in Bosnia and Herzegovina—engaged in trafficking-related activities. Evidence indicated that some civilian contractors employed on U.S. military SFOR bases in Bosnia and Herzegovina engaged in the purchase of women and girls. Although these U.S. employees enjoyed only "functional" immunity (immunity only for acts related to their official duties), as of October 2002 not one had faced prosecution in Bosnia and Herzegovina for criminal activities related to trafficking. Instead, when they came under suspicion, they returned to the United States

almost immediately. Their brisk repatriation precluded Bosnian prosecutions and prevented the SFOR contractors from serving as witnesses in criminal cases against the owners of the establishments engaged in trafficking. Under a U.S. law passed in 2000, the U.S. government gained jurisdiction over these citizens but had not brought any prosecutions as of October 2002.

As for U.S. IPTF monitors, existing U.S. law as of October 2002 did not permit their prosecution for criminal offenses committed while part of a U.N. mission; therefore, even after they returned to the United States, U.S. courts had no jurisdiction over IPTF monitors who engaged in the purchasing of women or girls abroad.

Despite some progress, UNMIBH, U.N. member states, and the Bosnian government have failed to combat trafficking effectively and to end impunity for this modern-day slave trade.

II. KEY RECOMMENDATIONS³

To the Government of Bosnia and Herzegovina

- Provide services for trafficking victims in Bosnia and Herzegovina, including legal services, medical care, shelter, psychological counseling, and financial assistance.
- With regard to girls under age eighteen, provide for their protection and development, including child-appropriate treatment at the time of removal from the nightclub or bar and ongoing physical and mental health care, shelter, nutrition, and education in accordance with the best interests of the child and her rights as articulated in the U.N. Convention on the Rights of the Child (CRC) and the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography.
- Implement witness protection programs to allow women and girls to testify against their traffickers. At a minimum, witness protection measures should include full information about protection mechanisms available to victims in a language that the victim can understand, physical protection from harm, safe shelter, and short-term residence visas to allow victims to remain in the country temporarily in accordance with the Temporary Instruction of Treatment of Trafficking Victims, adopted by the Ministry for Human Rights and Refugees in September 2002.
 - In accordance with Article 7 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention against Transnational Organized Crime (Trafficking Protocol), in cases where humanitarian or compassionate factors warrant, trafficking victims should be allowed to remain in the country permanently.
- Create and provide financing for sufficient regional safe shelters to house trafficked women and girls, with staff members trained in caring for trafficking victims as proposed in the National Plan of Action and the Memorandum of Understanding on Protection of Victims of Trafficking. Nongovernmental organizations should be included in the founding and administration of these centers and should have access to trafficked persons residing in the shelter.
 - Separate centers for recovery and reintegration should be set up for girls, with staff specifically trained to care for and counsel children and adolescents. Staff should be equipped to work with NGOs and child welfare agencies in local communities to reunite children with their families when it is in the child's best interest and to provide follow-up support, training, and counseling. Children not reunited with their families should be placed in a caring environment with provisions for health care, counseling, and age-appropriate education and vocational training.
- Amend criminal anti-trafficking laws in both entities and Brcko⁴ to make the definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention against Transnational Organized Crime.
- Prosecute traffickers to the maximum extent of the law.
- Investigate, and when appropriate, discipline and prosecute police officers and other officials engaged in trafficking to the maximum extent of the law.

³ Further recommendations are to be found on page 71.

⁴ See Chapter V, International and Domestic Legal Protections Against Trafficking, Brcko Criminal Code, page 27.

- Cease prosecution of trafficked women and girls for crimes related to their status as trafficking victims in accordance with the Temporary Instruction on Treatment of Trafficking Victims, adopted by the Ministry for Human Rights and Refugees in September 2002.
- Provide appropriate support and protection for children involved in the process of testifying against traffickers, taking into consideration the particular psychological and developmental needs of the child and with due attention to protecting the child from further physical or emotional harm.
- Provide training for judges, prosecutors, and police on trafficking as well as women's and children's human rights issues. Bosnian nongovernmental organizations with relevant experience and expertise should be involved in designing and implementing the training programs as well as child development experts equipped with appropriate methodologies for interacting with and intervening on behalf of girls.

To the United Nations

To the U.N. Mission in Bosnia and Herzegovina

- Ensure that the appropriate international legal definition of trafficking, as articulated in the Trafficking Protocol, is used consistently in making determinations about trafficking status.
- Investigate thoroughly all allegations of trafficking or involvement by IPTF monitors in the purchasing of women and girls and patronage of brothels.
- Continue to include qualified policewomen in the Special Trafficking Operations Program (STOP) units.
- Publicly disclose the results of internal investigations into trafficking-related allegations with due regard to the safety and confidentiality of the victims.
- Provide adequate funding and support for NGO-managed, local shelters for trafficked women in Bosnia and Herzegovina.

To the IPTF

- Monitor investigations of local police involvement in trafficking closely. De-authorize those police personnel found to be involved in trafficking-related corruption.
- Include information on trafficking in all training programs for IPTF monitors.
- Make all efforts to ensure that open trafficking cases are highlighted as a priority during the transfer to the European Union Police Mission (EUPM).

To the U.N. Secretariat

- Facilitate prosecution of international personnel by forwarding all relevant investigative reports to countries of origin of IPTF monitors implicated in trafficking in Bosnia and Herzegovina.
- Ensure that personnel implicated in trafficking do not serve in U.N. missions in the future.
- Lift immunity for IPTF officers in appropriate cases.

To the European Union

In January 2003, the European Union will take over the international policing operation in Bosnia and Herzegovina. The E.U. has announced that the mission will consist of 470 police officers, replacing the 1,800 strong U.N.-led IPTF. The E.U. should consider trafficking one of its priority issues as it takes on this mission. In addition, Human Rights Watch recommends that the European Union:

- Undertake an objective evaluation of the work of the STOP anti-trafficking units.
- Enforce high professional and ethical standards among E.U. police monitors.
- Ensure that any police monitor found to have engaged in trafficking or trafficking-related activities faces disciplinary, and when the evidence merits, criminal proceedings.
- Supervise local police to ensure the arrest, indictment, and prosecution of traffickers.
- Cooperate with the Bosnian government, NGOs, and other international agencies to ensure that human rights remain at the core of all anti-trafficking policies implemented in Bosnia and Herzegovina.
- Supervise the provision of effective witness protection for victims of trafficking.
- Urge the government of Bosnia and Herzegovina to permit trafficked persons not lawfully in the country a reasonable period of time prior to deportation to decide whether to cooperate in criminal proceedings against traffickers, as outlined in the Temporary Instruction on Treatment of Trafficking Victims.
- Create effective training programs for local police and prosecutors on women's and children's human rights and on organized crime issues, with a particular focus on trafficking in persons.
- Fund nongovernmental organizations engaged in anti-trafficking efforts in accordance with the Memorandum of Understanding on the Protection of Victims of Trafficking.
- Press the government of Bosnia and Herzegovina to implement fully its national plan of action under the auspices of the Stabilization and Association Process.
- Incorporate human rights protections for trafficking victims, including witness protection, as a priority area for attention for Bosnia and Herzegovina's Stabilization and Association Process agenda.
- Press the government of Bosnia and Herzegovina to sign and implement the "Statement on Commitments: Legalization of the Status of Trafficked Persons" developed under the auspices of the Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings.
- Provide funding for Bosnia and Herzegovina to "align on European standards with regards to criminal legislation on trafficking/smuggling of human beings," as outlined in section 4.5 of the Bosnia and Herzegovina Stabilization and Association Report. Such funding should go beyond support for the State Border Service and should cover services for victims, including shelter and witness protection.

To the U.S. government

- Explore legislative changes to allow for the prosecution in the United States of U.S. citizens who commit criminal offenses while serving as international police monitors in U.N. missions. Such legislation should be tailored to end the jurisdictional gap that currently allows such persons to avoid domestic prosecution for trafficking-related crimes committed abroad.

To all governments providing staff to IPTF

- Prosecute personnel implicated in criminal activities, including trafficking of persons, when they return to their home countries. In appropriate cases, extradite personnel to Bosnia and Herzegovina for prosecution and encourage the United Nations to waive immunity for nationals facing charges in Bosnia and Herzegovina.
- Provide funding to local nongovernmental organizations working to combat trafficking and to protect the human rights of trafficking victims.

To SFOR

- Investigate thoroughly all allegations of SFOR soldiers', contractors', and expatriate civilian employees' involvement in trafficking or the purchase of women or girls and their passports.
- Investigate thoroughly allegations of physical or sexual abuse of women or girls by SFOR soldiers, expatriate civilian employees, or contractors in Bosnia and Herzegovina.
- Ensure that the records of all investigations are delivered to the country of origin of each SFOR soldier or contractor under investigation. Ensure that prosecutors and police in the countries of origin receive all records necessary to bring charges against soldiers and contractors found to have engaged in trafficking or other illegal activities related to trafficking in persons.
- Prosecute personnel accused of participation in trafficking to the fullest extent of the law.

III. BACKGROUND

Seeking better lives, women and girls migrate from the former Soviet Union and Eastern Europe, many believing that agents will transport them to Western European countries for legitimate employment. But the agents are often traffickers who transport the women and girls to countries where they can sell them to owners of bars or clubs. Since the end of the war in 1995, Bosnia and Herzegovina has become a major trafficking destination.⁵ While trafficked women and girls there have reported that approximately 70 percent of their clients were local citizens, with internationals making up the remaining 30 percent,⁶ local NGOs believe that the presence of thousands of expatriate civilians and soldiers has been a significant motivating factor for traffickers to Bosnia and Herzegovina.⁷

Once sold, the women and girls are told by their “owners” that they owe their purchase price as a “debt,” or else traffickers and “owners” tell them that they owe their travel costs and have to work for free until clearing the transport “debt.” A survey in late 2001 found that in Bosnia and Herzegovina trafficked women and girls, largely from Moldova, Romania, and Ukraine, were forced to work until they had paid off debts ranging from 1,500 to 5,000 Deutschmarks (€769 to €2,564/U.S.\$694 to U.S.\$2,315),⁸ and could be sold from “employer” to “employer.”⁹ Stripped of their passports, physically abused, and warned that escape is impossible, trafficked women and girls can only hope that after several months of providing sexual services to clients, “owners” will declare their debt paid and allow them to keep half of their earnings, as promised (in 2001, the average charge for sex was 100 Deutschmarks—€51/U.S.\$46—per hour). Unfortunately, fair accounting by “owners” is rare. Instead, many trafficked women and girls face mounting fines for minor infractions of house rules, fees for housing, clothing, and food, and sale from one “owner” to another without warning. All these factors increase the debt.

An official UNMIBH background paper on anti-trafficking efforts set the number of trafficked women and girls in Bosnia and Herzegovina at approximately 1,000.¹⁰ Lara, one of the leading Bosnian nongovernmental organizations working to combat trafficking and a member of the NGO “RING” Network,¹¹ while expressing

⁵ Human Rights Watch relies on the definition of “trafficking” supplied in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Trafficking Protocol). See Chapter V, International and Domestic Legal Protections Against Trafficking.

⁶ Dr. Lynelny Long, chief of mission, International Organization for Migration, public statement on trafficking into Bosnia and Herzegovina, Washington, D.C., December 10, 2001, on file with Human Rights Watch.

⁷ A report published by the U.N. Children’s Fund (UNICEF), the U.N. Office of the High Commissioner for Human Rights, and the Organization for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR) noted that international clients pay higher rates and spend more money in the bars than local men. The report estimated that the international clientele accounts for 70 percent of all profits from prostitution. UNICEF, UNOHCHR, OSCE/ODIHR, “Trafficking in Human Beings in Southeastern Europe,” June 2002, p. 65.

⁸ Throughout this report the exchange rates used are 1.95 Deutschmarks to the Euro, and 2.16 Deutschmarks to the U.S. dollar, the rates as of October 21, 2001. The Deutschmark officially ceased to exist, replaced by the Euro, as of January 1, 2002.

⁹ Lara, “Trafficking of Women as Organized Crime,” report prepared for the Lara trafficking conference held in Bijeljina, Republika Srpska, September 28-29, 2001, on file with Human Rights Watch.

¹⁰ United Nations Mission in Bosnia and Herzegovina, “Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002. The International Organization for Migration office in Sarajevo estimated that at any given time there are between 600 and 3,000 trafficked women in Bosnia and Herzegovina. See IOM, “Victims of Trafficking in the Balkans,” 2001, p. 43.

¹¹ In Bosnia and Herzegovina, ten nongovernmental organizations created an alliance of NGOs working on trafficking called the RING Network in 1999. The alliance includes Lara in Bijeljina, Udruzene Zene [United Women Association] in Banja Luka, Buducnost [Future] in Modrica, Zena BiH [Woman of Bosnia and Herzegovina] in Mostar, Medica in Zenica, Zene Zenama [Women to Women] in Sarajevo, Most [The Bridge] in Visegrad, La Bella Dona in Srpsko Sarajevo, Liga Zena

skepticism about trafficking statistics generally, indicated that some estimates range as high as 2,000 trafficked women and girls.¹²

The backgrounds of trafficking victims vary widely. According to IOM staff members, the women and girls trafficked from Moldova were often younger and less educated than those from other countries. The Ukrainian women, usually two to three years older, boasted more years of formal schooling.¹³ All of the women and girls in the thirty-six cases reviewed by Human Rights Watch, however, maintained that they had fled poverty, unemployment, or dismal wages at home. Hoping to earn enough money abroad to support their families, the trafficked women and girls found, however, that debt to their “owners” made posting earnings home to parents and children impossible.

Human Rights Watch investigators first learned of trafficking of women and girls to Bosnia and Herzegovina in 1998, while on a research mission to investigate post-conflict discrimination against Bosnian women.¹⁴ In 1999 Human Rights Watch returned solely to investigate trafficking.¹⁵ At that time, trafficked women and girls arrested in brothel raids faced prosecution in local courts for prostitution and document fraud, as well as fines and imprisonment. After serving their sentences, they were often expelled by police across the inter-entity boundary line (IEBL) separating Republika Srpska and Federation territory.¹⁶ Traffickers occasionally found the women after their expulsion and sold them back into forced prostitution.¹⁷

In March 2001, Human Rights Watch investigators returned to Bosnia and Herzegovina for the second phase of the research, finding the situation much changed.¹⁸ In the intervening two years, UNMIBH had taken steps to provide assistance to victims of trafficking, to end impunity for traffickers, and to investigate allegations of complicity on the part of local police, the IPTF, and other international personnel. By October 2002, IOM had assisted 601 trafficked migrants, with an additional nine trafficked migrants awaiting repatriation.¹⁹ IOM’s program, funded by the U.S. and Swedish governments as well as private foundations, provided shelter, assistance with obtaining travel documents, medical care, transportation to their home countries, and some minimal reintegration assistance.²⁰

¹² Human Rights Watch telephone interview, Mara Radovanovic, director, Lara, Bijeljina, December 13, 2001.

¹³ Human Rights Watch interview, Amela Efendic, IOM program officer, Sarajevo, March 26, 2001.

¹⁴ At that time, Human Rights Watch researchers met with U.S. soldiers based as Joint Commission Observers (JCO) with U.S. SFOR in Bosnia and Herzegovina. The four soldiers and one civilian interpreter told us about six brothels in the Bijeljina region filled with foreign women, most from Ukraine. One JCO soldier told Human Rights Watch that he had invited several of the women back to the JCO residence for a party, but that they could not attend as their passports had been taken and they were held by the brothel owner as “slaves.” Human Rights Watch interview, JCO soldier A. [name withheld], Bijeljina, February 4, 1998.

¹⁵ Researchers traveled extensively throughout the Federation and Republika Srpska visiting Bijeljina, Doboj, Banja Luka, Livno, Sarajevo, Tuzla, Zenica, Orasje, Brcko, and Mostar and found nightclubs/bars employing trafficked women scattered throughout both entities.

¹⁶ Attorneys in Zenica told Human Rights Watch of several cases in which a brothel was raided, the women prosecuted, fined, and then deported across the IEBL. Human Rights Watch interview with Jasminka Dzumuhur, director, Zenica Center for Legal Assistance, Zenica, March 17, 1999.

¹⁷ Human Rights Watch interview with Jasminka Dzumuhur, director, Zenica Center for Legal Assistance, Zenica, March 17, 1999.

¹⁸ Researchers investigated trafficking cases and met with NGO and international experts in Sarajevo, Mostar, Prijedor, Banja Luka, Bijeljina, Doboj, Gorazde, Tuzla, and Brcko. In addition, researchers interviewed judges, local police, prosecutors, and two nightclub owners/managers.

¹⁹ Human Rights Watch telephone interview, Amela Efendic, IOM program officer, Sarajevo, October 21, 2002. Of the total 601 women and girls, 498 were repatriated to their home countries. The remaining 103 declined assistance after spending one night in a safehouse. As of October 21, 2002, minors between the ages of 13 and 18 accounted for approximately 10 percent of the total (sixty).

²⁰ Human Rights Watch interview, Amela Efendic, IOM program officer, Sarajevo, March 26, 2001. The women received U.S.\$150 as a “reinstallation grant,” paid upon return to the country of origin. IOM officials reported that extremely small additional repatriation funds existed in Moldova and Ukraine.

Unfortunately, despite these steps, the trafficking of women and girls for forced prostitution has continued unabated. The Bosnian government has taken almost no concrete steps to protect trafficking victims or to end impunity for trafficking in Bosnia and Herzegovina. Government prosecutors have only reluctantly pressed charges against traffickers—and then only for the most minimal violations. In all, since 1999 the Bosnian government has conducted only a handful of successful prosecutions of trafficking cases. Most cases that have gone to court have been prosecuted as mediation in prostitution, not trafficking, cases.²¹ And even in those cases that ended in convictions, only a small fraction of the perpetrators served any time in prison. As Celhia de Lavarene, director of the STOP unit, told Human Rights Watch, “Convictions don’t mean much. Even convicted, no one goes to jail.”²²

Yet while only sporadically prosecuting traffickers, the Bosnian government still occasionally prosecuted trafficking victims for document fraud, prostitution, and illegal migration status offenses in 2001.²³ The Bosnian government largely ignored corruption among police and local authorities, only rarely investigating, disciplining, or prosecuting officials for involvement in trafficking. In a recent Department of State report on trafficking, the U.S. government ranked Bosnia in the bottom tier of countries worldwide for failing to take even minimal steps toward the elimination of trafficking.²⁴

UNMIBH has not succeeded in motivating governments to prosecute the perpetrators of trafficking, either in Bosnia and Herzegovina or (where applicable) in their home countries. Also, gains made to protect victims were partly negated until late 2001 by UNMIBH’s use of a definition of trafficking that contravened international law by excluding a large number of trafficking victims from support and services, albeit that it now appears UNMIBH’s STOP units have started using the appropriate definition.²⁵ In addition, IOM has intervened to correct mistakes by IPTF and UNMIBH personnel making decisions on trafficking status.²⁶

The International Community in Bosnia and Herzegovina

On December 14, 1995, the parties to the Bosnian conflict signed the Dayton Peace Agreement in Paris, ending four years of brutal conflict.²⁷ The agreement proposed the creation of a U.N. police monitoring unit and paved

²¹ According to a STOP report, a total of ninety-one bar owners and traffickers were convicted and sentenced as of October 12, 2002. The statistics hid the fact that all but a handful of these cases were for “mediation in prostitution,” not for trafficking, and that the perpetrators rarely faced any punishment. According to Alun Roberts, UNMIBH spokesman, of the fifty-six persons sentenced for trafficking-related offenses as of July 25, 2002, only eleven served jail time. Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, October 29, 2002. An internal U.N. memorandum on prosecution of trafficking cases noted that there were no prosecutions in 1999, three successful prosecutions in 2000, and six successful prosecutions in 2001 with four additional cases pending (as of December 14, 2001). U.N. Mission in Bosnia and Herzegovina, “Prosecution of Trafficking Cases,” Sarajevo, December 14, 2001, on file with Human Rights Watch. Prosecutions increased after December 2001, but most for minor crimes such as “mediation in prostitution.” Human Rights Watch telephone interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, October 21, 2002.

²² E-mail correspondence with Celhia de Lavarene, director of STOP, October 22, 2002, on file with Human Rights Watch.

²³ According to Madeleine Rees, head of the Office of the High Commissioner for Human Rights in Bosnia and Herzegovina, the number of these prosecutions has decreased markedly since September 2001. Human Rights Watch telephone interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, December 19, 2001.

²⁴ U.S. Department of State, Trafficking in Persons Report, released June 2002, at <http://www.state.gov/documents/organization/10815.pdf> (retrieved August 8, 2002). This annual report on trafficking worldwide is required by the Victims of Trafficking and Violence Protection Act of 2000, U.S. legislation passed in October 2000.

²⁵ Human Rights Watch telephone interview, Madeleine Rees, Sarajevo, December 19, 2001. According to Rees, the Office of the High Commissioner for Human Rights has provided some of the training for the STOP teams and “made this [the definition] quite clear. We’ve told them that it [prostitution] is irrelevant.”

²⁶ Human Rights Watch telephone interview, IOM program officer [name withheld], Sarajevo, December 4, 2001.

²⁷ The General Framework Agreement for Peace in Bosnia and Herzegovina, at <http://www.ohr.int/gfa/gfa-home.htm> (retrieved July 31, 2001). For an analysis of the Dayton Framework Agreement, see Helsinki Watch (now Human Rights Watch), “Bosnia-Herzegovina: A Failure in the Making - Human Rights and the Dayton Agreement,” *A Human Rights Watch Report*, Vol. 8, No. 8 (D), June 1996.

the way for an influx of international peacekeepers, international police, and civilian contractors.²⁸ The structure set out in the agreement for SFOR, a NATO-led force comprising over 20,000 troops from all NATO member states²⁹ as well as several non-NATO states,³⁰ included military, civilian, and contract personnel.³¹

The International Police Task Force (IPTF), created under Annex 11 of the Dayton Peace Agreement, was made responsible for monitoring and advising local Bosnian police.³² The IPTF force of approximately 1,411 monitors, comprised of police officers from nearly fifty U.N. member states, worked under the auspices of UNMIBH.³³ In December 1996, Security Council Resolution 1088 expanded the IPTF mandate to include investigating or assisting with investigations into human rights abuses by law enforcement personnel.³⁴

Within Bosnia and Herzegovina, IPTF monitors cannot be arrested or detained and have absolute immunity from criminal prosecution. Without a waiver of immunity from the U.N. secretary-general, IPTF monitors can never face charges in Bosnian courts for crimes they may have committed. Under Appendix B to Annex 1A of the Dayton Agreement, NATO military personnel are under the exclusive jurisdiction of their respective nations.³⁵ SFOR civilian personnel, although in principle possessing only “functional” immunity from prosecution (immunity only for acts related to their official duties), have been effectively extended full immunity by the Bosnian government.

The consequences of the immunity enjoyed by members of the international community are described below.

²⁸ Among the institutions implementing various aspects of the Dayton Peace Agreement are the Office of the High Representative (OHR), the Organization for Security and Co-operation in Europe (OSCE), the International Criminal Tribunal for the former Yugoslavia (ICTY), the U.N. International Police Task Force (IPTF), and the Stabilization Force (SFOR). In 1996, Security Council Resolution 1088 authorized SFOR to implement the military aspects of the Dayton Peace Agreement.

²⁹ Since it has no standing army, Iceland has contributed medical personnel. See History of the NATO-led Stabilization Force (SFOR) in Bosnia and Herzegovina, SFOR Informer Online, at <http://www.nato.int/sfor/docu/d981116a.htm> (retrieved February 22, 2002).

³⁰ Ibid. Non-NATO forces have been incorporated on the same basis as NATO forces. Non-NATO forces receive orders from the SFOR commander and work from multinational divisional headquarters. Fifteen non-NATO states currently serve with SFOR in Bosnia.

³¹ The U.S. contingent to SFOR is administered by the Department of Defense.

³² See General Framework for Peace in Bosnia and Herzegovina, Annex 11. For an analysis of the IPTF’s mandate, see Human Rights Watch, “Beyond Restraint: Politics and the Policing Agenda of the U.N. International Police Task Force,” *A Human Rights Watch Report*, Vol. 10, No. 5 (D), June 1998. On February 28, 2002, the Peace Implementation Council (PIC) Steering Board accepted the offer of the European Union to provide an E.U. police mission from January 1, 2003 to follow the end of UNMIBH’s mandate. U.N. Security Council Resolution 1396, S/Res/1396 (2002), March 5, 2002, paragraph 3.

³³ As of October 10, 2002, at <http://www.unmibh.org/unmibh/iptf/> (retrieved October 31, 2002). See U.N. Security Council, “Report of the Secretary-General on the U.N. Mission in Bosnia and Herzegovina,” November 29, 2001, S/2001/1132, at <http://www.unmibh.org/unmibh/iptf/>. The number of IPTF personnel was based on a simple mathematical formula, one monitor for thirty local police. In the fall of 2001, the authorized number of IPTF was 2,057, far higher than the number deployed. See Michael J. Dziedzic and Andrew Bair, “Bosnia and the International Police Task Force,” Institute for National Strategic Studies, at <http://www.ndu.edu/ndu/inss/books/policing/chapter8.html> (retrieved July 13, 2001). Member states often send officers from their national police forces to meet their obligation for staffing the IPTF. The United States has no national police force and has contracted with DynCorp Aerospace, Inc., a U.S. contractor providing technology and logistical services to the public and private sectors, to recruit monitors from state and local police departments. See <http://www.dyncorp.com/about/index.htm> (retrieved April 4, 2002). On January 1, 2003, the European Union will take over the policing mission in Bosnia and Herzegovina. The European Union Police Mission (EUPM), established by a decision of the Council of the European Union on March 11, 2002, will be made up of approximately 470 police officers and seventy civilians. Press release, General Secretariat of the Council of the European Union, May 7, 2002, at <http://ue.eu.int/pressData/en/misc/70427.pdf> (retrieved October 21, 2002).

³⁴ S. C. Res. 1088, U.N. SCOR, 3723rd Meeting, U.N. Doc.S/RES/1088 (1996).

³⁵ General Framework for Peace in Bosnia and Herzegovina, “Agreement between the Republic of Bosnia and Herzegovina and NATO concerning the Status of NATO and its Personnel,” Appendix B to Annex I-A, sec.7. Under Article VI, paragraph 11 of Annex I-A, all IFOR (now SFOR) personnel retain the privileges and immunities set forth in Appendix B.

IV. WOMEN'S AND GIRLS' EXPERIENCES OF TRAFFICKING INTO THE BOSNIAN SEX INDUSTRY

Women's and Girls' Reasons for Migrating

Of the thirty-six women and girls surveyed for this report, twenty had migrated from Moldova, eight from Ukraine, and eight from Romania.³⁶ All but one migrated voluntarily for employment.³⁷ Generally, the women and girls pointed to appalling economic conditions and lack of opportunity in their own countries as the main reasons that they felt the need to migrate for employment. One woman, sold to a bar in Orasje, told Human Rights Watch, "There is no work in Ukraine. But here it is like a prison."³⁸ Another trafficking victim interviewed in Sarajevo said, "I am from Moldova, and it is hard in Moldova. There's no money, there's no work, and it's expensive to study. There is a crisis in Moldova."³⁹

Other women told of similar circumstances:

Due to the fact that the living conditions in [Moldova] are very hard and that I lost my job, I met the person named Tanja... and she told me that... I could get a lot of money over there [in Italy] by working in the shop or [as] the cleaning lady in some hotel.⁴⁰

Two of the thirty-six women said they needed to support children left at home. One trafficked woman, a mother of a five-year-old son, gave testimony to the court in Doboj in 1998. She had asked the owner of the brothel where she worked to return the 1,000 Deutschmarks [€513/U.S.\$463] that he had ordered her to give him for "safekeeping" a month earlier. He refused to return it. According to the sworn testimony she gave in Doboj:

I told [the owner] that I didn't want to work there anymore and that I wanted to see my child.... I told him, "I earned my 1,000 Deutschmarks, and now I want to buy a ticket to go back home and to take some money back to feed my child. In Ukraine we have nothing to eat." I told him that my mother, who is taking care of my child, has no other ways to borrow money anymore.⁴¹

Recruiting Practices

Only three of the thirty-six women and girls said they had answered job advertisements in newspapers. In fifteen cases, women stated that friends or acquaintances had promised them "good jobs" abroad, only to trick them and sell them to traffickers.⁴² The women described the recruiters as taxi drivers, acquaintances from their villages, friends of their parents, friends from an orphanage, and in one case, the brother of a close friend. Ten of the women were promised jobs as waitresses, four as dancers, five as housekeepers or cleaning women, one as a shop assistant, one as a nurse, and one as a tangerine harvester in Greece.

One Ukrainian woman in her mid-twenties trafficked in 1999 told us, "When I came to work here, [the traffickers] tricked me on the way. [The owners] told us that we would dance.... We had a visa, and everything was fine at

³⁶ Six victims were seventeen years of age.

³⁷ One woman from Moldova was kidnapped while visiting Bucharest, Romania. Two women stated that they had planned to visit relatives in Italy and had hoped to find employment there. In another case, a woman told Human Rights Watch researchers that she and a friend were sold by the friend's brother to traffickers after the brother promised to give them a ride from their village to a Moldovan city where they hoped to find work. Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

³⁸ Human Rights Watch interview, B.B., Orasje, March 22, 1999.

³⁹ Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

⁴⁰ Official IPTF interview transcript, Prijedor #9, November 23, 2000.

⁴¹ Testimony of X.X., Doboj Center for Public Safety, Case no. 12-02/1/451/98, June 6, 1998.

⁴² Of the twenty-six women and girls who indicated that they had a concrete destination in mind when they migrated, fourteen said that traffickers promised them jobs in Italy; five expected legitimate jobs in the Federal Republic of Yugoslavia; another five in Bosnia and Herzegovina; and one each in Germany, Greece, and Romania.

first. But when we wanted to leave, the owner sold us. They told me that I would be a dancer, but then I had to be a prostitute.”⁴³

C.C., a Romanian woman interviewed in the same brothel, told Human Rights Watch:

I have been here seven months [since August 1998].... I came from Romania. A woman helped me across the border. She is a Romanian woman who lives with a Serb man.... She told me that I could work as a housecleaner for 200 Deutschmarks [€103/U.S.\$93] each month.... [She and her husband] held me in a locked room for six days.... I was locked in and tricked. One evening they put me in a car and brought me to [a] bar.⁴⁴

B.B., a twenty-two year old Ukrainian woman, told investigators, “I have been in Bosnia for three months [since December 1998]. I came to work here in a bar. I knew nothing when they took me to Serbia—I was sold there four times to different men. [The traffickers] brought me to a bar and told me that I had to work as a prostitute.”⁴⁵

While some of the women were willing to work in the sex industry, none of them anticipated that they would be sold or forced to pay off large debts. As one woman trafficked into Prijedor in 2000 told IPTF investigators, “The girls were obliged to dance, drink a lot and go into their rooms with anyone. All girls were working three months for free. We were eating once per day and sleeping 5-6 hours per day. If we would not do what they [the owners and guards] wanted us to do, the security guards would beat us.”⁴⁶

Trafficking Routes and Transportation

The women and girls reported that the traffickers relied on ground transportation and small boats to move them from one country into the next, often selecting routes that avoided official border crossings. Some women and girls crossed at official posts using false passports or hidden in trunks or boxes. The routes zigzagged across countries, leaving the women and girls disoriented and making escape difficult. Throughout their journeys, women and girls reported switching cars repeatedly and finding themselves locked in apartments or houses, constantly guarded by traffickers and, in some cases, dogs.

One Moldovan woman, interviewed by Human Rights Watch during her stay at the IOM shelter in Sarajevo in April 2001, reported that she was bought and sold by traffickers four times. Trafficked to Bosnia and Herzegovina in July 2000, she told of traveling by taxi, bus, and boat, in car trunks, and on foot before finally reaching the establishment owned by the man who had purchased her for 2,000 Deutschmarks (€1,026/U.S.\$925).⁴⁷

Six of the women reported that they were forced to strip naked in front of potential “buyers.” According to testimony provided to the IPTF by a seventeen-year-old Romanian trafficked into Prijedor in 2000, a friend of a friend provided transportation for her to Moldova. Traffickers then transported her across a river by boat. Although she was promised a job harvesting tangerines in Greece, traffickers took her to Bosnia and Herzegovina. Traveling at night with two male escorts, she and several other women crossed over another river by motorboat, and then switched back to a car, ending up at a small house. There, traffickers ordered the women to undress. When she refused, the trafficker took her upstairs where he beat and then raped her. Traffickers then sold her to the owners of a bar in Prijedor.⁴⁸

Mara Radovanovic, director of the anti-trafficking NGO Lara, told Human Rights Watch, “Most traffickers are from Serbia, but some are Bosnian. They have recruiters who sell [the women] on the border.... In Belgrade [capital of the neighboring Federal Republic of Yugoslavia] there is some kind of a collective center. They have

⁴³ Human Rights Watch interview, A.A., Orasje, March 22, 1999.

⁴⁴ Human Rights Watch interview, C.C., Orasje, March 22, 1999.

⁴⁵ Human Rights Watch interview, B.B., Orasje, March 22, 1999.

⁴⁶ Official IPTF interview transcript, Prijedor #3, November 22, 2000.

⁴⁷ Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

⁴⁸ Official IPTF interview transcript, Prijedor #1, November 23, 2001.

someone in Belgrade who makes false passports. The woman goes to the photographer and... they give her a passport, change her name, change her age.... If her family searches for her they cannot find herC there is no such girl.”⁴⁹

Sale of Women and Girls

All of the women and girls Human Rights Watch and the NGO Lara interviewed, as well as those who gave testimony in the courts and to IPTF, had been sold. In a typical case, a woman trafficked from Moldova in the summer of 2000 told Human Rights Watch:

[One trafficker] took me to a bar in Belgrade, and I danced. Another guy asked me to work for him, and he bought me. I stayed there for a little while. I was sold two more times, and they took me to Bijeljina. I lived at home with the [owner’s] wife and kids for one week. One guy [name withheld] came with a friend and he bought me.... I was locked in. I told him that I wanted to go home and he said that I had to pay off a debt [her purchase price].⁵⁰

After the women and girls arrived in Bosnia and Herzegovina, most of the purchasers were local Bosnians, but in some cases, women and girls were purchased by members of the international community. One Moldovan woman, sold for the first time in Belgrade, and for the last time to an American citizen working in Tuzla, told IPTF investigators:

I was sold in Bosnia. The owner told me that he paid 2000 KM [convertible marks—€1,025/U.S.\$925] for each of seven girls. My movement was restricted completely. I could not go anywhere. In Dubrave village, Tuzla municipality, at the Harl[e]y Davidson nightclub, one [local policeman] was very often in the club. I recognized him in the photo showed to me by the local police for Crime Department Tuzla. I was beaten very often if I refused “to work.” Very often we were hungry. Every time we were threatened to be sold to Serbia.... Kevin [an American] paid 3,000 Deutschmarks [€1,538/U.S.\$1,388] for me.⁵¹

Until Kevin was deported on a weapons charge,⁵² the Moldovan woman lived with him in a private house in Dubrave. Before departing, he returned her passport, which he had held.

Women faced constant threats that if they did not cooperate, they would be sold again to other, more “dangerous owners.” One trafficking victim from Ukraine told Human Rights Watch, “... when we wanted to leave, the owner sold us... He just put us in a car... We came here, and the owner here told us that we had been sold and that we had to work off our debt... He said that he would sell us to another man...”⁵³

Conditions in the Nightclubs

Women and girls trafficked to Bosnia and Herzegovina and held in debt bondage described abysmal conditions and mistreatment. In three cases made known by the NGO Lara, the women experienced severe beatings at the hands of owners and guards for failing to cooperate. Several others complained that they were “psychologically tortured” by the owners. All of the women told investigators that they were not given enough to eat.

Human Rights Watch accompanied IPTF monitors on a raid of a nightclub in Orasje in March 1999. The bedrooms, located in a small corridor behind the bar, reeked of perspiration and other bodily fluids. The bathroom facilities were completely inadequate for the five women forced to share the tight and filthy quarters. Condoms littered the floor, and the bed sheets were dirty. The bar was dark. The four women interviewed told

⁴⁹ Human Rights Watch interview, Mara Radovanovic, director, Lara, Bijeljina, March 22, 2001.

⁵⁰ Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

⁵¹ IPTF internal report, Tuzla, June 26, 2000.

⁵² See Chapter XI, SFOR Contractor Involvement.

⁵³ Human Rights Watch interview, A.A., Orasje, March 22, 1999.

Human Rights Watch that the managers, a husband and wife, forbade them to leave the bar.⁵⁴ In five other cases reviewed, women complained that they could not leave the nightclubs.

Some of the women who were accepted into the high risk and low risk IOM shelters in Sarajevo exhibited serious physical injuries as well as psychological trauma. As Amela Efendic, a member of the IOM staff in Sarajevo, told Human Rights Watch, “They [the women] come with cigarette burns, syphilis, (gynecological) infections, head injuries, and fractures.”⁵⁵ The abuse suffered by trafficked women left them vulnerable to sexually transmitted diseases. Souren Serydarian, a U.N. official, stated, “Trafficked women working in the sex industry have little control over their working environments, which means that HIV/AIDS, as well as other sexually transmitted diseases, are immediate threats to their health and their lives. Also, in a vicious cycle, these diseases can spread to infect partners, families, and break down entire communities.”⁵⁶

Although employers generally promised the trafficked women that they could keep 50 percent of their earnings after they paid off their debt, this rarely occurred in practice. In some cases, owners arbitrarily extended a woman’s period of debt bondage and simply refused to split her earnings. According to A.A., a young Ukrainian woman trafficked into Bosnia and Herzegovina, “We came here, and the owner told us that we had been sold and that we had to work off our debt... We could not leave. He said that we had to work three more months even after we had worked off our debt... until the 8th of March. But after that we still had to work.”⁵⁷

One of the trafficked women found in a nightclub in Prijedor in November 2000 told investigators:

I worked in Maskarada 3.5 months [in 2000]. I worked in Crazy Horse for a month for free, because Milka [the owner] bought me. She bought my clothes and provided me with food. I have [had] 265 clients in 4.5 months. [A bodyguard] beat me when I didn’t want to work the first month [after the owners bought me]. [The owner] has never given me the money.⁵⁸

Some bar owners allowed women to keep their tips. But in many cases, the owners simply levied fines that sucked even those small earnings away from the women. Through fines, forced purchases of lingerie and food, or outright theft, the women found that they effectively earned no money. One woman, D.D., trafficked to Bosnia and Herzegovina from Ukraine in 1998, told Human Rights Watch, “I did not earn anything. I earned money at the bar Scharmant, but [the owner] fined me for any small infraction and took away from me 300 Deutschmarks [€154/U.S.\$138] that I had saved.”⁵⁹

Police Raids⁶⁰

Local police and foreigners’ department officials visited the nightclubs and bars on an occasional basis to check for women and girls working without documents.⁶¹ But during such document checks, as described to Human Rights Watch by Lara activists, some women and girls feared speaking to the police because of the officers’ obviously friendly relations with the owners. In other cases, such as that of E.E. from Moldova, brothel/bar owners, after receiving a tip-off that a raid was imminent, hid women and girls without documents or work

⁵⁴ Human Rights Watch interviews, A.A., B.B., C.C., D.D., Orasje, March 22, 1999.

⁵⁵ Human Rights Watch interview, Amela Efendic, IOM program officer, Sarajevo, March 26, 2001.

⁵⁶ UNMIBH press release, “Sex Industry Linked to Spread of HIV/AIDS in Southeastern Europe, Says U.N. Official,” November 30, 2001, at http://www.unmibh.org/stories/11_2001/44.htm (retrieved December 10, 2001).

⁵⁷ Human Rights Watch interview, A.A., Orasje, March 22, 1999. March 8 is International Women’s Day; the interviewee appeared to note the grim irony of the date.

⁵⁸ IPTF official interview transcript, Prijedor #5, November 22, 2000.

⁵⁹ Human Rights Watch interview, D.D., Orasje, March 22, 1999.

⁶⁰ Police involvement in trafficking is explored more extensively in Chapter VI.

⁶¹ Police and foreigners’ unit representatives conducted occasional raids to do document checks. These checks screened for foreigners working illegally in Bosnia and Herzegovina. Those who lacked documents or held fake documents could be arrested, fined, or jailed. In 2001, STOP teams began to monitor the raids and document checks.

permits in apartments or secret rooms.⁶² Lara staff members described a case of a woman hidden for hours in a freezing attic without food or water.

An experienced IPTF human rights officer who had interviewed dozens of trafficked women told Human Rights Watch:

The [trafficked women] do not trust the local police. Very often the local police visit the clubs. They see local police every day, and some use their sexual services sometimes for free because they have connections to the owners. So the women don't trust the local police. They are threatened by the owners, who tell them that this policeman is his protection or "roof." The girls see the police every day.⁶³

While the presence of IPTF officers on raids sometimes allowed women to request assistance, some IPTF officers also visited the nightclubs as clients.⁶⁴ In other cases, IPTF officers asked the women as a group if they were working voluntarily, rather than in private interviews. The women often were afraid to speak up in front of others who might leak the conversation to the bar owner.

Prosecutions of Victims

Trafficked women and girls faced the frightening possibility that they might be prosecuted for document fraud, prostitution, or illegal residence in Bosnia and Herzegovina. In a case in Sokolac in March 2001, women were prosecuted and imprisoned for thirty days after testifying against their traffickers. IPTF appeared completely incapable of preventing prosecution of these women.⁶⁵ Despite attempts by the Office of the High Representative⁶⁶ and UNMIBH to force the government to cease prosecutions of trafficked women, they continued in lesser numbers as late as September 2001. According to Celhia de Lavarene, director of the STOP, "the prosecutors don't want to talk about trafficking, they only want to talk about prostitution."⁶⁷ In order to prevent prosecutions of trafficking victims, de Lavarene reported, "I take the women away from the court and put them in shelters."⁶⁸

Escaping from the Nightclubs

Most of the women and girls who managed to escape did so by approaching IPTF officers or STOP team members during raids of their nightclubs and alerting them to their status as trafficking victims. Others fled the nightclubs and ran to IPTF stations or SFOR bases. In one case documented by Human Rights Watch, a twenty-two-year-old woman trafficked from Ukraine managed to contact her father by telephone, telling him that she had been placed in debt bondage. He alerted the Ukrainian police and Interpol began to search for the woman, sending faxes to UNMIBH and to the local Bosnian authorities. In March 1999, the local police, under the supervision of IPTF, raided the bar where she worked, freeing her and three others.⁶⁹

Returning Home

In the thirty-six cases examined by Human Rights Watch (all but one of the women trafficked into forced prostitution),⁷⁰ the women and girls said they wanted to return home. One also expressed fear that traffickers

⁶² Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

⁶³ Human Rights Watch interview, IPTF human rights officer [name withheld], Tuzla, March 24, 2001.

⁶⁴ See Chapter X, IPTF and Trafficking.

⁶⁵ See Chapter VII, Bosnian Government Response.

⁶⁶ The Office of the High Representative (OHR) is the chief civilian peace implementation agency in Bosnia and Herzegovina. The 1995 Dayton Peace Agreement designated the High Representative to oversee the implementation of the civilian aspects of the Peace Agreement on behalf of the international community, at <http://www.ohr.int/ohr-info/gen-info/> (retrieved November 11, 2002)

⁶⁷ Human Rights Watch telephone interview, Celhia de Lavarene, STOP director, March 14, 2002.

⁶⁸ Ibid.

⁶⁹ Human Rights Watch interview, B.B., Orasje, March 22, 1999.

⁷⁰ In one of the cases examined by Human Rights Watch, the trafficked woman refused to provide sexual services for clients. The traffickers forced her to work as a waitress in their restaurant and continued to try to force her into prostitution.

would be waiting for her there to demand additional monies. E.E., a trafficking victim from Moldova, told Human Rights Watch:

I am afraid that he [my friend's brother, the person who sold me] will come and demand money from me. The police are corrupt there. They'll say that I was a prostitute and then the police won't help. He'll find out that I am home and demand more money.... There is no phone in my village and I cannot call anyone.... If he comes to my house and threatens me, I don't have any money to call [someone to help me in Chisinau, the Moldovan capital].⁷¹

The women and girls accepted into the IOM voluntary repatriation program received plane tickets, escorts at transit airports, overnight shelter upon arrival at their country of origin, and train or bus tickets home. In addition, IOM provided U.S.\$150 in reintegration assistance, with U.S.\$50 given at the time of departure and the additional U.S.\$100 dispensed upon arrival back in the country of origin. Even with this very meager assistance, IOM staff claimed that only three of the women and girls assisted through the program had been re-trafficked.⁷²

⁷¹ Human Rights Watch interview, E.E., Sarajevo, April 10, 2001.

⁷² Dr. Lynellyn Long, chief of mission, IOM, public statement on trafficking into Bosnia and Herzegovina, Washington, D.C., December 10, 2001. "Re-trafficking" refers to the phenomenon of the return of a trafficking victim to conditions of forced labor or servitude after she has escaped her original traffickers. Traffickers recapture the trafficked person and force her to travel abroad again, relying on threats, coercion, or intimidation. Trafficking victims are often told that their debt has not been paid off and that they must return to the original country of destination or another country to clear the debt.

V. INTERNATIONAL AND DOMESTIC LEGAL PROTECTIONS AGAINST TRAFFICKING

International Law Protections

International law prohibits the trafficking of human beings and requires that states take measures to combat this grave human rights abuse. This chapter outlines the conventions and international instruments that Bosnia and Herzegovina has signed or ratified and must enforce.

The Trafficking Protocol

The government of Bosnia ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), which supplements the U.N. Convention Against Transnational Organized Crime, on April 24, 2002.⁷³ Article 3(a) of the Trafficking Protocol defines “trafficking in persons” as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”⁷⁴ It further defines “exploitation” to include, at a minimum, “the exploitation of the prostitution of others or other forms of sexual exploitation,⁷⁵ forced labor⁷⁶ or services, slavery⁷⁷ or practices similar to slavery,⁷⁸ servitude,⁷⁹ or the removal of organs.”

The Trafficking Protocol sets forth three goals: to prevent and combat trafficking in persons, especially women and children; to protect and assist victims of such trafficking, with full respect for their human rights; and to promote cooperation among states parties in order to meet those objectives.⁸⁰ Currently, the Bosnian government is failing to take appreciable steps toward meeting those goals.

Article 5 requires states to adopt legislative and other measures in order to criminalize the conduct set forth in the Protocol’s definition of trafficking. Although the Republika Srpska and the Federation have enacted some laws

⁷³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. res. 55/25, Annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001). The Trafficking Protocol has not yet entered into force. As of November 11, 2002, the Protocol had garnered 109 signatures and nineteen ratifications. The Trafficking Protocol will enter into force ninety days after it accumulates forty ratifications.

⁷⁴ Article 3(b) establishes that the consent of the victim is irrelevant where any means set forth in subparagraph (a) have been used. Article 3(c) directs that “recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve the means set forth in subparagraph (a).” A child is defined in subparagraph (d) as any person under eighteen years of age.

⁷⁵ The Trafficking Protocol does not require states to criminalize prostitution.

⁷⁶ Although not defined within the terms of the Trafficking Protocol, forced labor is prohibited by the International Covenant on Civil and Political Rights (ICCPR) and is defined by the International Labour Organization (ILO) Forced Labour Convention as “all work or service which is extracted from any person under menace of any penalty and for which the said person has not offered himself voluntarily.” Neither “menace” nor “voluntarily” is defined by the ILO Convention. ICCPR, Article 8(3); ILO Forced Labour Convention, No. 29, Article 2(1). Bosnia and Herzegovina ratified the ILO Convention No. 29 on June 2, 1993, and ratified the ICCPR (by succession) in 1993.

⁷⁷ Convention to Suppress the Slave Trade and Slavery, 60 U.N.T.S. 253, September 25, 1926, Article 1(1). The Convention defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” Bosnia and Herzegovina ratified the Slavery Convention by succession in 1993.

⁷⁸ Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, September 7, 1956, Article 1. In summary, the following four “institutions and practices” are proscribed by the Supplementary Convention: debt bondage, serfdom, delivery of a minor to another by her parent or guardian for exploitation of the child or her labor, and the promise, surrender, or transfer of a woman in marriage through payment of consideration to another or through inheritance. The Supplementary Slavery Convention entered into force in Bosnia and Herzegovina on September 1, 1993.

⁷⁹ Servitude is prohibited but not explicitly defined by international law. The history of the international law prohibition suggests that “servitude” is more expansive than “slavery” and not confined to the four “institutions and practices similar to slavery” proscribed by the Supplementary Slavery Convention.

⁸⁰ Article 2.

and interpreted others to criminalize trafficking, officials have made no real efforts to implement the laws. Until Bosnian authorities seriously enforce anti-trafficking laws, they are virtually meaningless.

Besides taking steps to prosecute traffickers, states party to the Trafficking Protocol must also protect the victims of trafficking. Article 6 encourages states to implement measures for physical, psychological, and social recovery of victims of trafficking. In particular, the Trafficking Protocol calls on states, “in appropriate cases,”⁸¹ to consider providing victims with housing; counseling and information; medical, psychological, and material assistance; as well as employment, educational, and training opportunities. Presently, the Bosnian government has done nothing to support victims of trafficking either physically or psychologically.⁸²

Article 6(6) requires states to ensure that a mechanism exists to permit women to seek redress against their traffickers for harm suffered; no such mechanism currently exists in Bosnia and Herzegovina.⁸³ The protocol calls upon states to permit trafficked persons, in appropriate cases, to be permitted to remain in the country in order to testify or for humanitarian reasons.⁸⁴ Bosnian authorities have continued to prosecute and deport trafficked women (although intervention by UNMIBH and the STOP units have greatly reduced such cases).

Standards Relevant to the Trafficking of Children: The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography defines the sale of children as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.”⁸⁵ Article 8(1) requires states to take appropriate measures to protect the rights of children in the criminal justice process by:

- (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
- (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
- (d) Providing appropriate support services to child victims throughout the legal process;
- (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
- (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witness on their behalf, from intimidation and retaliation;
- (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.⁸⁶

⁸¹ No indication is given within the Trafficking Protocol as to which cases would qualify as “appropriate” under this article.

⁸² In fact, in some cases, involvement and complicity by local authorities prevent trafficked women and girls from seeking even the most basic assistance. In December 2001, under pressure from partners within the Stability Pact for South Eastern Europe, the Council of Ministers of Bosnia and Herzegovina adopted a national plan of action to combat trafficking. It remained to be seen whether the document, developed by the Ministry of European Integration and the Ministry of Human Rights and Refugees, would be fully implemented.

⁸³ Article 6(6): “Each state party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”

⁸⁴ Article 7: “(1)...each state party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases. (2) In implementing the provision contained in paragraph 1 of this article, each state party shall give appropriate consideration to humanitarian and compassionate factors.”

⁸⁵ Article 2(a). The U.N. General Assembly adopted the protocol on May 25, 2000; it went into effect on January 18, 2002 (A/Res/54/263). To date the protocol has 105 signatures and forty-one ratifications. Bosnia and Herzegovina ratified the Optional Protocol on September 4, 2002.

⁸⁶Article 8(1), Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, U.N. Doc. A/54/L.84 at 5 (2000).

Convention on the Rights of the Child

Article 35 of the Convention on the Rights of the Child mandates that states parties take “all appropriate national, bilateral, and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form.”⁸⁷ In addition, Article 3(1) of the Convention provides that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”⁸⁸

The Convention requires protective measures for children including, as appropriate, effective procedures for the establishment of social programs to provide necessary support for the child and for those taking care of the child.⁸⁹ Finally, Article 34 mandates that states parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.⁹⁰

Other Relevant Standards for Combating Trafficking of Women and Girls

Bosnia and Herzegovina has failed to meet other international standards implicated by trafficking. Women’s right to equal enjoyment of human rights has been reaffirmed by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁹¹ The CEDAW Committee, which monitors implementation of the treaty, has stated that the prohibition against gender discrimination “includes gender-based violence—that is, violence which is directed against a woman because she is a woman or which affects women disproportionately. It includes acts which inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion or other deprivations of liberty.”⁹² It has also noted: “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and to provide compensation.”⁹³

To the extent that the failure to protect the human rights of trafficked women and girls in Bosnia and Herzegovina reflects discrimination on the basis of gender, race, nationality, or immigration status, it also amounts to a violation of the prohibition of discrimination in the protection of human rights, as established under the International Covenant on Civil and Political Rights (ICCPR).⁹⁴ The Human Rights Committee, the international treaty body responsible for monitoring states’ compliance with the ICCPR, has stated that human rights apply

⁸⁷ Bosnia and Herzegovina became a state party to the Convention on the Rights of the Child on March 6, 1992 by succession. U.N. General Assembly resolution A/Res/44/25, December 5, 1989.

⁸⁸ Other relevant articles include Article 11(1): “States Parties shall take measures to combat the illicit transfer and non-return of children abroad;” Article 19(1): “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the case of parent(s), legal guardian(s) or any other person who has the care of the child.”

⁸⁹ Article 19(2). This article also calls for other forms of “prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

⁹⁰ The convention states: “For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.”

⁹¹ CEDAW, Article 3: “States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.” Bosnia and Herzegovina ratified CEDAW on September 1, 1993.

⁹² Committee on the Elimination of Discrimination against Women, “Violence Against Women,” General Recommendation No. 19 (eleventh session, 1992), U.N. Document CEDAW/C/1992/L.1/Add.15.

⁹³ *Ibid.*

⁹⁴ ICCPR, Article 2(1): “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Bosnia and Herzegovina ratified the ICCPR on September 1, 1993.

regardless of nationality or statelessness, and that states have a responsibility to guarantee basic human rights equally for both citizens and aliens.⁹⁵

Moreover, under the ICCPR, the Bosnian government has an obligation to take the steps necessary to prevent all forms of debt bondage and forced or compulsory labor, and must provide remedies for the victims when violations occur.⁹⁶ As described above, after women and girls arrived in Bosnia and Herzegovina, they often had no control over the terms or conditions of their employment and found themselves trapped in debt bondage. The Bosnian government's refusal to make serious attempts to prevent such treatment contravenes commitments under international law to combat forced labor and debt bondage.

Domestic Legal Protections

The European Convention on Human Rights and Fundamental Freedoms and its protocols apply directly in Bosnia and Herzegovina under provisions of the 1995 Dayton Agreement⁹⁷ and the constitution of Bosnia and Herzegovina, which incorporates "general standards of international law." Similarly, the constitutions of Republika Srpska and the Federation contain explicit human rights guarantees for citizens and aliens residing in Bosnia and Herzegovina.⁹⁸

Each entity, the Federation and Republika Srpska, has a separate body of criminal law. Brecko District also adopted a separate criminal code and criminal procedure code that came into force in January 2001.⁹⁹ Republika Srpska amended its criminal code in October 2000, becoming the first of the entities to incorporate explicit provisions criminalizing trafficking in human beings.

The Federation: Criminal Law

Although the criminal law in the Federation does not explicitly forbid the trafficking of human beings, courts have read anti-trafficking content into existing law.¹⁰⁰ Most frequently, prosecutors use Article 228, procuring and pandering, and Article 229, mediation in (or promoting) prostitution, when prosecuting trafficking cases. These two provisions target "pimping" rather than trafficking and carry minimal penalties. The penalties—up to three years when the case involves adult women and up to ten years for juvenile females—are insufficient for the crime of trafficking. The government's reliance on two provisions of the criminal code limited to prostitution exposes a lack of understanding of the underlying crimes in trafficking cases.

⁹⁵ Human Rights Committee, General Comment 15, "The position of aliens under the Covenant" (Twenty-seventh session, 1986), in which the Committee explained: "In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness. Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof. This guarantee applies to aliens and citizens alike. Exceptionally, some of the rights recognized in the Covenant are expressly applicable only to citizens (art. 25), while article 13 applies only to aliens." U.N. Doc. HRI/GEN/1/Rev.1 at 18 (1994).

⁹⁶ Article 8 provides: "No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited," "No one shall be held in servitude," "No one shall be required to perform forced or compulsory labor."

⁹⁷ Bosnia and Herzegovina ratified the European Convention on July 12, 2002, providing jurisdiction over cases relating to Bosnia and Herzegovina to the European Court of Human Rights in Strasbourg. The European Court of Human Rights issues binding decisions. The Committee of Ministers supervises the execution of judgments. The secretary general of the Council of Europe may request parties to provide explanations as to how their domestic law ensures the effective implementation of the Convention. See <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm> (retrieved November 10, 2002).

⁹⁸ Article 44 of the Republika Srpska Constitution states, "Aliens shall have the human rights and freedoms set forth in the Constitution and other rights specified by law and international agreements." The RS Constitution includes a prohibition against forced labor. The Federation Constitution provides guarantees of human rights to "all persons," and includes, among others, the right to privacy, freedom of movement, and the right to social protection, health, nutrition, and shelter.

⁹⁹ Correspondence with Jasna Dzumhur, legal counsel, Office of the High Commissioner for Human Rights, Sarajevo, October 31, 2001.

¹⁰⁰ Translation of the Federation criminal code provided by American Bar Association Central and East European Law Initiative (ABA CEELI), Sarajevo.

Human Rights Watch research concluded that the abuses described by victims of trafficking in Bosnia and Herzegovina would support charges of slavery (Article 167), abduction (Article 184), duress (Article 185), unlawful deprivation of freedom (Article 187), rape (Article 221), forced sexual intercourse (Article 222), sexual intercourse with a juvenile (Article 224), sexual intercourse by abuse of position (Article 225), and forging documents (Article 351).¹⁰¹ Prosecutors usually ignore complaints of beatings and mistreatment at the hands of nightclub owners and guards and let pass opportunities to bring physical assault charges against them.¹⁰²

Traffickers and owners of nightclubs could also face charges for such crimes as tax evasion, bribing officials, fraud, and labor rights violations. Specifically, prosecutors could, but almost never do, rely on tax evasion statutes to prosecute owners of nightclubs for failing to report earnings under Article 272. Under Article 363, traffickers and nightclub owners who engage in bribing public officials with money, free sexual services, or any other inducement could face sentences of up to five years. Because the traffickers and nightclub owners often commit fraud by deceiving the women trafficked into Bosnia and Herzegovina for forced prostitution, it would also be possible to prosecute the perpetrators under Article 282 for acts of fraud committed in Bosnia and Herzegovina.

The traffickers and nightclub owners also frequently violate criminal code provisions relating to the protection of workers.¹⁰³ Under Article 207, “violation of rights emanating from the working relationship,” employers have a duty to protect the rights of workers. Any owner who “consciously disobeys regulations or general acts... on working hours, vacation or leave, protection of women... and thus denies a right the employee is entitled to,” can face fines or a jail sentence of up to one year.¹⁰⁴

Criminal Charges against Corrupt Officials

The Federation criminal code also includes a number of offenses that could be used to prosecute corrupt officials for abusing their authority, accepting bribes, and falsifying official documents. Under Article 358, abuse of office or official authority, an official who “fails to execute his/her official duty, and thereby acquires a benefit to himself or to another person...” can face a prison term of up to ten years under some circumstances. Similarly, an official accepting a bribe or a gift can face penalties of up to ten years of imprisonment. Government officials who falsify or accept patently false documents on behalf of traffickers could face prosecution under Article 368, forgery.

Confiscation of Assets and Compensation of Victims

Under the Federation criminal code, the government can confiscate assets “used or destined for use in the commission of a criminal offense” if owned by the perpetrator of that offense. In addition, under Article 112 of the criminal code, a victim who has brought a civil proceeding for compensation may demand that the property seized from the perpetrator be used to reimburse her as the victim.

Republika Srpska: Criminal Law

As is the case in the Federation, Republika Srpska’s criminal code, which entered into force in October 2000, provides many provisions that could be used to prosecute traffickers.¹⁰⁵ In the most recent revision of the criminal code, the Republika Srpska adopted an explicit prohibition on trafficking in persons for the purpose of prostitution. That provision, Article 188, contemplates criminal penalties of up to five years for perpetrators who traffic adult victims and up to twelve years for perpetrators who traffic child victims. The law also provides that it

¹⁰¹ See Mara Radovanovic and Angelika Kartusch, Lara and Ludwig Boltzmann Institute of Human Rights, “Report on the Combat of Trafficking in Women for the Purpose of Forced Prostitution in Bosnia and Herzegovina,” January 2001, pp. 21-22.

¹⁰² Depending upon the severity of the injuries, these charges could be brought under Article 177, Grievous Bodily Injury, or under Article 178, Light Bodily Injury. Article 177 carries a penalty of imprisonment between six months and five years; Article 178 carries a penalty of imprisonment not to exceed one year.

¹⁰³ Although prostitution is illegal in both entities, most of the women are legally employed as dancers.

¹⁰⁴ These prohibitions would most likely apply to the legal aspects of the women’s work in the nightclubs.

¹⁰⁵ Translation provided to Human Rights Watch by the United Women’s Association, Banja Luka, Republika Srpska.

is irrelevant whether or not the person has ever been a prostitute before.¹⁰⁶ Other laws available and relevant to the prosecution of traffickers include grievous bodily injury (Article 135), duress (Article 143), kidnapping (Article 144), unlawful deprivation of freedom (Article 145), abuse (Article 147), rape (Article 183), sexual violence against a helpless person (Article 184), sexual intercourse with a child (Article 185), and sexual intercourse by abuse of position (Article 186). In addition, prosecutors could bring charges for establishing slavery, for buying or selling a human being (Article 446).

As in the Federation, traffickers and owners of nightclubs in Republika Srpska could also face charges for such crimes as tax evasion, bribing officials, fraud, and labor rights violations. Employers committing business fraud, deceiving someone, or failing to fulfill obligations could face high fines and up to ten years in prison through enforcement of Article 254. And under Article 277, which criminalizes tax evasion and failure to pay other fees, employers might face fines and up to twelve years in prison. Under Article 216, “violation of the fundamental rights of employees,” employers could face up to a year in prison and fines for violation of a contract, illegal firing, and wage and hour violations.

Criminal Charges against Corrupt Officials

Article 341 of the Republika Srpska criminal code makes the acceptance of a bribe or any other gift a crime punishable by up to eight years of imprisonment, and Article 342 similarly criminalizes giving a bribe. Forging documents (Article 364) carries penalties of up to five years of imprisonment.

Confiscation of Assets and Compensation of Victims

The criminal code of Republika Srpska prohibits anyone from retaining material gain acquired through a criminal offense and allows appropriation by a court (Article 93). Article 94 sets out the guidelines for that appropriation, stating that material gain can be appropriated if the perpetrators of the criminal offense knew or might have known that material gain would result from the criminal offense. Finally, Article 95 provides for protection of the victim, including the award of property claims to the victim.

Brcko Criminal Code

The Brcko District, territory previously disputed by the Federation and Republika Srpska, enjoys a special status within Bosnia and Herzegovina.¹⁰⁷ In January 2001, Brcko brought a new criminal code and criminal procedure code into force. The laws relevant to trafficking prosecutions include rape (Article 206), forced sexual intercourse (Article 207), sexual abuse of a juvenile (Article 209), sexual intercourse through abuse of official position (Article 210), pandering (Article 211), mediation in performing prostitution (Article 212), and slavery (Article 161). As in the Federation and Republika Srpska, the state can confiscate property gained through criminal activities.

VI. LOCAL POLICE INVOLVEMENT IN TRAFFICKING

Direct Links to Trafficking of Women and Girls

Trafficking in persons flourishes in conditions of state complicity and with the involvement of state officials. Human Rights Watch uncovered evidence of such corruption among local police in Bosnia and Herzegovina. Some police officers accepted money or free sexual services from traffickers and bar/brothel owners in exchange for protection. As noted above, others gave bar/brothel owners tip-offs before raids, allowing the owners to hide

¹⁰⁶ Article 188, Trafficking in Persons for the Purpose of Prostitution.

¹⁰⁷ By the Brcko Arbitration Award of March 5, 1999, the district is technically a “condominium” of both entities, but has its own separate administration and effectively looks to the Office of the High Representative for legal authority and governance.

under-age girls and women without documents. A small number of police officers participated in trafficking directly as owners or staff of bars and brothels. Finally, some trafficking victims alleged that officials in the foreigners' departments in some police stations engaged in document fraud, facilitating trafficking. Testimony provided to Human Rights Watch by UNMIBH and NGOs indicated that local police officers who engaged in trafficking-related crimes rarely faced disciplinary or criminal charges.

Police As Bar/Brothel Owners and Traffickers

Human Rights Watch investigated six cases, initially reported by NGOs and the IPTF, in which individual police officers directly participated in trafficking, either as owners of bars and nightclubs or as purchasers of women. Direct police involvement came to light through the testimony of trafficking victims who escaped from brothels. In a criminal case in Dobož, a Ukrainian trafficking victim testified that she and a friend were purchased in November 1998 by two men, one of whom was a police officer. The police officer and his colleague drove the women to a bar called "Silent Night," gave them condoms, and assigned them to rooms "especially designated for sex."¹⁰⁸ Forced to dance in lingerie (which she was also forced to pay for), the woman testified that she had sex with four clients each night.¹⁰⁹

An IPTF officer in Brčko told Human Rights Watch of an investigation in 1999 into police involvement in the purchase of two Romanian women. The local football (soccer) club, which boasted several police officers as members, owned the nightclub into which the women were trafficked.¹¹⁰ In that case, the chief of police arranged for a raid of the premises and launched an investigation.¹¹¹

In one of the rare cases in which an official faced criminal charges for trafficking, a Banja Luka police officer, Goran Vasilic, in 2001 received a sentence of one year and three months for transporting women across international borders for the purpose of forcing them into prostitution, in violation of Article 188 of the RS criminal code.¹¹²

Police As Employees of Establishments Holding Trafficked Women and Girls

According to IPTF officers, internal IPTF documents, and NGO sources, local police sometimes moonlighted as employees of establishments holding trafficked women and girls. These officers guarded the women and girls, occasionally facilitated financial transactions, and made escape by the women all but impossible. An investigation into a brothel in Dobož in 1999, supervised by IPTF, revealed that one local police officer was

¹⁰⁸ Testimony of S.K., Republika Srpska, Ministry of the Interior, Center for Public Safety, Dobož, Case number 12-02/1/451/98, June 6, 1998, on file with Human Rights Watch.

¹⁰⁹ Ibid.

¹¹⁰ Human Rights Watch interview, Juhe Roine, IPTF HRO, Brčko, March 21, 1999. According to Roine, "There were two Romanian girls held in one place. The local police visited that place. It was owned by the local football [soccer] club. The head of the football club decided to get two girls and make some more money. The local police are members of the football club. The girls came here to the [IPTF] station and said that they were held against their will. They were told that they had to pay back 1,200 Deutschmarks [€615/U.S.\$555] each."

¹¹¹ Human Rights Watch interview, Juhe Roine, IPTF HRO, Brčko, March 21, 1999. The IPTF could not house or care for the two Romanian trafficking victims, so the IPTF monitors chipped in personal funds to send the two women home by bus. As a result, one monitor noted, "Now the case is weak because there are no witnesses. The authorities are not well-prepared to handle this." Under the criminal procedure code, courts could not directly admit testimony provided to police. Without the trafficking victims' presence at the trial, the case would lack testimony from complaining witnesses.

¹¹² Human Rights Watch telephone interview, Satya Tripathi, deputy chief of human rights, UNMIBH, Sarajevo, December 18, 2001.

working there as a waiter.¹¹³ In another case, a victim of trafficking told IPTF human rights investigators that a policeman served as bartender in the brothel in Vukovijc where she was forced to work.¹¹⁴

Police Complicity and Corruption: Bribes and Freebies

Local uniformed police officers accepted bribes or free sexual services in exchange for protecting—or just overlooking the illegality of—brothels. An internal affairs investigator with experience investigating local police involvement in trafficking told Human Rights Watch:

The deputy chief and chief of police [of Bijeljina] get payoffs and girls whenever they want and for as long as they want. The chief of uniformed police knows about this and is also involved. He appoints the patrols—where to go and what to see. There are eighteen local police fingered by photos shown to thirteen girls who are victims of trafficking. This is just from two clubs. This was [in February 2001].¹¹⁵

Celhia de Lavarene, director of the STOP, alerted Human Rights Watch to a similar case in Kiseljak: “The chief of police gives tip-offs to the owners in exchange for free sex. We interviewed a lot of women and they told us that the chief of police goes to the bars and warns the owners.”¹¹⁶ In the same canton, de Lavarene found evidence that twenty-five police officers had some involvement in trafficking, with some receiving freebies or bribes.¹¹⁷ In one 2002 case, a police officer serving as the local STOP team leader received free sexual services in exchange for information on possible raids.¹¹⁸

To trafficked women and girls, the presence of police as clients and “friends” of the owners ensured that they could not turn to the authorities for help. An expert from IOM told Human Rights Watch:

The local police is one of the main user groups—we proved that through interviews [with the trafficking victims]. There are close connections to the bar owners and the traffickers. The women have nowhere to turn, and the police are the main user group. So who can they turn to?... The local police don’t pay, but they look away. This is very serious. I don’t know of a single case of a police officer who was tried.¹¹⁹

The women and girls in the clubs realized that the police received money as well. A trafficking victim, E.E., from Moldova told Human Rights Watch, “He [the owner of the brothel] paid the police. [The owners] can deport us, and they can sell us. I did not think that the police could help.... [The owner] paid 3,700 Deutschmarks (€1,897/U.S.\$1,712) for me. I paid the whole debt, and he paid the police.”¹²⁰

¹¹³ Human Rights Watch interview, Robert Granbeck, IPTF officer, Dobo, March 17, 1999. The women engaged in prostitution in the club had been trafficked and were held in debt bondage in the club, according to John Fitzgerald, a former IPTF officer who interviewed the women. Two of the women did not have their passports. Human Rights Watch telephone interview, John Fitzgerald, December 14, 2001. The police officer was also alleged to have been a co-owner of the brothel. See this chapter, section on IPTF monitoring.

¹¹⁴ Ministry of Interior of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Tuzla Canton, Crime Investigative Department, Narcotics Division, “Information” [internal report], No. 08-01/2-4, August 5, 2000.

¹¹⁵ Human Rights Watch interview, IPTF internal affairs investigator [name withheld], Tuzla, March 22, 2001.

¹¹⁶ Human Rights Watch telephone interview, Celhia de Lavarene, STOP director, Sarajevo, March 14, 2002.

¹¹⁷ Human Rights Watch telephone interview, Celhia de Lavarene, Sarajevo, September 30, 2002. De Lavarene told Human Rights Watch that six of the officers would be “de-authorized,” or have their authorizations to work as police officers revoked by UNMIBH and forbidden to serve in law enforcement.

¹¹⁸ Ibid. According to an official UNMIBH statement, the officer also sexually abused a number of women in the clubs between January and May 2002, physically assaulting one woman. The officer was criminally charged and spent one month in prison. UNMIBH press conference transcript, Sarajevo, October 17, 2002, at <http://www.nato.int/sfor/trans/2002/t021017a.htm> (retrieved October 18, 2002).

¹¹⁹ Human Rights Watch telephone interview, IOM official [name withheld], Sarajevo, July 3, 2001.

¹²⁰ Human Rights Watch interview, E.E., Sarajevo, April 10, 2001. The women generally know what the traffickers paid to purchase them because this amount of money becomes the women’s debt that they must pay off before regaining their freedom.

Testimony from women trafficked into Prijedor also raised allegations of police officers' complicity. According to seven of the trafficked women released in raids in Prijedor in November 2000¹²¹—whose verbatim testimony Human Rights Watch obtained—police officers and inspectors, both in and out of uniform, visited the clubs frequently for free sexual services. Some of the women recognized the inspectors from their visits to the police station to acquire visas and work permits in Bosnia and Herzegovina. As one trafficked woman told IPTF investigators, “Inspector Mirko was also a regular customer, and I had to serve him for free because my patron Milka ordered me [to do] so.”¹²² Another trafficked woman, aged eighteen, told investigators, “I have slept with a policeman whose name I don’t know, but he was a close friend with Milka [the owner] and he wasn’t from Prijedor.... I saw him when I went for my visa.”¹²³

One trafficking victim in a separate case testified that she was forced to have sex with a police officer. The IPTF officer who handled the case told Human Rights Watch:

Sometimes their clients are also local police officers.... Three days ago [March 18, 2001], we handled a complaint of a police officer who raped a woman. At the court hearing she claimed that she was a virgin and was sold to the police officer [from] the Banja Luka station.... The owner of the nightclub [held her for] ten days, and then she was forced to give sexual services to a police officer.¹²⁴

Occasionally, local police found themselves swept up in raids by other precincts. One IPTF officer in Sarajevo told Human Rights Watch, “We caught local police in the last raid at the Como [in March 2001]. They were waiting for the owner because they get it [sex] for free. The owner had a book with a list of whom he gave free sex to....”¹²⁵ The local police initiated disciplinary proceedings against the police officers caught in the raid.¹²⁶

In some cases, police simply colluded with nightclub owners. One senior IPTF official described events the night of the nationwide “Operation Makro” (the Bosnian word for “pimp”) that consisted of raids on clubs carried out by the Bosnian government in March 2001:

What a mess it was. We were supposed to be briefed at 10 p.m., and the briefing was postponed until midnight. It was a ragtag group of street police officers... I got to the police station [after the raids]. The bar owners and employees stood in the hall talking to the local police. I said to the chief of the criminal investigation division that the women could not feel safe with the owners and employees socializing with the local police in the hall. The women had to walk through them in the hall. There was a lack of awareness and a lack of security. The women were completely unprotected.¹²⁷

Police Visitors to the Nightclubs

Prostitution is illegal in both Republika Srpska and the Federation. When police engaged even in paid sexual services, trafficking victims realized that their “owners” could operate with impunity. Local police officials told Human Rights Watch that officers were forbidden to enter the nightclubs. Safet Huseinovic, the chief of police in Zivinice, told investigators:

¹²¹ See also Chapter X, IPTF and Trafficking.

¹²² Official transcript, testimony to IPTF, Prijedor # 4, November 22, 2000.

¹²³ Official transcript, testimony to IPTF, Prijedor #5, November 22, 2000.

¹²⁴ Human Rights Watch interview, IPTF human rights officer [name withheld], Bijeljina, March 21, 2001.

¹²⁵ Human Rights Watch interview, IPTF human rights officer [name withheld], Sarajevo, April 8, 2001.

¹²⁶ Human Rights Watch is not aware of the outcome of this case although the investigation of the officers was ongoing fully nine months after the raid. Generally, when investigations did move forward, they proceeded extremely slowly. UNMIBH has authority to withdraw the authorization for police officers (“de-authorize”) for professional misconduct or human rights violations. Human Rights Watch telephone interview, Satya Tripathi, deputy chief of human rights, UNMIBH, Zurich, December 21, 2001.

¹²⁷ The group picked up in the raid, mostly Romanian women and girls in their late teens, spent the night at an SFOR base and then gave testimony against the owners before investigative judges in Banja Luka. All qualified for repatriation assistance under the IOM program. Human Rights Watch interview, Janet Bailey, deputy commander, IPTF/Banja Luka, Sarajevo, April 10, 2001.

Our police cannot enter “Nimfa” [a nightclub under investigation for trafficking], especially not in uniform. In order to collect information, we engage informers, or we do surveillance. For me, as the chief of police, the biggest sin is to go to the bar in uniform. They cannot go to “Nimfa” and such places. It is happening, and it is terrible. These are unforgivable errors. The police have a special role in society.¹²⁸

Despite internal prohibitions, uniformed police were commonly seen at bars and nightclubs, drinking and meeting with owners. In October 2002, the UNMIBH spokeswoman, Kirsten Haupt, announced that UNMIBH had found that eleven local police officers—including a STOP team leader—had used sexual services in the nightclubs.¹²⁹ An IPTF officer in Livno reported seeing more than twenty local police officers in uniform in the bars,¹³⁰ and other IPTF officers had similar accounts. The officers’ mere presence made it nearly impossible for trafficked women in the bars to appeal to the local police for assistance. An IPTF regional human rights officer told Human Rights Watch, “I went on a nightclub inspection... when an off duty officer was on the premises...The police go and have drinks there—they are not supposed to be there in uniform, and the girls don’t know what is an official visit and what is not official.”¹³¹

A trafficking victim from Romania informed IPTF that she “recognized a local police officer, who works at Banja Luka Local Police Station #2, as a customer at the nightclub and that he had taken a girl to a room for sex.”¹³² In another case, a Romanian trafficking victim turned over photos of a local traffic officer in uniform in the bar “Hooters” posing with a sex worker from the bar.¹³³

One woman, trafficked from Ukraine, reported that police held a party at “Silent Night,” the club where she was forced to provide sexual services to clients. According to sworn testimony she gave in a criminal case in Doboj in 1998:

About a month ago, a lot of policemen came to the bar to celebrate the birth of a baby girl to one of the policemen. Since that man had already spent all of his money, Djordje [the owner and also a police officer] paid for him to have sex with J.K. [a woman trafficked into Republika Srpska] for half an hour.¹³⁴

¹²⁸ Human Rights Watch interview, Safet Huseinovic, chief of police, Zivinice, April 2, 2001. Huseinovic volunteered this information after Human Rights Watch investigators informed him that they had observed a uniformed police officer at the club “Nimfa” two days earlier.

¹²⁹ UNMIBH press conference transcript, Sarajevo, October 17, 2002, at <http://www.nato.int/sfor/trans/2002/t021017a.htm> (retrieved October 18, 2002).

¹³⁰ Human Rights Watch interview, S.B. Singh, IPTF human rights officer, Livno, March 19, 1999.

¹³¹ Human Rights Watch interview, Tom McAndrew, IPTF officer, Banja Luka Regional HQ, March 29, 2001. When IPTF discovers information that local police officers have engaged in human rights abuses, they may file non-compliance reports, documenting serious lapses of duty or violations of the law. Local officers with more than one non-compliance report are automatically considered for “de-authorization.” By October 2002, UNMIBH had withdrawn the authorization of twenty-six local police officers for professional conduct directly relating to trafficking, and issued non-compliance reports relating to trafficking for an additional ten officers. The officers’ alleged offenses included using the sexual services of women and girls in the nightclubs while off duty, in uniform; trafficking of women; issuing temporary residence permits for undocumented migrants; forced sexual intercourse with a trafficked woman; ownership of a nightclub; facilitating prostitution; warning owners of upcoming raids; selling forged visas; and buying and selling trafficked women. The removal of provisional authorization or “de-authorization” procedure disqualified those officers from participation in any aspect of police work. Human Rights Watch telephone interview, high-level official [name withheld], UNMIBH, Sarajevo, October 30, 2002.

¹³² Incident Report #01/BLS/066, “Banja Luka (PSC): Internal Investigation.”

¹³³ Ministry of Interior of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Tuzla Canton, Crime Investigative Department, Narcotics Division, “Information” [internal report], No. 08-01/2-4, August 5, 2000.

¹³⁴ Testimony of S.K., Republika Srpska, Ministry of the Interior, Center for Public Safety, Doboj, Case number 12-02/1/451/98, June 6, 1998, on file with Human Rights Watch.

Tip-offs about Raids

Trafficked women told Human Rights Watch that owners knew exactly when local police raids would take place,¹³⁵ confirming reports from the anti-trafficking NGO Lara and IPTF investigators. Tip-offs allowed the owners to hide trafficked under-age girls as well as trafficked women for whom they had not procured false documents. In one case in Tuzla in June 2000, nightclub owners arranged to close the bars two hours before the raid was due to begin. An official IPTF report concluded, “It was clear that although few people knew, someone had leaked. [Later] one prostitute identified LP [a local police officer] in a line-up.”¹³⁶

Mara Radovanovic, the director of Lara, described a February 2001 case in which five young women fled by taxi from a nightclub to the SFOR base at Ugljevik when their “owner” was out of town. Lara took the women into their temporary shelter and asked them why they had gone to the SFOR base and not to the police. The women told Lara that the nightclub owner received warning of all raids and distributed passports to the women prior to the arrival of police. Those without passports, he hid in the attic. The women believed they could not trust the police.¹³⁷

In some regions, local police themselves acknowledged that tip-offs occurred. An August 2000 internal local police report from Tuzla canton obtained by Human Rights Watch noted that leaks from the Ministry of Interior [the police ministry] forced the police narcotics department to postpone raids planned for June 22, 2000. An internal police investigation uncovered evidence that “some members of SFOR and... members of this Ministry have compromised themselves for nightclub owners or for pimps [by tipping them off about the raid].”¹³⁸

In a case outlined in the same internal local police document, a Moldovan trafficking victim recognized a police officer who often frequented the nightclub “Harley Davidson” in Gornje Dubrave. According to the internal report, the police officer forced the women to dance naked and had informed the unofficial owner of the club “Atlantis” on one occasion that the police were planning a raid on his club.¹³⁹

Involvement by Police Foreigners’ Departments

The foreigners’ department is the police unit responsible for issuing work and residency permits. Police in the Doboj foreigners’ department showed Human Rights Watch researchers boxes—each one labeled with the name of a nightclub—storing passports for women and girls from the former Soviet Union and Eastern European countries awaiting residence and work permit approval. Vitomir Bradasevic, head of the Doboj foreigners’ unit, told Human Rights Watch that in all, 150 foreign women had received permits to work in twenty-three registered nightclubs in Doboj.¹⁴⁰

Until recently, owners received permits simply by taking passports to the police station for registration. In March 2001, IPTF officers in Prijedor and Banja Luka initiated a supervised interview process in an effort to identify trafficking victims.¹⁴¹ Accordingly, IPTF arranged to conduct individual interviews (using interpreters) with women requesting work permits, who must now appear in person for a meeting with the local police foreigners’ unit. Based upon the interview, IPTF officers then determined whether the woman’s application to work in

¹³⁵ Because IPTF human rights officers, and now members of the STOP teams, supervise the raids, owners need the warning in order to hide women without documents. IPTF or STOP questions those women found in the raid, providing an opportunity for women and girls to identify themselves as trafficked.

¹³⁶ IPTF Incident Report, 00TUZ97, June 12, 2000. Although not explicitly stated in the report, the implication is that she recognized the officer as a client of or visitor to the brothel.

¹³⁷ Human Rights Watch interview, Mara Radovanovic, director of Lara, Bijeljina, March 22, 2001.

¹³⁸ Ministry of Interior of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Tuzla Canton, Crime Investigative Department, Narcotics Division, “Information” [internal report], No. 08-01/2-4, August 5, 2000.

¹³⁹ Ibid.

¹⁴⁰ Human Rights Watch interview, Vitomir Bradasevic, chief of foreigners’ department, Doboj, March 28, 2001. The vast majority of the women (89) came from Romania; the others from Russia (7), Moldova (37), and Ukraine (17).

¹⁴¹ As of July 26, 2001, this screening program was extended to all foreigners’ departments throughout the country. See Transcript, Joint Press Conference, Comments of Satya Tripathi, UNMIBH human rights office, July 26, 2001.

Bosnia and Herzegovina was truly voluntary. In one case, a woman broke down and wept during the interview and alerted IPTF monitors that she had been trafficked.¹⁴²

Reviewing the period between March 1999 and March 2000, a published UNMIBH report on trafficking criticized local police stations throughout Bosnia and Herzegovina for issuing work permits to nightclub owners for “dancers” and “waitresses” in a country where unemployment soared over 40 percent. Calling this “an obvious ruse of which the police cannot be ignorant,” the report also noted that the “dearth of reported cases of trafficking in certain areas of the country with porous borders and known to be under the control of organized crime suggests widespread complicity by the authorities in those regions.”¹⁴³ A report issued to the U.S. Congress by the United Nations in April 2002 singled out the Bijeljina foreigners’ department as particularly corrupt. The document stated, “The High Representative’s Office found evidence that the Bijeljina Ministry of Interior Department of Foreigners is systematically facilitating trafficking.”¹⁴⁴

The power to register foreigners created opportunities for multiple abuses, such as bribery. In mid-2001, the commissioner of the IPTF ordered the de-authorization of the chief of the public security center in Bijeljina for serious violations of law including “issuing residency and work permits to trafficked women... and suspicion of partaking in organized crime in trafficking into Bosnia and Herzegovina.”¹⁴⁵ The chief of the crime unit in Bijeljina resigned his position before the commissioner could de-authorize him.¹⁴⁶ The commissioner also de-authorized an officer in Srebrenik for facilitation of trafficking.¹⁴⁷

Fake and Forged Documents

NGO activists, prosecutors, and IPTF monitors expressed disgust and frustration at the document forgeries that routinely passed muster in the foreigners’ units. According to Lara’s Mara Radovanovic, police officers missed glaring examples of fraud in the cases of two trafficked women who received shelter from Lara:

Some women have been working for several months. The police give three month working permits, and every three months they go to the police for renewal of permits. Two sisters worked there. The boss made false documents for all Romanian and Moldovan women, and the boss told the police that these two women were sisters. But one had a Romanian passport, the other a Moldovan passport. The police knew that the documents were false.¹⁴⁸

IPTF officers expressed similar criticism: “The passports are fake. These guys in the foreigners’ office must be blind. A ten-year-old could tell that these passports are fake.”¹⁴⁹ A prosecutor in Zivinice handed a Human Rights Watch investigator a passport in March 2001. Forgers had removed the original picture from the

¹⁴² The woman, a Romanian, was accepted into the IOM program and repatriated via Sarajevo. Human Rights Watch interview, Tom McAndrew, IPTF human rights officer, Banja Luka, March 29, 2001. According to a report jointly issued by UNICEF, UNHCHR, and OSCE/ODIHR, bar owners have ceased requesting work permits for foreign citizens due to increased police raids on premises with registered foreign workers. UNICEF, UNHCHR, OSCE/ODIHR, “Trafficking in Human Beings in Southeastern Europe,” June 2002, p. 64.

¹⁴³ U.N. Mission in Bosnia and Herzegovina Legal and Human Rights office and U.N. Office of the High Commissioner for Human Rights in BiH, “Report on Joint Trafficking Project,” May 2000, p. 7, on file with Human Rights Watch. Because of a “lack of clarity” in the work permits law, the Republika Srpska Ministry of Labor ceased issuing or renewing work permits in August 2001. Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, December 12, 2001.

¹⁴⁴ “UNMIBH Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002. The UNMIBH initiated an internal investigation into the involvement of Bijeljina police officials.

¹⁴⁵ Human Rights Watch telephone interview, Satya Tripathi, deputy chief of human rights, UNMIBH, Zurich, December 21, 2001. As of that date, this was one of only two de-authorizations for trafficking-related offenses. By October 2002, UNMIBH had de-authorized a total of twenty-six officers for trafficking-related infractions.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid. The officer had his authorization to work as a police officer revoked by UNMIBH.

¹⁴⁸ Human Rights Watch interview, Mara Radovanovic, director of Lara, Bijeljina, March 22, 2001.

¹⁴⁹ Human Rights Watch interview, IPTF officer [name withheld], Prijedor, March 28, 2001.

document, slicing under the lamination, and replaced it with a new photograph. The prosecutor told Human Rights Watch:

We have testimony of the girl in the passport. According to her testimony, she was kidnapped in Moldova and taken to [the nightclub] ‘Las Vegas.’... The [owner] put [the Moldovan trafficking victim’s] picture in the passport of a girl who was not there during the raid. [The owner] took this fake passport to register [name withheld] with the police, and the police officer did not notice that it was a fake. It’s easy to notice. It’s strange that he didn’t notice.¹⁵⁰

In other cases, police pretended not to recognize obviously fake documents or assisted directly in the creation of fraudulent documents. An UNMIBH official who interviewed dozens of trafficking victims told Human Rights Watch,

I am trying to get two foreigners’ department officers fired. They were from PSC [public security center] Prijedor. A seventeen-year-old from Romania had 500 clients, was beaten and maltreated.... I met the girl again, [and she refused to speak to the local police inspector. She told us that] the inspector [went] to the brothel and stamped the passports with the inspectors from the foreigners’ department who used the girls for free.¹⁵¹

IPTF and Monitoring the Local Police

In theory, IPTF monitors supervised internal investigations by local police and ensured that corrupt and complicit officers faced disciplinary, and even criminal, proceedings.¹⁵² In reality, however, IPTF monitors had minimal impact on internal local police investigations. High turnover among IPTF monitors, combined with the desire to close cases and maintain good relations with local police, stymied supervision of investigations and often precluded follow up on existing cases.¹⁵³

Pressing local police to investigate their own personnel often met resistance. One IPTF monitor told Human Rights Watch, “In one concrete case the local police were involved in getting false documentation. The girls will say ‘he’s a friend of the owner,’ but it’s all very vague. There is a lack of will to investigate on the part of the local police.”¹⁵⁴

Local police exploited IPTF officers’ short tenure in country by delaying punitive action against fellow officers. Once an IPTF officer went home or was transferred, disciplinary cases often died. For example, in the case already cited above of a local police officer in Dobož found to have worked as a waiter in a brothel employing trafficked women, the officer, Djordjo Paljic (who was also alleged to have co-owned the establishment),¹⁵⁵ was temporarily suspended on August 7, 1998 after an internal investigation. But according to an IPTF human rights monitor in the Dobož station, “For us the local police investigation was a dead end.... The investigation did establish that one Dobož local police officer was working as a waiter at the brothel.... This letter [requesting information on the disciplinary proceedings against Paljic] in February [1999] was the last effort before the [IPTF] officer who was investigating this left.”¹⁵⁶

¹⁵⁰ Human Rights Watch interview, prosecutor, Zivinice, April 6, 2001.

¹⁵¹ Human Rights Watch interview, UNMIBH official [name withheld], Sarajevo, April 9, 2001.

¹⁵² Security Council Resolution 1088, December 1996.

¹⁵³ IPTF also occasionally failed to prevent prosecution of the victims of trafficking. See Chapter VII, Bosnian Government Response, section on prosecution and deportation of trafficking victims.

¹⁵⁴ Human Rights Watch interview, Maxwell Woodford, IPTF gender officer, Sarajevo, March 20, 2001.

¹⁵⁵ Human Rights Watch telephone interview, David Rudderham, former IPTF officer, February 21, 2002. These allegations came to light when the women identified the police officer from photographs presented to them by IPTF investigators. In addition, an American IPTF officer serving in Livno admitted during the investigation that he had paid this waiter/police officer for sexual services in the club. IPTF investigators located the American IPTF officer after the women produced photos of themselves posing with him.

¹⁵⁶ Human Rights Watch interview, Robert Granbeck, IPTF officer, Dobož, March 17, 1999.

According to David Rudderham, an IPTF human rights officer who worked on the case, and who spoke to Human Rights Watch in February 2002, “It should have gone to the prosecutor, but it didn’t go any farther at all.”¹⁵⁷

UNMIBH officials did report the occasional success in establishing accountability for local police: “In Breko [in 1998] we knew of falsified passports, and we were going after the Bosniacs [Bosnian Muslims] at the bridge who were stamping across the border. High-level Bosniacs were involved up the line, and bribes were paid at the border. A police officer was covering up for this. The deputy chief of police and four to eight other police were removed.”¹⁵⁸ The perpetrators who had bribed the border officials then trafficked the women into nightclubs in the area. By October 2002, UNMIBH had de-authorized twenty-six local police officers as a result of investigations into allegations related to trafficking, including one STOP team leader.¹⁵⁹ In August 2002, under pressure from UNMIBH, the Bosnian Interior Ministry placed twenty-five police officers under investigation for suspected involvement in trafficking.¹⁶⁰

¹⁵⁷ Human Rights Watch telephone interview, David Rudderham, IPTF human rights officer, February 21, 2002. Rudderham did manage to have the head of the foreigners’ office removed from his post for “conspiring with the brothel owners” to procure permits for trafficked women. But, Rudderham noted, the man did not lose his post as a senior police officer, receiving a transfer to another department instead.

¹⁵⁸ Human Rights Watch telephone interview, former UNMIBH official, June 14, 2001.

¹⁵⁹ UNMIBH, “Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002; Human Rights Watch telephone interview, UNMIBH official [name withheld], Sarajevo, October 30, 2002; and UNMIBH press conference transcript, Sarajevo, October 17, 2002, at <http://www.nato.int/sfor/trans/2002/t021017a.htm> (retrieved October 18, 2002).

¹⁶⁰ U.N. news center report, “Twenty-five Bosnian police officers under investigation for prostitution, U.N. mission says,” August 29, 2002.

VII. THE BOSNIAN GOVERNMENT RESPONSE

A lack of political will, state incompetence, and outright corruption coalesced in Bosnia and Herzegovina, allowing traffickers to violate the law with impunity. The Bosnian authorities have largely failed to criminally prosecute traffickers, failed to discipline or prosecute corrupt police officers, and not infrequently prosecuted the victims of trafficking. The government has failed to make it possible for witnesses to remain in Bosnia to testify. Without shelter, government protection, legal sources of income, or witness protection, women and girls opted quickly to return home. In December 2001, at the urging of partners in the Stability Pact for South Eastern Europe, the Council of Ministers of Bosnia and Herzegovina adopted a national plan of action to fight trafficking.¹⁶¹ But implementation has lagged behind the rhetoric.

In the rare cases in which traffickers faced prosecution, the charges almost never reflected the severity of the crimes. In spite of the fact that the criminal code includes the sale of human beings, rape, physical assault, kidnapping, slavery, and labor violations, traffickers rarely faced charges beyond promoting prostitution, procuring persons for the purposes of prostitution, pandering, or less commonly, false imprisonment.

A 2000 UNMIBH report criticized the Bosnian government's overall response to trafficking in human beings as ineffective at best, concluding, "obstruction, obfuscation and simple passivity permeate the law enforcement and police apparatus of the state at every level."¹⁶² A report submitted to the U.S. Congress by the United Nations in April 2002 stated, "Local police failed to ensure the safety of trafficked victims, frequently returning women who escaped from their captors to the nightclubs... arrest[ing] trafficked women for prostitution or failure to have proper documentation... [and subjecting] trafficked victims to legal proceedings without basic legal rights such as the presence of lawyers or interpreters."¹⁶³ Celhia de Lavarene of the STOP put it even more bluntly: "The prosecutors and judges are on the side of the traffickers and not willing to convict them. It's a farce."¹⁶⁴

Throughout the Human Rights Watch investigation in Bosnia and Herzegovina, police blamed the courts for the failure to crack down on trafficking. The courts, for their part, blamed police for registering "dancers" to work in the bars and nightclubs. The chief of police in Zivinice told Human Rights Watch, "So it's getting harder and harder to fight this. It would help if the courts were faster. We only have one guy close to being sentenced... If we had an efficient court system and if people faced sanctions, others would think again before going into this business."¹⁶⁵

All parties—the police, the courts, the prosecutors—blamed the women and girls for leaving the country before testifying or for refusing to testify. A judge in Bijeljina explained that a prostitution/trafficking case could not move forward because the victim had left the country. He told Human Rights Watch that the prosecution was stymied, "...since the victim is from another country, and this is always our problem. If someone does not want to come [to testify], we can't do anything."¹⁶⁶

¹⁶¹ Those who reviewed the national plan of action gave the strategy high praise but criticized the lack of political will. Celhia de Lavarene, director of STOP, told Human Rights Watch, "The national plan of action is very good on paper, but there is no money. As long as there is no political will to do something, how can they implement the plan? They have nothing, no means, no shelter; they didn't even have an office until a few months ago." Human Rights Watch telephone interview, March 14, 2002. As of September 2002, the Bosnian government still had not implemented the plan. Human Rights Watch telephone interview, de Lavarene, Sarajevo. September 30, 2002.

¹⁶² U.N. Mission in Bosnia and Herzegovina Legal and Human Rights Office and U.N. Office of the High Commissioner for Human Rights in BiH, "Report on Joint Trafficking Project," May 2000, p. 17, on file with Human Rights Watch.

¹⁶³ "United Nations Mission in Bosnia and Herzegovina Background Paper on Efforts against Human Trafficking," submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002.

¹⁶⁴ Human Rights Watch telephone interview, Celhia de Lavarene, director of STOP, Sarajevo, March 14, 2002.

¹⁶⁵ Human Rights Watch interview, Safet Huseinovic, chief of police, Zivinice, March 27, 2001.

¹⁶⁶ Human Rights Watch interview, Judge Prunic, Bijeljina, March 27, 2001.

Failure to Prosecute Traffickers

The record on prosecutions reflected continuing failure to prosecute traffickers. UNMIBH reported that of sixty-three trafficking cases in 2000, only three were successfully prosecuted; all the defendants were tried on charges related to prostitution, not trafficking.¹⁶⁷ In 2001, the authorities obtained convictions in an additional five cases, with sentences ranging from several months to three years in prison.¹⁶⁸ According to UNMIBH statistics, by October 2002, the total number of convictions jumped to ninety-one.¹⁶⁹ But the statistics obscured the fact that most cases went to trial on minor charges and that many defendants never served their sentences. As Celhia de Lavarene stated, “They just let the perpetrators walk away.”¹⁷⁰ In his December 2001 report on the work of the U.N. Mission in Bosnia and Herzegovina, U.N. Secretary-General Kofi Annan blamed weaknesses in the legal system in Bosnia and Herzegovina for difficulties in combating trafficking.¹⁷¹ Prosecutors charged defendants with lesser crimes than legally possible or appropriate, and judges continued to hand down minimal sentences.¹⁷²

An internal UNMIBH memorandum on convictions concluded, “Overall, the judiciary in BiH has failed to send out a message to the citizens of BiH that trafficking in human beings for the purpose of forced prostitution is a serious offense and involves significant human rights violations.”¹⁷³ One U.N. expert deplored the treatment meted out to trafficking victims who dared to testify:

In December 2001, we took two young girls, aged fifteen and sixteen, to court. We found them in a raid behind locked doors, and they were trafficked. We had to fight with the investigative judge and the prosecutor. They refused to take their testimony and treated them like prostitutes. They even asked the girls questions like, “Did you get any pleasure?”¹⁷⁴

In a 1999 case in Zivinice, Tuzla canton, a local criminal court convicted four Moldovan trafficked women of prostitution.¹⁷⁵ The original official report, issued by the local police department, stated that the two owners of the “Nimfa” club and the three trafficked women had committed crimes against the public order through prostitution at the club. Despite the testimony that one of the defendants had purchased the women for prices ranging from 1,280 Deutschmarks (€656/U.S.\$592) to 2,500 Deutschmarks (€1,282/U.S.\$1,162) each, the court convicted the women for prostitution and dropped the charges against the male defendants.¹⁷⁶

¹⁶⁷ Two cases in the Federation and one case in the Brcko District resulted in sentences ranging from ten months’ imprisonment to twenty months’ imprisonment and a fine of 22,000 Deutschmarks (€11,282/U.S.\$9,258) for restitution to two trafficking victims. “UNMIBH Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002.

¹⁶⁸ In two cases in the Federation and the Brcko District bar owners received sentences of several months in jail. In two cases in Sarajevo, a bar manager and bar owner received jail terms of one and two years respectively, with one forced to pay a 1,200 Deutschmark fine (€615/U.S.\$556). “UNMIBH Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002. The highest penalty meted out to a trafficking defendant was three years. UNMIBH, “UNMIBH Welcomes Conviction and Sentencing in Doboj Trafficking Case,” November 29, 2001, at <http://www.unmibh.org/unradio/pres> (retrieved December 4, 2001).

¹⁶⁹ UNMIBH, “Figures for Regional STOP Teams,” October 12, 2002, on file with Human Rights Watch.

¹⁷⁰ Human Rights Watch telephone interview, Celhia de Lavarene, director of STOP, Sarajevo, September 30, 2002.

¹⁷¹ UNMIBH, “Secretary-General Releases Report on the Work of UNMIBH,” December 3, 2001, at <http://www.unmibh.org/unradio/pres> (retrieved December 4, 2001).

¹⁷² Only one bar owner was convicted under the criminal code article for “unlawful deprivation of freedom.” No trafficker faced charges under the provision for “establishing slavery and transporting enslaved people.” “UNMIBH Background Paper on Efforts Against Human Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002.

¹⁷³ U.N. Mission in Bosnia and Herzegovina, internal memorandum, “Prosecution of Trafficking Cases,” December 14, 2001, on file with Human Rights Watch.

¹⁷⁴ The girls were from Romania and Moldova. Human Rights Watch telephone interview, Celhia de Lavarene, STOP director, March 14, 2002.

¹⁷⁵ Official Testimony of V.P., Ministry of the Interior, Zivinice, Case number 08-17/01-2-, April 3, 1999, translation on file with Human Rights Watch.

¹⁷⁶ “Demand for Criminal Investigation,” Tuzla Canton Ministry of the Interior, Tuzla, Case number 08-17/01-1-152/99, April 4, 1999, on file with Human Rights Watch.

Mara Radovanovic of Lara told Human Rights Watch about a case in 2000 in which the NGO leaders had to fight to force the public prosecutor to bring charges.¹⁷⁷ A Romanian trafficked woman, aged eighteen, wanted to press charges after escaping from a nightclub near Doboј. Badly beaten by her “owner,” she indicated to Lara staff in Bijeljina that she wanted to tell her story. According to Radovanovic, “The girl started to speak [through an interpreter] immediately. She was going to Italy and was sold in Romania and brought to Belgrade and then to the Arizona Market [a large black market venue just outside the Brcko district]... She remembered many details. We took her to the public attorney [in Bijeljina] to give testimony. She wanted to give testimony. The public attorney said that it happened in Doboј [and that she had to return there to testify]. She was afraid to go back to Doboј, but the public prosecutor [in Bijeljina] refused to take her testimony [claiming that he did not have jurisdiction]. She did not give any testimony for that reason. We found in the law that the public attorney can take testimony [from another region]. We wrote this [in the newspaper], and now they take testimony.”¹⁷⁸ The young woman returned home to Romania without giving testimony. No one faced charges in the case.¹⁷⁹

Failure to Prosecute or Discipline Corrupt Police Officers

With few exceptions,¹⁸⁰ the Bosnian government failed to prosecute—or even discipline—corrupt police officers involved in trafficking and illegal activities related to prostitution. As of December 2001, the UNMIBH human rights office reported only seven cases of prosecutions completed or pending against local police officers. By October 2002, it appeared that only one additional case against a police officer had gone forward.¹⁸¹

Occasionally authorities brought cases under pressure from IPTF and UNMIBH officials. For example, Human Rights Watch obtained an internal UNMIBH document describing a stalled investigation of two local police officers who allegedly received a bribe to forge documents for a Moldovan trafficked woman. The internal memo alleged that an American SFOR contractor had solicited the forgery and paid the bribe. Although the offenses occurred in May 1999, by February 4, 2001 neither of the defendant-police officers had been served with a non-compliance report (an IPTF report documenting serious lapses of duty or violations of the law).¹⁸² In fact, one of the officers continued to serve as part of the Bosnian contingent to the U.N. mission in East Timor. Not until January 19, 2001 did an UNMIBH official meet with the minister of interior to encourage the government of Bosnia and Herzegovina to withdraw the officer from East Timor and prosecute him.¹⁸³ As the officer’s term of mission had ended anyway, he returned from East Timor. Neither of the officers faced criminal or disciplinary repercussions for their actions until UNMIBH intervened to have both de-authorized.¹⁸⁴

¹⁷⁷ Human Rights Watch interview, Mara Radovanovic, director of Lara, Bijeljina, March 22, 2001.

¹⁷⁸ Ibid.

¹⁷⁹ Human Rights Watch telephone interview, Mara Radovanovic, Bijeljina, December 12, 2001.

¹⁸⁰ Most notably, the case of Banja Luka police officer Goran Vasilic, who in 2001 received a sentence of one year and three months for trafficking after the court found that he had transported women across international borders for the purpose of forcing them into prostitution. See Chapter VI, Local Police Involvement in Trafficking, section on police as bar/brothel owners and traffickers. In Bijeljina, six officers faced disciplinary proceedings after allegations emerged in March 2001 that they had engaged in forging work permits for trafficked women. Of those, two faced criminal charges. Human Rights Watch telephone interview, Satya Tripathi, deputy chief of human rights, UNMIBH, Sarajevo, December 14, 2001.

¹⁸¹ In October 2002, UNMIBH reported that only one of eleven police officers de-authorized for trafficking-related offenses faced criminal charges. He was tried by a Bosnian court and sentenced to one month of imprisonment for sexual abuse and physical assault. “U.N. Police Fire Eleven Bosnian Cops,” Associated Press, October 17, 2002, at <http://www.nytimes.com/aponline/international/AP-Bosnia-Police.html> (retrieved October 17, 2002).

¹⁸² U.N. internal memorandum, Maxwell Woodford, “Allegations of forgery against two local police officers, one of whom is serving in the U.N. mission in East Timor,” February 4, 2001, on file with Human Rights Watch.

¹⁸³ Ibid.

¹⁸⁴ Upon the return of the officer from East Timor, the judge in the criminal case dropped the charges, citing procedural reasons. Also, since more than a year had elapsed since the offense, disciplinary proceedings were time-barred. The officer received a public warning on June 18, 2002, but did not suffer any criminal or disciplinary penalties. In late 2002, the IPTF commissioner refused certification to both officers, forcing their termination by local authorities. Human Rights Watch telephone interview and e-mail communication, UNMIBH official [name withheld], Sarajevo, October 31 and November 1, 2002.

In another example, in a March 1999 case in Brcko, five Romanian trafficking victims flagged down an SFOR patrol and requested assistance in escaping forced labor conditions. SFOR took the four women and one man to the local police station, but the women reported that they feared remaining in the station because they recognized several of the officers, including the commander, as regular “gratis” clients. According to an UNMIBH report, IPTF attempted to ensure that the local police officers faced disciplinary action.¹⁸⁵ However, the local authorities delayed the disciplinary proceedings with no explanation. Under fierce pressure from IPTF, the commander of the local police relieved two local police officers and one deputy commander of their duties. Stalling on the part of the local authorities delayed these dismissals for months—the final disciplinary measures did not take effect until the end of 1999.¹⁸⁶

Prosecution and Deportation of Trafficking Victims

Although UNMIBH and the Office of the High Representative (OHR) called upon the Bosnian government to cease prosecuting women for offenses related to their status as trafficking victims,¹⁸⁷ Mara Radovanovic of Lara, a close observer of court cases in Bijeljina, asserted that the prosecutions of the women continued. She told Human Rights Watch, “The prosecutions have happened. There is a law on public order that forbids anything against public morality. They charge them under that law. They... usually give them twenty days.... The women can also be prosecuted for false documents. Also, the police can deport them. Petrisch [the then high representative] issued a decision that says that they can’t deport the women, but they do it anyway. After the big raids in March [2001—Operation Makro or “pimp”], quite a big number of those women were deported...”¹⁸⁸ With the creation of the STOP units, experts believe that this tendency has diminished but not completely disappeared.¹⁸⁹

Another high-level UNMIBH official with close ties to the trafficking investigations told Human Rights Watch that although IPTF monitors attempted to prevent prosecution of the women, in some cases they failed. He admitted that an unknown number of women, some of them trafficking victims, faced prosecution after the Makro police raids in March 2001. He said, “There was prosecution of some of the women. Usually we are in control of these operations, but this one was so big we couldn’t control it.”¹⁹⁰

Chris Harland, a legal advisor with the Office of the High Representative, admitted that the instructions to the Bosnian government on prosecutions had not stuck. He told Human Rights Watch, “The women occasionally still get prosecuted for prostitution. We just discussed this with the Ministry of Interior.”¹⁹¹ In mid-2001, IOM, IPTF, STOP, and the Criminal Justice Advisory Unit (CJAU) began to monitor prosecutions of perpetrators and the status of trafficking victims.

¹⁸⁵U.N. Mission in Bosnia and Herzegovina Legal and Human Rights Office and U.N. Office of the High Commissioner for Human Rights in BiH, “Report on Joint Trafficking Project,” May 2000, pp. 12-13, on file with Human Rights Watch.

¹⁸⁶*Ibid.*, p. 12.

¹⁸⁷ According to Madeleine Rees, head of the Office of the High Commissioner for Human Rights in Bosnia and Herzegovina, OHR failed to send out an instruction on not deporting the women. It was published in the official gazette, but no instruction was sent to the courts. Human Rights Watch interview, Madeleine Rees, OHCHR, Sarajevo, April 9, 2001.

¹⁸⁸ Human Rights Watch interview, Mara Radovanovic, director of Lara, Bijeljina, March 22, 2001. The decision, issued by Wolfgang Petrisch on October 29, 1999, requested that no deportation of foreign nationals take place without prior consultation with the office of the IPTF commissioner. The high representative’s “decision on trafficking and deportation” extended an interim directive issued by the IPTF commissioner on August 30, 1999. Office of the High Representative press release, “High Representative’s Decision on Trafficking and Deportation,” November 1, 1999, at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=4812 (retrieved November 10, 2002).

¹⁸⁹ Human Rights Watch telephone interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, December 19, 2001.

¹⁹⁰ Human Rights Watch interview, high-level UNMIBH official [name withheld], Sarajevo, March 26, 2001.

¹⁹¹ Human Rights Watch interview, Chris Harland, Office of the High Representative, Sarajevo, April 9, 2001. The Office of the High Commissioner for Human Rights also tries to track prosecutions of trafficked women and intervenes with amicus briefs and legal expertise when possible. Human Rights Watch interview, Madeleine Rees, OHCHR, Sarajevo, April 9, 2001.

On March 4, 2001 a Ukrainian trafficking victim in Sokolac, Republika Srpska, received a sentence of one month for the crime of forgery.¹⁹² Already accepted in the IOM program as a trafficking victim, IPTF monitors had arranged for her to give testimony in the case against her “owner.” During the course of her testimony, she was charged with use of false documents, transforming her from a witness in the case to a defendant. The court rejected as “groundless” her lawyer’s argument that as a trafficking victim she could not be prosecuted for this crime. In the reasoning section of the decision, the three-judge panel concluded:

The criminal report shows that the defendant used a forged passport as the real one with the purpose to stay in Venera Nightclub in Ravna Romanija. The defendant stated to the Investigating Judge on March 4, 2001 that she knew she was using a passport with the name of another person. She accepted that. Therefore, she was aware that she was using a forged document.¹⁹³

The conviction came in spite of the victim’s testimony during trial that she had been forced to provide sexual services to customers; that the “owner,” Pena, slapped her and shocked her with a hand-held electrical device; that she worked for a year without salary; and that Pena purchased her and gave her the forged passport.¹⁹⁴ The trafficking victim remained in Kula prison until April 3, 2001, having served a thirty-day sentence.

Lack of Witness Protection

Bosnian government officials, while complaining that women departed the country before they could testify at trial, did nothing to make it possible for the women to remain. Without long-term shelter, or even minimal witness protection, trafficking victims faced serious risks if they agreed to testify. Despite promises to open a government-run shelter, the government had not done so by September 2002, content to let women remain in the two short-term IOM shelters in Sarajevo instead. The trafficking victimsC whether or not they were willing to testify against the perpetratorsC received no services or protection from the Bosnian government beyond the police protection provided to the IOM shelters in Sarajevo, one high-security, one low-security. As one police expert told Human Rights Watch, “There is no witness protection here, and a witness protection unit has to be formed.”¹⁹⁵

IOM confirmed that some of the women and girls who agreed to testify faced very real danger. As Dr. Lynellyn Long, director of the IOM office in Sarajevo, said, “When the women testify, they get death threats. I got asylum [in a third country] for one woman who could not go home.”¹⁹⁶ Long also told Human Rights Watch that some of the women and girls reported to IOM that their families received threats in their home countries.¹⁹⁷

In 2001, as envisioned under the Federation constitution, court police began to work in the courthouses, enforcing court decisions and providing security to witnesses, the courts, and court officials.¹⁹⁸ In August 2001, the Federation Police Academy graduated an additional thirty-three court police officers, augmenting the twenty already deployed.¹⁹⁹ These minimal witness protection measures, however, provided little systematic or comprehensive assistance to trafficking victims.

Lack of Regularized Immigration Status

One judge in Bijeljina complained that the trafficked women left the country before testifying and then ignored a summons to return to testify against the brothel owners. He told Human Rights Watch, “After [the women] gave their statements, they had no residence permits to stay here, so they were deported to Moldova and to Ukraine. Later we were faced with the problem of getting the victims back as witnesses in the court. We sent invitations to

¹⁹² Article 364, Paragraph 2, Republika Srpska criminal code.

¹⁹³ Decision, Case number KV11/01, Sokolac Basic Court, Republika Srpska, March 6, 2001.

¹⁹⁴ IPTF, Follow-up Incident Report, Incident #01/ROG/011, March 2001.

¹⁹⁵ Human Rights Watch interview, international police consultant [name withheld], Sarajevo, March 19, 2001.

¹⁹⁶ Human Rights Watch interview, Dr. Lynellyn Long, chief of mission, IOM, Sarajevo, March 21, 2001.

¹⁹⁷ Human Rights Watch telephone interview, Dr. Lynellyn Long, Washington, D.C., December 12, 2001.

¹⁹⁸ Federation of Bosnia and Herzegovina Constitution, Article 4.C.2.8 (1-4).

¹⁹⁹ UNMIBH, “IPTF Coordinated Court Police Class Graduates,” August 10, 2001, at http://www.unmibh.org/stories/08_2001/07.htm (retrieved December 3, 2001).

come to their home addresses. They didn't come."²⁰⁰ By the judge's own admission, the reason that the women had become unavailable to testify was because they "had no residence permits, so they were deported." The Bosnian government failed to provide trafficking victims with short-term regularized immigration status and work permits that might have allowed the women to stay in Bosnia until the trial. Nor did the government provide funding for the women to return to testify. Had the women chosen to return to Bosnia for the trials, their travel, accommodation, and safety precautions would have been at their own expense.²⁰¹

²⁰⁰ Human Rights Watch interview, Judge Prunic, Bijeljina, March 27, 2001. Women's failure to remain in country or return for trial posed particularly significant legal problems for prosecutors. If the victims provided testimony before an investigative judge prior to departure, the court had the option, subject to strict procedural rules, of admitting this testimony into evidence. Most courts in Republika Srpska, however, refused to do so in the vast majority of cases. The judge's decision in the Stjepanovic case in Doboj to allow the testimony of two victims given before an investigative judge marked a departure from the usual practice in Republika Srpska. The two women did not appear during the trial. UNMIBH, "UNMIBH Welcomes Conviction and Sentencing in Doboj Trafficking Case," November 29, 2001, at <http://www.unmibh.org/unradio/pres> (retrieved December 4, 2001).

²⁰¹ The victims must return to testify if they have not provided evidence to an investigative judge in the pretrial stage or if the trial judge refuses to accept the pretrial testimony provided to the investigative judge. Judicial practice in Republika Srpska usually requires witnesses to return whether or not they have already testified before an investigative judge.

VIII. THE U.N. RESPONSE

In March 1999, the Office of the High Commissioner for Human Rights and UNMIBH jointly launched the “Trafficking Project,” a formal initiative to address the trafficking of human beings with an emphasis on the protection of the human rights of victims. Concerned that local police had subverted UNMIBH efforts to protect trafficking victims, the IPTF commissioner issued an interim directive to all local police “prohibiting operations against café-bars, and other premises suspected of procuring prostitutes, without prior approval of UNMIBH.”²⁰² Faced with the reality that trafficked women and girls suffered criminal prosecution, fines, and immediate deportation, the High Representative prohibited local authorities from refusing entry to or deporting aliens without prior consultation with UNMIBH/IPTF.²⁰³

By April 2001, IPTF monitors in the field routinely accompanied local police on raids of nightclubs and establishments suspected of holding trafficked women. In some cases, IPTF human rights officers made an effort to interview each woman at each establishment individually to determine if she needed or wanted assistance. These efforts began to show success in 2001, with over 380 trafficked women and girls voluntarily returned to their homes between August 1999 and December 2001.

In July 2001, following extremely negative press coverage on trafficking into Bosnia and Herzegovina, UNMIBH announced the creation of anti-trafficking teams of local and international police.²⁰⁴ Celhia de Lavarene, the U.N. mission adviser on gender policy, told reporters at a press conference in Sarajevo that the creation of the Special Trafficking Operations Program, or STOP, entailed a “more aggressive approach.”²⁰⁵ The U.N. secretary-general highlighted the success of the STOP teams in his report to the Security Council in November 2001. He credited the teams with assisting ninety victims of trafficking and for success in monitoring criminal investigations and legal proceedings in Bosnia and Herzegovina.²⁰⁶ By October 2002, the number of victims assisted had jumped to 230.²⁰⁷

Despite the improvement in the treatment of trafficking victims in Bosnia and Herzegovina since 1999—all due to efforts made by the international community—major flaws persisted in the U.N. Mission’s anti-trafficking efforts well beyond that date.

Failure to Define Trafficking in Accordance with International Law

Human Rights Watch’s interviews with UNMIBH officials, IPTF human rights officers, IOM officials, and NGO trafficking experts indicated that, as of April 2001, UNMIBH did not rely on the international legal definition of trafficking.²⁰⁸ UNMIBH’s refusal to certify as trafficking victims women who knew they would work in prostitution contravened the Trafficking Protocol’s definition and discriminated against an entire sub-set of victims who would have otherwise qualified for assistance.

Even if some of the women realized that they would be working in the sex industry, they did not know and could not agree to be sold as chattel, held in debt bondage, and forced to work without pay until they had satisfied their “debt.” Agreeing to work in prostitution did not serve as a waiver of one’s rights.

²⁰² U.N. Mission in Bosnia and Herzegovina Legal and Human Rights office and U.N. Office of the High Commissioner for Human Rights in BiH, “Report on Joint Trafficking Project,” May 2000, p. 6, on file with Human Rights Watch.

²⁰³ Decisions of the High Representative have the force of law in Bosnia and Herzegovina. “Report on Joint Trafficking Project,” pp. 6-7.

²⁰⁴ UNMIBH Special Press Conference, “UNMIBH Trafficking Project and Introduction to the New Special Trafficking Operations Program (STOP), July 26, 2001. See Alix Kroeger, “U.N. Targets Bosnian Vice Rings,” BBC, July 27, 2001. See also Aida Cerkez-Robinson, “New Special Police Units to Help Fighting Trafficking of Women,” Associated Press, July 26, 2001.

²⁰⁵ Aida Cerkez-Robinson, “New Special Police” Associated Press.

²⁰⁶ U.N. Security Council, “Report of the Secretary-General on the U.N. Mission in Bosnia and Herzegovina,” November 29, 2001, S/2001/1132, para. 8.

²⁰⁷ Human Rights Watch telephone interview, Celhia de Lavarene, March 14, 2002.

²⁰⁸ See Chapter V, International and Domestic Legal Protections Against Trafficking.

Prior to the creation of the STOP units in July 2001, two gender officers in Sarajevo made the determination of trafficking status. Both denied trafficking status to persons who knew that they were going to be engaged as sex workers. One told Human Rights Watch:

If they know they're going to be prostitutes, then they don't qualify. That qualifies them as an illegal migrant. It is a fine line of assessing whether they are an illegal migrant or a trafficked person. What if they knew that they would be a dancer? What does that mean really? It's tricky to assess these cases. If they knew that they would be prostitutes, though, then they are illegal migrants. This is the policy.²⁰⁹

The second gender officer stated, "Unless we can determine that they are trafficked they cannot go into the program. We cannot take migrant prostitutes."²¹⁰ When pressed on this issue and reminded that the definition of trafficking under international law makes the issue of prostitution irrelevant, several UNMIBH officials blamed IOM, which handled all voluntary repatriation, for the failure to include women who knew that they would work in prostitution.²¹¹

Officials also blamed the donor countries. The first gender officer told Human Rights Watch, "Donors are interested in assisting trafficked women but no one who is engaged in voluntary prostitution. Those who are voluntary get cut out and they do not qualify for the assistance."²¹² The other officer repeated this assumption, "[If we helped migrant prostitutes], the donors will be less likely to assist genuine victims."²¹³

IOM officials interviewed in December 2001, however, insisted that they relied upon the U.N. Trafficking Protocol definition. A program officer at IOM told Human Rights Watch, "We use the U.N. protocol definition. Usually IPTF tells us whether a woman is trafficked... but we don't listen to IPTF 100 percent of the time. We do an additional interview and we also check to see if she's trafficked."²¹⁴ Dr. Lynellyn Long, chief of mission for IOM in Bosnia and Herzegovina, told Human Rights Watch, "The problem before was whether the IPTF officers were properly trained. The STOP teams are trained and now we have a consistent team with good training."²¹⁵

Long's comments on inadequate training accurately reflected Human Rights Watch's findings in March and April 2001. One IPTF monitor told Human Rights Watch in March 2001, "If they know they are working in the sex industry, then we cannot consider them trafficking victims. When they say, 'I knew I would be a prostitute,' I don't think that IOM will help them. IOM doesn't want to be a travel agency."²¹⁶ Another IPTF human rights officer involved in screening trafficking victims stated an incorrect definition of trafficking, "Some women are here voluntarily. Trafficking means brought over borders against their will or false promises. If some come here

²⁰⁹ Human Rights Watch interview, Sonja Cronin, U.N. human rights gender officer, Sarajevo, April 3, 2001.

²¹⁰ Human Rights Watch interview, Maxwell Woodford, IPTF gender officer, Sarajevo, March 20, 2001.

²¹¹ It is important to understand the legal relationship between the IOM and the U.N. IOM is an independent intergovernmental organization created outside the U.N. that has long maintained close ties to the U.N. IOM has formal observer status in the General Assembly, as does the U.N. in IOM's Council. On the operational side, IOM has cooperation agreements with the U.N. Secretariat and a number of U.N. organs with which IOM collaborates most regularly or whose work most closely relates to IOM's work. These include, inter alia, the U.N. High Commissioner for Refugees, the U.N. Development Program, the U.N. Population Fund, and the World Health Organization. While not part of the U.N. system, IOM is frequently invited by the U.N. to participate in formal and informal U.N. inter-agency meetings. E-mail communication with the IOM External Relations Department, July 5, 2001, on file with Human Rights Watch.

²¹² Human Rights Watch interview, Sonja Cronin, U.N. human rights gender officer, Sarajevo, April 3, 2001.

²¹³ Human Rights Watch interview, Maxwell Woodford, IPTF gender officer, Sarajevo, March 20, 2001.

²¹⁴ Human Rights Watch telephone interview, IOM staff member [name withheld], December 4, 2001.

²¹⁵ Human Rights Watch telephone interview, Dr. Lynellyn Long, chief of mission, IOM Bosnia, Washington, D.C., December 21, 2001.

²¹⁶ Human Rights Watch interview, IPTF human rights officer [name withheld], Doboj, March 28, 2001.

to work as prostitutes, that is different.”²¹⁷ Dr. Long maintained that with the new STOP units in place, exclusion of legitimate victims had ceased, reflecting the training provided to the units by IOM and U.N. experts.²¹⁸

Official UNMIBH legal office guidance on trafficking, issued in May 1999, provided a definition of trafficking in persons:

Trafficking in persons consists of all acts involved in:

- The recruitment, transportation or movement of persons within or across frontiers whether for financial gain or otherwise
- And in which material deception, coercion, force, direct or indirect threats, abuse of authority, fraud or fraudulent non-disclosure is used
- For the purpose of placing persons forcibly, against their will or without their consent in exploitative, abusive or servile situations: such as forced prostitution, sweatshop labour, domestic servitude, or other abusive forms of labour or family relationships whether for pay or not.²¹⁹

Under international law, no individual can consent to debt bondage or to being sold as chattel. Unfortunately, in practice UNMIBH initially emphasized the element of “consent” to deny trafficked status, without giving sufficient consideration to material deception, coercion, and force. The fundamental question should have been about the impossibility of consent to the conditions of work imposed upon the women.

The claim by UNMIBH officials that IOM determined the criteria was contradicted by IOM’s assertion that it adhered to the Trafficking Protocol definition. Moreover, it was UNMIBH officials who located the women and girls, performed all of the interviews, transported the women from the regions to Sarajevo, reviewed all of the interview transcripts, and certified the women for participation in the IOM program. At best, UNMIBH negligently excluded a sub-set of trafficking victims from the assistance programs. At worst, UNMIBH acted in contravention of the widely accepted definition of trafficking included in the Trafficking Protocol in refusing to assist these women even though they may have suffered grave human rights violations. The checks on the system instituted recently by IOM and the STOP units have largely alleviated the problem, but this is obviously an issue requiring UNMIBH’s continuing vigilance to ensure that its anti-trafficking programs and training apply the Trafficking Protocol definition.

Until IOM created a program to repatriate irregular migrants in mid-2001, women who admitted to agreeing to work in prostitution or who were present in the country illegally faced criminal charges and deportation by local authorities. Dr. Long of IOM told Human Rights Watch, “Women fell through the cracks [back in April 2001]. Now we have the irregular migrant program, and we can get them home through that mechanism. The program is designed to repatriate those who intended to travel to Western Europe, but we give them the benefit of the doubt.

²¹⁷ Human Rights Watch interview, Stefan Kuhn, IPTF monitor, Mostar, March 30, 2001. Although he was involved in raiding establishments with possible trafficking cases, he noted that the raids in the Mostar area had not uncovered any trafficking victims.

²¹⁸ Human Rights Watch telephone interview, Dr. Lynellyn Long, , Washington, D.C., December 12, 2001.

²¹⁹ UNMIBH Legal Office, Guidance no. 21, “Trafficking in Persons,” May 1999, on file with Human Rights Watch. The document cites as the international law applicable to trafficking the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others; the European Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 3, 4, and 14; the Convention on the Elimination of all Forms of Discrimination against Women, Article 6; the International Covenant on Civil and Political Rights, Articles 8 and 26; the Convention of the Rights of the Child, Article 11; the Slavery Convention and Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Trafficking Protocol was not opened for signature until December 2000.

We have repatriated about sixty migrants so far, about 20 percent of them women... They [IPTF monitors] don't eliminate women anymore [for assistance], but they refer them to the irregular migrants program."²²⁰

Failure to Provide Safe Shelter Outside the Capital

In a guidance document issued to the IPTF in September 2000, UNMIBH provided instructions to monitors in the field. According to the document, trafficking victims requesting voluntary repatriation to their home countries needed to go to the Human Rights Information Desk in Sarajevo (HRID) before 6:00 p.m. on any day. The document continued:

If the individual cannot be brought to the HRID by 18:00 hours [6:00 p.m.], the individual must be housed in a safe location until s/he can be transported to the HRID the next morning. Safe locations include a hotel or pension; Local Police stations; and IPTF Stations. Any expenses incurred in housing the individual in a safe location may be reimbursed if funds donated by the International Community are available. Please contact the HRID for updated information on the availability of funds.²²¹

In reality, UNMIBH almost never supplied funds for safe housing. And because local police were often suspected of complicity in the trafficking, IPTF human rights officers generally preferred to house women overnight in the IPTF stations. However, in March 2001, UNMIBH barred trafficked women from overnight stays in IPTF stations.²²² Outside Sarajevo, the policy change created enormous difficulties for IPTF human rights officers attempting to assist trafficking victims. As one IPTF officer stated, "We had to pay out of pocket to keep the women in hotels. For every case we collected money, and we created a fund."²²³

Another IPTF monitor told Human Rights Watch:

We deal with the victims, and I try to help them. We dip into our own pockets. We kept them here [in the station] for a little while. Until they are accepted by IOM, they have to be here. We feed them, get them coffee, and get them cigarettes. There is no place to keep them. If I have twenty girls and four hours per girl, I am working around the clock. The U.N. gives us no funds and no money to take care of them. The local government needs to do this. Some guys pay to put them in hotels. Now they are not keeping them in IPTF stations. We have to dip into our own pockets or show them the street. We're tapped out. Every time we dip into our own pockets. We make it possible for the U.N. to do nothing.²²⁴

In April 2001, Human Rights Watch found this completely ad hoc approach to caring for trafficking victims prevailed in all but three cities. In Banja Luka, IOM had arranged for temporary housing for women waiting to travel to Sarajevo. In Bijeljina, Lara, the local NGO, with funding from the U.N. Trust Fund, provided shelter for dozens of women who escaped from nightclubs in Republika Srpska.²²⁵ In the Brcko district, an anonymous donor had created a fund to pay for housing women in local hotels. These three exceptional local initiatives created a relatively effective and dependable system for housing trafficked women while they provided testimony to local courts and awaited final certification from Sarajevo as trafficking victims. However, the Bijeljina example shows that even these initiatives proved vulnerable to an uncertain funding stream, with recourse to individual generosity again substituting for the absent commitment by the international community (and Bosnian government) to provide shelter. As a representative of Lara told Human Rights Watch, "[At one point] we had no money, and we

²²⁰ Human Rights Watch telephone interview, Dr. Lynellyn Long, chief of mission, IOM, Washington, D.C., December 12, 2001.

²²¹ UNMIBH/IPTF Operating Procedures for Trafficking Victims, Guidance No. 9-A (revised), paragraph 4.2, September 22, 2000, p. 2, on file with Human Rights Watch.

²²² Human Rights Watch interview, high-level UNMIBH official [name withheld], Sarajevo, March 26, 2001.

²²³ Human Rights Watch interview, former UNMIBH official from Brcko [name withheld], New York, June 14, 2001.

²²⁴ Human Rights Watch interview, IPTF human rights officer [name withheld], Sarajevo, April 8, 2001.

²²⁵ As of October 2002, the United Nations Trust Fund had provided approximately 50 million convertible marks (KM) to finance more than 500 reconstruction projects in Bosnia and Herzegovina. Lara also cooperated with the U.N. Working Group on Contemporary Forms of Slavery. For more information on the Working Group, see <http://www.unhchr.ch/html/menu2/9/vfslaver.htm> (retrieved November 10, 2002).

could not pay their [the trafficked women's] expenses.... We have one Romanian [IPTF officer] in the Bijeljina station. He wanted to help. That Romanian IPTF officer collected money to help. We could tell that he cared about this as we do."²²⁶

IOM began providing some temporary accommodation in the regions in September 2001 (having previously run only two shelters in Sarajevo and managed the transfer of victims out of Bosnia and Herzegovina).²²⁷ With this development, more women received shelter in the regions while the UNMIBH determined whether they qualified for assistance as trafficking victims.²²⁸ When asked why IOM had taken on the task of establishing safe housing in the regions, Chief of Mission Long told Human Rights Watch, "We were completely fed up. They kept the women in terrible places where they had to face their traffickers."²²⁹

Until IOM took action in September 2001, UNMIBH's failure (in conjunction with the failure of the Bosnian government, as described above) to provide shelter inadvertently assisted in maintaining impunity for traffickers, because—with the exception of the three cities mentioned above—trafficked women and girls could not remain in a regional city long enough to provide testimony before an investigative judge or at a full trial.²³⁰ Due in part to the provision of safe housing in the regions, UNMIBH has lately had some success in encouraging women to testify before investigative judges: as of December 14, 2001, 174 trafficked women and girls had testified in the pre-trial stage.²³¹

²²⁶ Human Rights Watch interview, Mara Radovanovic, director of Lara, Bijeljina, March 27, 2001.

²²⁷ By October 2002, IOM had shelters in Sarajevo and Banja Luka. In addition, shelters in Mostar, Bijeljina, Bihac, and DobojCrun by NGOs provided safe accommodation to trafficking victims in those regions. NGOs La Strada (Mostar), Forum of Solidarity (Doboj), and Women from UNA (Bihac) worked on contract with IOM. Lara (Bijeljina) did not receive any financial support from IOM. Human Rights Watch telephone interview, Amela Efendic, IOM program officer, Sarajevo, October 21, 2002.

²²⁸ The trafficking status decision, made by U.N. officials in Sarajevo on the basis of extensive interviews with a trafficked woman taken by IPTF human rights officers and now STOP team members in the field, determines whether a woman will be accepted into IOM's repatriation program. This determination can take several days, during which a trafficking victim must stay in the locality to await the decision. Only those women who wish to return to their countries of origin are classified as trafficking victims.

²²⁹ Human Rights Watch telephone interview, Dr. Lynellyn Long, chief of mission, IOM Bosnia, Washington, D.C., December 12, 2001.

²³⁰ A good example of this phenomenon is the Prijedor case described in Chapter X. IPTF almost immediately transported the thirty-four women discovered in the Prijedor raids in November 2000 to Sarajevo. An investigative judge took several weeks to agree to travel to Sarajevo to take testimony. By the time the local authorities had appointed a judge, the women had returned home. As a result, not one of the women provided testimony to an investigative judge, making the prosecution of the owners extremely difficult. As of December 2001, the case against the owners of the Prijedor clubs was suspended as the court refused to admit the written statements of the trafficking victims and witnesses. Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, December 12, 2001. In another case in Brcko in 1998, well-intentioned IPTF officers raised money to purchase bus tickets to repatriate two Romanian trafficking victims. One of the monitors told Human Rights Watch, "We had to send the two ladies home. We cannot keep them for two months and then make them testify.... Our monitors collected Deutschmarks amongst ourselves and they went by bus through Yugoslavia." Human Rights Watch interview, Juhe Roine, IPTF human rights officer, Brcko, March 21, 1999.

²³¹ U.N. Mission in Bosnia and Herzegovina, internal memorandum, "Prosecution of Trafficking Cases," December 14, 2001, on file with Human Rights Watch.

IX. LEGAL IMMUNITY AND IMPUNITY FOR INTERNATIONAL COMMUNITY MEMBERS INVOLVED IN TRAFFICKING

While Bosnian domestic laws regulate the acts of citizens of Bosnia and Herzegovina and of ordinary individuals from other states present in the country, foreign nationals serving with UNMIBH and on civilian contract to NATO peacekeeping forces enjoy almost complete immunity from prosecution.²³² Although it was assumed that countries of origin of IPTF and SFOR personnel would prosecute and discipline their citizens upon their return home for crimes committed in Bosnia and Herzegovina, this has rarely happened in practice.²³³ Jurisdictional gaps, lack of political will, and indifference toward the crime of trafficking ensure that the small number of SFOR military contractors and IPTF monitors who participate in trafficking-related offenses do so with nearly complete impunity. The U.N. has failed to deal in a transparent fashion with allegations of involvement in trafficking-related activities by IPTF monitors and in some cases has failed to investigate those allegations thoroughly.

The Stabilization Force (SFOR)

Annex 1-A, Appendix B, of the Dayton Peace Agreement establishes that—except as otherwise provided in the agreement itself—NATO military and civilian personnel are subject to the provisions of the Convention on the Privileges and Immunities of the U.N. regarding experts on mission.²³⁴ Specifically, Article VI of the convention provides “immunity from personal arrest or detention²³⁵ and from seizure of personal baggage, and in respect to words spoken or written and acts done by them *in the course of the performance of their mission*, immunity from legal process of every kind (emphasis added).”²³⁶

In conjunction with the functional immunity provided under the Convention, Annex 1-A, Appendix B, of the Dayton Agreement provides that NATO military personnel are under the exclusive jurisdiction of their respective nations; for example, the United States alone has the right to exercise jurisdiction over any offenses committed by members of the U.S. military in Bosnia.²³⁷

²³² It is important to note that soldiers serving with SFOR in Bosnia and Herzegovina remain subject to their own military codes of justice.

²³³ The official IPTF and UNMIBH policy on trafficking states, “As regards subsequent action taken by sending state, it is up to the country concerned to initiate disciplinary action against the sanctioned police monitor.” A copy of the policy was submitted to the U.S. House of Representatives International Relations Committee on April 23, 2002. In a letter to Human Rights Watch, Andrei Shkourko, the U.N. headquarters Bosnia and Herzegovina desk officer, wrote, “The United Nations does not have the legal authority to take punitive measures against civilian police monitors made available by Member States for United Nations peacekeeping operations, and the disciplinary follow-up to their misconduct is the responsibility of the contributing countries. The options available to the United Nations in such cases are limited, therefore, to the administrative action of repatriation with the recommendation to the national authorities concerned to take the appropriate action against the individual in question. There is now a procedure in place to make the results of internal investigations routinely available to contributing countries for follow-up action. However, the mechanisms for ensuring follow-up by the authorities of the contributing countries need to be strengthened. We are aware of this need and we are trying to meet it.” Letter to Human Rights Watch from Andrei Shkourko, senior political affairs officer, April 4, 2002.

²³⁴ Article VI of the Convention on Privileges and Immunities of the U.N. states: “Experts (other than officials coming within the scope of Article V) performing missions for the U.N. shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions.” This status has been defined as functional immunity as compared with the complete immunity granted to U.N. officials. Convention on the Privileges and Immunities of the U.N., adopted by the General Assembly of the U.N. on 13 February 1946, entered into force on 17 September 1946. *See Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, 1999 ICJ Rep. 100 (April 29, 1999).

²³⁵ The Dayton Agreement through its own terms also prohibits the arrest and detention of NATO personnel.

²³⁶ Sections 20 and 23 of the Convention specify that all privileges and immunities are granted in the interests of the U.N. and not for the personal benefit of the individuals. It reserves the right of the U.N. secretary-general to waive immunity when that immunity would impede the administration of justice.

²³⁷ *See* General Framework for Peace in Bosnia and Herzegovina, Annex 1-A, Appendix B, sec. 7. Members of the U.S. military are subject to the Uniform Code of Military Justice (UCMJ) and as such are normally tried before courts martial.

There is no similar provision within the Dayton Agreement regarding NATO civilian personnel; this omission indicates that civilians and contractors working for NATO are entitled only to the limited (functional) immunity granted to U.N. experts on mission.²³⁸ However, with respect to such civilians and contractors the Bosnian government has abided by the no arrest or detention language of Appendix B to Annex 1-A of the Dayton Accords.

International Police Task Force (IPTF)

Under the terms of the Dayton Peace Agreement, members of the IPTF are accorded the same status as officials of the U.N. as outlined in Sections 18 and 19 of the 1946 Convention on the Privileges and Immunities of the U.N.²³⁹ This type of immunity is more akin to that held by diplomats than the functional immunity held by experts on mission. Section 18 grants the same functional immunity afforded to experts on mission; however, Section 19 states that, in addition to the immunities and privileges specified in Section 18, U.N. officials “shall be accorded in respect of themselves, their spouses, and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.”

Within Bosnia, IPTF monitors are not subject to arrest or detention and have full immunity from criminal prosecution. Thus, without a waiver of immunity by the U.N. secretary-general,²⁴⁰ IPTF monitors can never be brought before Bosnian courts for the crimes they are alleged to have committed. Short of waiving immunity, the ultimate sanction available to U.N. officials against members of the IPTF is removal from service and repatriation. Per Sections 18 and 19 of the Convention, IPTF monitors do remain subject to penalties and sanctions under applicable laws and regulations of the U.N. and other states;²⁴¹ therefore, each member state is responsible for any disciplinary or criminal action upon repatriation of their IPTF monitors.

The U.S. Government Position²⁴²

U.S. officials have on several occasions indicated that U.S. civilian NATO personnel in Bosnia and Herzegovina are under the exclusive criminal jurisdiction of the United States. In a prepared statement at a hearing before the U.S. House of Representatives Judiciary Committee’s Subcommittee on Crime, Robert E. Reed, the associate deputy general counsel for the United States Department of Defense, stated, “[The Dayton Peace Accords] provide participating countries, such as the United States, with exclusive jurisdiction over all criminal offenses committed by its U.S. civilian workforce.”²⁴³ Such statements conflict with the assertions made by U.S. Army investigators in Bosnia and Herzegovina that the United States lacks jurisdiction over crimes committed by civilian personnel when they do not involve conduct in furtherance of their mission. The confusion among U.S.

²³⁸ The International Court of Justice discussed this type of functional immunity at great length in two advisory opinions involving its application to special rapporteurs. See *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the U.N.*, Advisory Opinion, 1989 ICJ Rep. (15 Dec. 1989). See also *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, 1999 ICJ Rep. 100 (April 29, 1999).

²³⁹ General Framework for Peace in Bosnia and Herzegovina, Annex 11. Convention on the Privileges and immunities of the U.N. was adopted by the General Assembly of the U.N. on 13 February 1946, and entered into force on 17 September 1946.

²⁴⁰ In an Advisory Opinion by the International Court of Justice, the Court gave some indication that in certain compelling situations a waiver by the secretary-general was not required with regard to the immunity held by experts on mission. Unfortunately, the Court failed to give any indication as to what qualified as a compelling situation, or if this exception extended to the immunity of U.N. officials under Sections 18 and 19. See *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, 1999 ICJ Rep. 100 (April 29, 1999).

²⁴¹ See General Framework for Peace in Bosnia and Herzegovina, Annex 11, Article 2(6).

²⁴² Because cases that Human Rights Watch found concerned U.S. personnel, the analysis in this section focuses on U.S. personnel and law.

²⁴³ Prepared statement of Robert E. Reed, Esq., associate deputy general counsel, U.S. Department of Defense, presented to the House Committee on the Judiciary Subcommittee on Crime, March 30, 2000. The House Report on Military Extraterritorial Jurisdiction Act of 2000 also indicates that the United States has exclusive jurisdiction over U.S. civilian and contractor criminal offenses committed in Bosnia. H.R. 106-778, July 20, 2000.

government officials over the status of NATO civilian personnel has translated into impunity through immunity from prosecution in Bosnia and Herzegovina for those few who do commit crimes.²⁴⁴

Undeniably, the immunity provisions in Annex 1-A present serious roadblocks to prosecuting crimes committed by expatriate civilians and contractors who accompany the U.S. NATO forces to Bosnia. If the United States did retain exclusive jurisdiction over civilians and contractors, then a jurisdictional gap was created when the Dayton Agreement was signed in 1995. At that time, there was no federal law in place to confer jurisdiction on U.S. courts to hear cases involving crimes that were committed extraterritorially²⁴⁵ by U.S. civilian personnel who accompanied the armed forces overseas.²⁴⁶

In November 2000, in a long overdue attempt to close the jurisdictional gap, Congress passed the Military Extraterritorial Jurisdiction Act of 2000 (MEJA).²⁴⁷ MEJA established federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the armed forces and by members of the armed forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses.²⁴⁸ MEJA grants jurisdiction to U.S. courts for any offense “that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States.”²⁴⁹

Existing U.S. law does not permit the prosecution of U.S. IPTF officers for criminal offenses committed while part of a U.N. mission; therefore, even after the monitors return to the United States, U.S. courts do not have jurisdiction over them. Moreover, since U.S. members of the IPTF do not originate from a national police force, there is no real possibility of disciplinary sanctions once they return from overseas.²⁵⁰

²⁴⁴ The Military Extraterritorial Jurisdiction Act provides for jurisdiction in the United States, but as of October 2002 no cases had yet been brought. Two U.S. contractors who faced accusations ranging from procuring and pandering to illegal purchase of a weapon did not face charges in Bosnia and Herzegovina or in the United States. See Chapter XI, SFOR contractor involvement.

²⁴⁵ Criminal laws are generally not given extraterritorial application. However, a half dozen NATO member states are drafting specific language into domestic laws, specifically those relating to prosecution of citizens who travel for sex with minors abroad, enabling extraterritorial jurisdiction; other states recognize extraterritorial jurisdiction for prosecution of their own citizens. See Eric Thomas Berkman, “Note: Responses to the International Child Sex Tourism Trade,” *B.C. International & Comparative Law Review*, 19 (1996), p. 397.

²⁴⁶ See *Reid v. Covert*, 354 U.S. 1 (1957) (limiting UCMJ jurisdiction over civilians only to times of war).

²⁴⁷ 18 U.S.C. §§3261-3267 (2000).

²⁴⁸ During a hearing before the House Judiciary Committee’s Subcommittee on Crime, Brigadier General Joseph Barnes, the assistant judge advocate general for the U.S. Army, was asked specifically whether MEJA would apply to civilians participating in military operations in Bosnia. He answered affirmatively.

²⁴⁹ Statutes applicable to the “special maritime and territorial jurisdiction of the United States” include: 18 U.S.C. § 113 (assault); id. § 1111-1113 (homicides); id. §§ 2241-2246 (sexual abuse); id. § 2422 (transportation for illegal sexual activity and related crimes); id. § 1589 (forced labor). Although much of the motivation behind passing MEJA was a desire to prosecute crimes committed by U.S. citizens against U.S. citizens when host states lack the incentive to do so, MEJA also enables prosecution of crimes committed against individuals from other countries by U.S. citizens who accompany the armed forces. This jurisdiction is particularly important when a status of forces agreement (SOFA) effectively prohibits a host country from prosecuting. Where a SOFA does not preclude host country prosecution, MEJA creates concurrent jurisdiction between the United States and the host country.

²⁵⁰ Unlike other NATO countries, the United States must rely on volunteers from state and local police departments to assemble its contingent to civilian police operations. The Department of Justice Bureau of Statistics estimates there are over 18,000 separate state and local law enforcement agencies in the United States. Bureau of Statistics, Law Enforcement Statistics Report, www.ojp.usdoj.gov/bjs/lawenf.htm (retrieved November 10, 2002). The fact that IPTF monitors from the United States are drawn from this enormous number of police agencies scattered throughout the United States has serious ramifications for discipline among the U.S. contingent. Because of this decentralized, diffuse recruiting pool, information on disciplinary actions against particular officers rarely makes it back to a U.S. police officer’s home force. Experts such as Robert Perito of the U.S. Institute of Peace have advocated federalizing U.S. officers participating in U.N. civilian police missions, arguing that “officers would be held accountable by a federal law enforcement agency would help ensure good behavior.... It would also be very difficult for the federal agency itself to turn a blind eye to the behavior of its personnel.”

X. IPTF AND TRAFFICKING

Human Rights Watch found evidence—including internal IPTF reports, interviews with monitors, and verbatim transcripts of testimony by five trafficking victims—that IPTF monitors in Bosnia and Herzegovina purchased the services of trafficked women in brothels. Some monitors also arranged for trafficked women to be delivered to their residences. Most striking, however, was the evidence that at least three IPTF monitors purchased women and their passports from traffickers and brothel owners.

In the rare cases of purchase by IPTF monitors, at least two claimed that they had engaged in these purchases to “rescue” the women. Purchasing a human being clearly is not the proper, legal way to free a person from debt bondage, particularly not for a police officer. IPTF monitors have the ability, indeed the obligation, to use legal methods such as police investigations and raids.

Although using the services of a prostitute (being a client) is not a criminal offense under the laws of either entity, the facilitation of prostitution and the running of brothels are illegal. IPTF officers, who through their work and training knew or should have known that the brothels contained trafficked women, violated the IPTF code of conduct and undermined law enforcement by paying for sexual services. More importantly, the presence of IPTF monitors in the clubs as clients discouraged trafficked women and girls from seeking safe haven in IPTF stations.

Many IPTF monitors, aware of IPTF involvement, expressed their misgivings to Human Rights Watch investigators. The few who attempted to voice public protests or demand internal investigations on trafficking faced intimidation, and in some cases, claimed to suffer retaliation, including a dismissal in one case.

IPTF Officers As Clients

The Prijedor Case

On November 14, 2000, twenty-five IPTF monitors, assisted by SFOR, raided three brothels in Prijedor. These highly unusual raids secured the release of thirty-four women and girls who claimed that they had been trafficked into Bosnia and Herzegovina for forced prostitution.²⁵¹ The scandal that followed the raids also resulted in the repatriation of six IPTF monitors: two Americans, two Spaniards, and two British officers for “exceeding the mandate” of IPTF.²⁵²

Just hours after the raids, IPTF monitors transported the women from Prijedor to Sarajevo, traveling with an SFOR escort. All the women qualified as trafficking victims under the IOM program. When they arrived in Sarajevo, IPTF human rights officials and Joint Task Force officers interviewed the women.²⁵³ One UNMIBH official with extensive knowledge of the case and who interviewed the women told Human Rights Watch, “SFOR and IPTF brought the girls to Sarajevo, and then the girls pointed out that the guys driving them had been their clients.”²⁵⁴ According to an internal IPTF report, one of the women told IPTF investigators in Sarajevo, “[The] Spanish IPTF who traveled with us today had sex with Natasha. [The] French man who drove us today had sex with Natalia. Both girls [are] from Moldova. Another Spanish man had sex with Aliana. I saw some of these men today. They were in white cars with U.N. on it.”²⁵⁵ In all, five of the signed victim statements obtained by

E-mail correspondence with Robert Perito, USIP senior fellow, Washington, D.C., October 29, 2001, on file with Human Rights Watch.

²⁵¹ “Thirty-four Prostitutes Revealed in Prijedor During the Raid,” *Nezavisne Novine*, Banja Luka, November 16, 2000, p. 16. Human Rights Watch obtained the verbatim statements of twelve of these women and girls. Two of the victims were seventeen years old.

²⁵² Human Rights Watch interview, Dennis Laducer, deputy commissioner, IPTF, Sarajevo, April 8, 2001.

²⁵³ Joint Task Force, a division within the IPTF, conducts special investigations, particularly those relating to organized crime.

²⁵⁴ Human Rights Watch interview, UNMIBH official [name withheld], Sarajevo, April 9, 2001.

²⁵⁵ Internal IPTF Report on Prijedor case, examined by Human Rights Watch investigators, Sarajevo, April 9, 2001.

Human Rights Watch included assertions that IPTF monitors had numbered among the trafficked women's clients.

The fact that the women were transported to Sarajevo by officers who had used the sexual services at the nightclubs created, at a minimum, an opportunity for witness tampering. The internal report on the investigation quoted one of the trafficked women as saying, “[The IPTF officer Miguel] told me that this was the last chance for me to go back to my country and to tell all the truth but not too much or anything about our relations.”²⁵⁶

The women identified eleven international officials who frequented the brothels, either as visitors or as clients. The IPTF's own internal report on the incident stated, “Internal affairs has detailed descriptions of eleven IPTF officers from Prijedor and Sanski Most. Nine IPTF officers had sex and two went to the bar to drink. Internal Affairs is trying to match the descriptions with the names.”²⁵⁷

According to interviews with the women conducted by IPTF Joint Task Force investigators, IPTF monitors paid for sexual services from the trafficked women in the nightclubs or in the IPTF monitors' residences. One of the thirty-four women told IPTF Joint Task Force investigators in Sarajevo, “IPTF members [based in Prijedor] were my clients too. I don't know their names, but they were Americans, Spanish, and Mexicans. Once an IPTF member has taken me to a hotel for two hours. I don't know his name, but he was staying in Prijedor. That IPTF member spoke Serbian a little bit. I don't know which country he was from.”²⁵⁸

High-level UNMIBH officials knew of IPTF involvement in the nightclubs in Prijedor. According to one UNMIBH official familiar with the case:

My information was that they were using the nightclub and using the girls, and when they realized this was going to [become public], they raided. We had information about this nightclub. One girl escaped and told us. We were in the process of planning an operation with the Joint Task Force. It leaked somehow to local IPTF, and to cover up [they] jumpstarted and behaved as if the police themselves had done the raid. Usually, we work closely with the local police.²⁵⁹

Deputy IPTF Commissioner Dennis Laducer supported this interpretation of the facts, telling Human Rights Watch, “Our information was that all six [of the repatriated IPTF monitors] had been in the clubs drinking or as customers with the prostitutes. They were there off duty.”²⁶⁰

Clients and “Contracting”

In March 2001, an IPTF human rights officer in Tuzla told Human Rights Watch researchers, “Women trafficking—there is common knowledge about this. For the monitors it is forbidden [to go to brothels and nightclubs]. It is like we are attached to organized crime if we go. A monitor cannot go to these criminal places.”²⁶¹

Dennis Laducer, then deputy commissioner of IPTF, asserted that all monitors received personal instructions from him not to go into the nightclubs or use the services of women there. He told Human Rights Watch, “I meet with each monitor and tell them not to go to these clubs. ‘Don't use the women there.’ I say it fifteen times; it's supporting organized crime. ‘I will send you home,’ I tell them.”²⁶²

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ Official IPTF interview transcript, Prijedor #7, November 23, 2000.

²⁵⁹ Human Rights Watch interview, high-level official in the UNMIBH human rights office [name withheld], Sarajevo, March 26, 2001.

²⁶⁰ Human Rights Watch telephone interview, Dennis Laducer, deputy commissioner of IPTF, December 12, 2001.

²⁶¹ Human Rights Watch interview, IPTF human rights officer [name withheld], Tuzla, March 24, 2001.

²⁶² Human Rights Watch interview, Dennis Laducer, deputy commissioner of IPTF, Sarajevo, April 8, 2001.

On March 6, 2001, internal affairs investigators showed a group of trafficking victims from the “Kod Karalije” nightclub in Bijeljina an electronic line-up including photos of sixty IPTF monitors. Each photograph bore only a randomly-assigned number in order to avoid identifying any of the IPTF monitors. Ten of the trafficked women identified the same two monitors as clients. The internal affairs report, obtained by Human Rights Watch, concluded that the allegations of involvement in trafficking as clients had been proven against the two monitors identified in the photo line-up and against two additional monitors.²⁶³ The accused included two Pakistani monitors and two monitors from Fiji.²⁶⁴ It appears that these monitors were among the eighteen officers repatriated by UNMIBH over the course of the mission.²⁶⁵

David Lamb, a former senior IPTF human rights officer who left the mission in good standing to return to the United States, described delivery of trafficked women to IPTF monitors in Sarajevo. He told Human Rights Watch:

There were allegations from victims that they were taken to an apartment where the Pakistani [IPTF monitors] lived and had to give sexual services to them [in January 2001]. One time a Pakistani monitor drove [two] trafficked women in a U.N. car to a hotel in Sarajevo and provided them to the “chief” of the Pakistani contingent. The women called him the chief.... There were two girls but they could not give any names. At the time of the allegations, the senior Pakistani officer was in Sarajevo and served as the chief of the internal investigations unit. The [U.N.] transferred him out of internal investigations unit. One of the Pakistani [monitors] in Bijeljina who drove the women was sent home. [The investigator] found evidence through the car records.²⁶⁶

An internal UNMIBH e-mail memorandum written by Lamb, then regional chief of human rights in Tuzla, and dated March 2, 2001, identified the Pakistani monitor who drove the trafficked women as “police monitor Noor, assigned to Bijeljina IPTF.” Human Rights Watch corroborated this case with the official internal “Summary Investigation Report: Bijeljina 2,” that included testimony from two trafficking victims interviewed by UNMIBH investigators by telephone. The women confirmed that they had both provided sexual services for Noor.²⁶⁷ The March 2 e-mail memorandum listed names and descriptions of nine IPTF officers identified by women trafficked into Bijeljina.²⁶⁸

During the course of the investigation in Bijeljina, allegations emerged that Romanian IPTF monitors intimidated Romanian trafficking victims because they provided evidence to internal affairs investigators. IPTF investigator Ioanna, who authored the internal report, wrote:

As I opened the door to the office, [police monitor] Dumitrescu Constantin yelled something in Romanian to the girls.... When the door was left temporarily ajar he managed to speak to [name withheld], 21 years old. The [language assistant] noticed this interruption from his part and escorted the girl back into the office.... Inside the office the girl broke down in tears. We could not get her to tell us what was said. But from that moment on she believed that my intention was to send her to Sarajevo to go to jail.²⁶⁹

The Romanian monitor also attempted to take the four women to Sarajevo in his car without clearance from the human rights office at the UNMIBH headquarters in Sarajevo. Calling this behavior “extremely unprofessional

²⁶³ According to the report, the two other monitors were identified through telephone interviews with trafficked women who had already returned to their countries of origin.

²⁶⁴ UNMIBH, “Summary Investigation Report: Bijeljina 2, Covering Period 2-19 March, 2001,” authored by Rosario Ioanna, investigator, April 13, 2001.

²⁶⁵ E-mail communication with UNMIBH official [name withheld], Sarajevo, November 1, 2002, on file with Human Rights Watch.

²⁶⁶ Human Rights Watch telephone interview, David Lamb, former IPTF human rights officer, July 31, 2001.

²⁶⁷ UNMIBH, “Summary Investigation Report: Bijeljina 2, Covering Period 2-19 March, 2001.”

²⁶⁸ UNMIBH e-mail correspondence, sent from Tuzla Regional Human Rights office, Ref: Tuz HR-00/BIJ/062, March 2, 2001, on file with Human Rights Watch.

²⁶⁹ UNMIBH, “Summary Investigation Report: Bijeljina 2, Covering Period 2-19 March, 2001.”

and strange” in his report, the internal affairs investigator intervened and prevented this unauthorized transportation of the women to Sarajevo.²⁷⁰

In Doboj, IPTF monitors reported to Joint Task Force:

We had raids in December [2000] against those [brothels], and afterwards several girls came to Doboj IPTF Station and reported to Human Rights Watch that they had been held as sex slaves. Among others, they named several IPTF personnel and language assistants who have visited or frequently visited those places. The reports and girls were taken to Sarajevo for further investigation, but we never heard anything back.²⁷¹

In 2000, some monitors in the Doboj IPTF station passed a hat to pay for “surprise entertainment” at a birthday party. One IPTF officer familiar with the case told Human Rights Watch, “At the birthday party in the region the guys gave a present to the birthday boy. They went to a nightclub and got a stripper. She was not a local woman. The past regional commander did not leave, but some others did. If the bosses send messages that this is okay, then others will do it.”²⁷²

Purchases of Women from Brothels

Human Rights Watch found evidence that a small number of IPTF monitors purchased women outright from “owners.”

It is impossible to determine how widespread the purchase of women and girls is among IPTF monitors. One high-level UNMIBH source told Human Rights Watch, “One IPTF monitor bought a couple of women and bought them tickets to go home. This IPTF officer uses the prostitutes and then buys them from the owners to send them home. He confided this to me.”²⁷³ The monitor did not face any disciplinary action.²⁷⁴ Mike Stiers, former deputy commissioner of IPTF, told Human Rights Watch, “We did have allegations of purchasing ladies out of café-bars to buy their freedom. One allegation [in 2000] was that one IPTF officer purchased a woman as a sex slave. He claimed that he had paid to have her released from her debt, but I doubted that explanation.”²⁷⁵ In yet another case, an Argentine monitor purchased a woman from a brothel in 2001.²⁷⁶

²⁷⁰ Human Rights Watch contacted the Romanian Embassy in Washington, D.C. about these allegations. According to a letter sent by Stelian Stoian, deputy chief of mission, “The U.N. investigation did not find any evidence that Romanian policemen in the IPTF have been involved in human trafficking.... So far, no Romanian police officer with the [IPTF] has been repatriated due to misconduct in performing his responsibilities.” Letter from the Embassy of Romania, March 12, 2002, on file with Human Rights Watch.

²⁷¹ U.N. Interoffice Memorandum to Vincent Coeurderoy, commissioner of IPTF, “Subject: Prostitution in Doboj – The Vila,” March 20, 2001.

²⁷² Human Rights Watch interview, IPTF human rights officer [name withheld], Doboj station, March 28, 2001. While stripping is not illegal in Bosnia and Herzegovina, many of the strip clubs offer illicit sexual services as well. The fact that this woman was foreign indicates that she might have been a victim of trafficking. In this case, IPTF monitors violated the internal instructions to avoid going to nightclubs and procuring women for any type of services. IPTF officers receive these internal instructions during their induction in the “standard operating procedures” (SOPs) manual. According to Kirsten Haupt, UNMIBH spokeswoman, “This has always been part of the SOPs, since the beginning of the mission.” Human Rights Watch telephone interview, Kirsten Haupt, UNMIBH spokeswoman, Sarajevo, October 18, 2002.

²⁷³ Human Rights Watch interview, senior UNMIBH official [name withheld], Sarajevo, March 26, 2001.

²⁷⁴ Ibid.

²⁷⁵ Human Rights Watch telephone interview, Mike Stiers, former deputy commissioner IPTF, Colorado, February 26, 2002. In that case, the IPTF “could not find the girl to verify the story. The IPTF monitor said that he had sent her home to her country.”

²⁷⁶ The monitor faced repatriation after an investigation. According to Celhia de Lavarene, STOP director, he lost his job upon return to Argentina. Human Rights Watch telephone interview, March 14, 2002. Ambassador Nancy Ely-Raphel, senior advisor to the U.S. secretary of state, Office to Monitor and Combat Trafficking in Persons, testified that the Argentine faced criminal charges upon his return to Argentina. U.S. House of Representatives Subcommittee on International Operations and Human Rights, “The U.N. and the Sex Slave Trade in Bosnia: Isolated Case or Larger Problem in the U.N. System?” April 24, 2002, Serial No. 107-85.

A November 2000 internal memorandum to all U.S. IPTF officers from Pascal Budge, the site manager for DynCorp, the corporation contracted with the U.S. Department of State to provide all U.S. IPTF personnel, reported a rise in disciplinary repatriations within the U.S. contingent related to trafficking in persons and prostitution.²⁷⁷ Noting that the repatriations were “embarrassing” the memorandum enunciated a “zero tolerance policy,” forbidding U.S. IPTF officers from visiting the nightclubs.²⁷⁸ The memorandum indicated that other IPTF officers had considered purchasing women in order to “rescue” them. According to the text, “One of our officers told me not long ago that he was interested in ‘assisting’ a young victim of trafficking in his area. He explained that he was aware there was a specific price identified to release her from the establishment where she was allegedly held against her will. He informed me that it was his intention to pay that ‘ransom’ and then release her to return to her home.”²⁷⁹ At a minimum, this indicated that the officer had visited the nightclub and engaged in negotiations with the owner, already a violation of the much-vaunted “zero tolerance policy.”

In one case confirmed by Dennis Laducer, then deputy commissioner of IPTF, UNMIBH admitted that a U.S. IPTF officer had purchased a woman from one of Sarajevo’s brothels. Kathryn Bolkovac, an IPTF human rights officer, to whom the American confessed, told Human Rights Watch:

One [U.S.] monitor bought a woman in Illidja. He was repatriated. He was duty officer with me and told me about a woman he bought....He admitted to me that he did this. He had her for a few months at least. He paid 6,000 Deutschmarks [€3,077/U.S.\$2,777] or less and paid off her contract.... She was either Romanian or Moldovan, they met in a bar... He was an uneducated guy who thought he did her a favor and bought her.... He said that it was horrible how the owners treated her.... She ran away from him. [Name withheld] was the American who was repatriated. It was investigated and he [admitted] everything. Who knows what happened to the report. It was not published.... They talked him into repatriating and resigning. This would cause too much embarrassment for DynCorp.²⁸⁰

Because UNMIBH had failed to develop protocols in 1999 for the treatment and repatriation of trafficked women and girls, IPTF monitors dealt with trafficking cases in an ad hoc manner.²⁸¹ IPTF monitors who met women in the nightclubs as clients sometimes attempted to “rescue” the women without purchasing them outright. These

²⁷⁷ DynCorp Aerospace Operations, Ltd, a U.S. contractor, provides technology and logistical services to the public and private sectors. DynCorp was founded in 1946, has annual revenues of approximately \$1.8 billion, and employs 23,000 employees worldwide. (See <http://www.dyncorp.com/about/index.htm>, retrieved April 4, 2002). DynCorp currently holds the contract for supplying the U.S. civilian police contingent to IPTF in Bosnia and Herzegovina, a contract valued at approximately U.S.\$15 million. DynCorp also provides U.S. policing personnel in Haiti, East Timor, and Kosovo. U.S. SFOR contractors are recruited and employed by DynCorp through a contract with the Department of Defense.

²⁷⁸ The Budge memorandum appears to have launched a “zero tolerance policy” among the U.S. contingent. The U.N. enunciated a “zero tolerance policy” in mid-1999.

²⁷⁹ Internal DynCorp memorandum, Pascal Budge, “Trafficking in Persons/Prostitution,” November 29, 2000. The memorandum continued, “While his intentions may have been genuine and even noble, I hope you all see the danger in engaging in such activity.... It is sufficient for me to say that the particular case to which I refer is no longer an issue for us in this mission. However, let me reemphasize that ANY unauthorized, unapproved, unofficial involvement or contact with anyone associated with either of these illegal activities will be dealt with severely and swiftly. You will face Termination for Cause, immediate repatriation, loss of your completion bonus and future employment eligibility with DynCorp, and possibly prosecution.”

²⁸⁰ Human Rights Watch interview, Kathryn Bolkovac, IPTF human rights officer, March 19, 2001. See Colum Lynch, “Misconduct, Corruption by U.S. Police Mar Bosnia Mission,” *Washington Post*, May 29, 2001, p. A1.

²⁸¹ Since then, UNMIBH has issued regulations #9 and #9A governing the treatment of trafficked persons. In addition, UNMIBH created the STOP units to handle trafficking cases. These included fifty IPTF officers and one hundred and forty members of the local police. As of March 2002, one STOP unit worked in each of the seven regions, and one team in each of the ten cantons in the Federation and in each of the nine public security centers in Republika Srpska. Human Rights Watch telephone interview, Celhia de Lavarene, director of STOP, Sarajevo, March 14, 2002.

“rescues” apparently occurred after the IPTF monitor had purchased sexual services from their “owners” in the brothels and had grown attached to a particular woman in the establishment.²⁸²

Alleged Retaliation against Whistleblowers

Kathryn Bolkovac, a former IPTF human rights gender officer from the United States, brought a lawsuit in the United Kingdom in 2001 alleging that DynCorp fired her for blowing the whistle on trafficking of women and girls in Bosnia and Herzegovina.²⁸³ On October 9, 2000, Bolkovac, after reviewing transcripts of interviews with over thirty-five trafficked women, sent an e-mail to over fifty members of the U.N. mission in Bosnia and Herzegovina, including Jacques Paul Klein, the special representative of the U.N. secretary-general (SRSG). The memo, entitled, “Do Not Read This if You Have a Weak Stomach or Guilty Conscience,” included a detailed explanation of trafficking routes and logistics in Bosnia and Herzegovina. The memo went on to describe human rights abuses against the victims, including rapes, beatings, and forced labor. The memo also provided definitions of “prostitute,” “pimp,” “trafficker,” “trafficking victim,” and “clientele.” The “clientele” definition alleged that IPTF, SFOR, local police, and international employees, as well as local citizens, made up some portion of the customer base for trafficked women.²⁸⁴

On October 31, 2000, then-deputy IPTF commissioner Mike Stiers called Bolkovac into his office to inform her that she would be redeployed—in Bolkovac’s view effectively demoted—to the Sarajevo regional office as of November 6, 2000 and would be forbidden to work in a human rights capacity for at least three months.²⁸⁵ According to Bolkovac’s account of the meeting, Stiers indicated that the redeployment was for “her own good” since the e-mail indicated she was “burned out.”²⁸⁶ Stiers told Human Rights Watch, “When I saw the e-mail, I wasn’t angry, I was concerned.... I had seen cases like this before in my department in Aurora [Colorado]... detectives and police officers whose work ate them up. I discussed the situation with several people, called [Bolkovac] into my office, and told her that in order to calm the situation down I wanted to move her out of her current situation for some period of time.”²⁸⁷

On November 5, 2000, one day prior to moving out of her office at headquarters, Bolkovac wrote an “investigative report” outlining allegations of international, SFOR, IPTF, and local police involvement in trafficking. In the report, Bolkovac requested that the information be passed to the appropriate investigative body within UNMIBH. She wrote in the memorandum, “Numerous interviews of females who have been retrieved or escaped from establishments across the country of Bosnia have indicated in their interviews a fear of reporting and speaking to IPTF and local officials due to the presence of these officials in the places of business.”²⁸⁸

²⁸² In 1999, a human rights officer in Brcko reported on just such a case: “We had a girl here who escaped from one of those places. One of our monitors went there and met her there. He encouraged her to leave and she lived with him for several months. [It was an] Argentine IPTF monitor who helped [the] woman escape. We kept it all very quiet. I was happy that he helped her, but this is not what we are supposed to do. He fell in love with the girl and wanted to help her. She was working in Brcko and went to Orasje because he lives and works there.... The local authorities never asked, and we never told. He is worried that if IPTF finds out they might repatriate him....” In the case described here, the Argentine monitor’s fellow IPTF officers contributed money for tickets and documents for the trafficked woman to return to Ukraine. The woman, who had never received a salary for working in the brothel, left in February 1999. Human Rights Watch interview, Juhe Roine, IPTF HRO, Brcko, March 21, 1999.

²⁸³ Specifically, the lawsuit alleged unfair dismissal, breach of contract, and sex discrimination. E-mail communication from Karen Bailey, lawyer for Kathryn Bolkovac, September 9, 2001, on file with Human Rights Watch. Bolkovac won her lawsuit on August 1, 2002. Bolkovac filed her case before an employment tribunal in the United Kingdom as required by her employment contract with DynCorp Aerospace Operations (UK) Limited.

²⁸⁴ Internal e-mail correspondence from Kathryn Bolkovac to U.N. mission personnel, “Subject: Do Not Read This if You Have a Weak Stomach or Guilty Conscience,” October 9, 2000, on file with Human Rights Watch.

²⁸⁵ Human Rights Watch interview, Kathryn Bolkovac, IPTF officer, March 19, 2001. Internal memorandum summarizing the meeting with deputy commissioner Mike Stiers, dated October 31, 2000, on file with Human Rights Watch.

²⁸⁶ Internal memorandum summarizing the meeting with deputy commissioner Mike Stiers, dated October 31, 2000.

²⁸⁷ Human Rights Watch telephone interview, Mike Stiers, former deputy commissioner of IPTF, February 26, 2002.

²⁸⁸ UNMIBH IPTF “Investigative Report,” “Follow-up Requested: International-SFOR-IPTF-Local Police Allegations of Involvement,” November 5, 2000.

In April 2001, DynCorp fired Bolkovac. The official reason for the firing was falsification of a timesheet.²⁸⁹ Bolkovac countered that she faced dismissal not for the alleged administrative infraction, but “for investigating, reporting, and requesting through internal affairs [that] investigations be done in regard to international involvement in trafficking, as it was reported by victims to us.”²⁹⁰ Former IPTF deputy commissioner Stiers, who left the mission in November 2000, told Human Rights Watch, “The reason that she got fired had nothing to do with the [October 9] e-mail or the allegations that IPTF covered up.”²⁹¹ In December 2001, Human Rights Watch sent a letter to DynCorp requesting comment on the trafficking allegations.²⁹² On August 1, 2002, Bolkovac won a unanimous decision from a British employment tribunal that DynCorp had unfairly dismissed her.²⁹³

Stiers insisted that the IPTF followed up on every allegation of wrongdoing by IPTF monitors, telling Human Rights Watch, “In every case we created an investigation and we did as good an investigation as possible with what we had to work with. I say this as a professional police officer. I found no cover-ups and no sweeping under the rug.”²⁹⁴

But some of the investigators engaged in those inquiries reported interference with their ability to investigate cases thoroughly. In March and April 2001, Human Rights Watch found that some IPTF officers, both human rights officers and internal affairs investigators, faced retaliation when they looked into allegations of IPTF involvement in trafficking. An internal affairs investigator who had completed an investigation resulting in the repatriation of four IPTF officers for sexual misconduct involving trafficked women, told Human Rights Watch, “The number of people involved that they sent home—[were] only those without power, and now [UNMIBH] is investigating the team itself. Now we have to answer questions, and we’re in the chair [hotseat]... Now those of us who know something are also getting investigated. Internal investigations now has launched an investigation against me.”²⁹⁵

IPTF monitor David Lamb told Human Rights Watch:

At some point things turned against the investigators. [The internal affairs investigator] was threatened with harm by one of the Romanians [who was under investigation for trafficking]. The Romanian had been transferred and worked in the Tuzla regional headquarters and sat down with [the investigator] in the cafeteria and threatened [him] that something would happen to them if they didn’t stop the investigation... [The investigator] came to me immediately afterwards [and] wrote it down for me and arranged for other uninvolved IPTF officers to sit nearby, and he didn’t tell them anything about the investigation. He just asked them to listen to the conversation. It was an American and a Portuguese who

²⁸⁹ The official termination notice provided to Bolkovac by DynCorp stated, “DynCorp has learned that you have falsified your time sheets. As a result, you are hereby officially terminated, as of today, for cause under Section 17.A.iv Termination for Cause.” E-mail correspondence with Kathryn Bolkovac, December 16, 2001, on file with Human Rights Watch.

²⁹⁰ E-mail correspondence with Kathryn Bolkovac, December 17, 2001, on file with Human Rights Watch.

²⁹¹ Human Rights Watch telephone interview, Mike Stiers, former deputy commander, IPTF, February 26, 2002.

²⁹² DynCorp responded March 5, 2002 and refused to comment on the case, then in litigation. Letter from Charlene Wheelless, vice president, DynCorp, March 5, 2002, on file with Human Rights Watch.

²⁹³ Employment Tribunals, *Bolkovac v. DynCorp Aerospace Operations (UK) Ltd*, “Unanimous Decision,” Case no. 3102729/01, on file with Human Rights Watch. DynCorp has appealed the decision.

²⁹⁴ Human Rights Watch telephone interview, Mike Stiers, former deputy commissioner IPTF, Colorado, February 26, 2002.

²⁹⁵ Human Rights Watch interview, IPTF internal affairs investigator [name withheld], Tuzla, April 2, 2001. In that case, the IPTF monitor’s direct supervisor reviewed the allegations made against the investigator, allegations brought by the individuals under investigation. In a detailed three-page memorandum to UNMIBH headquarters, obtained by Human Rights Watch, the supervisor concluded, “The unfortunate truth is that [the investigator] is now subjected to these complaints because he did his job with dedication and distinction, and he uncovered much information that otherwise would have remained hidden... he did the right thing instead of covering up internal corruption as seems the rule in the IPTF.” E-mail correspondence, “Complaints against [name withheld],” March 28, 2001, on file with Human Rights Watch. Another internal affairs investigator similarly described feeling that he faced retaliation and scrutiny due to his involvement in trafficking investigations. Human Rights Watch interview, IPTF internal affairs investigator #2 [name withheld], Sarajevo, March 24, 2001.

worked at Tuzla headquarters. He told the Romanian that he wanted to discuss what they had talked about before. He got the Romanian to repeat the demand to stop the investigation, and it was overheard by the other two at the next table. This was all on the record.²⁹⁶

Lack of Transparency in U.N. Internal Investigations

The UNMIBH Discipline and Internal Investigation Section undertakes investigations of allegations of general misconduct by U.N. personnel. Individual investigators submit their reports to the chief of staff in Bosnia and Herzegovina, who determines what disciplinary action, if any, will occur. In July 2001, an UNMIBH spokesman told the Associated Press that twenty-four officers, including eight Americans, had been fired for offenses ranging from bribery to sexual impropriety.²⁹⁷ According to a report submitted to the U.S. Congress by the United Nations in April 2002, eighteen IPTF personnel were implicated in “incidents of sexual misconduct” and repatriated.²⁹⁸

Despite numerous public statements by SRSJ Jacques Paul Klein emphasizing his commitment to disciplining IPTF monitors for misconduct, internal affairs investigators described investigations that withered or disappeared as they moved up the chain of command. Former senior IPTF officer David Lamb told Human Rights Watch that officials in UNMIBH stalled and occasionally halted investigations. According to Lamb, internal affairs investigators were instructed to cease investigating allegations that Romanian IPTF officers were involved in trafficking-related activities in 2001. Lamb told Human Rights Watch, “At some point [the internal affairs investigator] was directed by headquarters not to investigate allegations about the Romanians and that the Romanian government—the Ministry of the Interior—would do the investigation themselves. [The investigator] and I both thought that was ridiculous. He had to follow orders and did not pursue the Romanians.”²⁹⁹

Some inside the mission raised concerns about the lack of transparency. One high-level U.N. official told Human Rights Watch, “The attitude is that the dirty laundry should be washed inside the family, and I don’t agree with that. The people [fighting trafficking] are very good, but they meet resistance inside the IPTF.”³⁰⁰

In February 2002, the U.N. oversight office concluded a follow-up assessment into UNMIBH and found “no evidence of widespread or systematic involvement of U.N. police monitors in trafficking activities.” A U.N. spokesman summarized the Office of Internal Oversight’s conclusions, “. . .investigators of the Mission’s International Police Task Force have improved their inquiries into allegations of improper behavior by police monitors, although the results of these investigations have not always been adequately communicated to the public.”³⁰¹

²⁹⁶ Human Rights Watch telephone interview, David Lamb, former IPTF human rights officer, July 31, 2001. Human Rights Watch also obtained and reviewed the transcripts to which Lamb alluded. Those transcripts confirm Lamb’s account of the events. The two internal memos, dated March 18, 2001 and March 19, 2001, are on file with Human Rights Watch.

²⁹⁷ William Kole and Aida Cerkez-Robinson, “U.N. Police Accused of Involvement in Prostitution in Bosnia,” July 26, 2001.

²⁹⁸ United Nations Mission in Bosnia and Herzegovina, “The IPTF and UNMIBH Policy on Trafficking,” submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002. Of these, six were U.S. citizens, two of whom had purchased women and their contracts. Testimony of Bob Gifford, civil police unit, Department of State, Subcommittee on International Operations and Human Rights Hearing, “The U.N. and the Sex Slave Trade in Bosnia,” April 24, 2002, Serial No. 107-85.

²⁹⁹ Human Rights Watch telephone interview, David Lamb, former IPTF human rights officer, July 31, 2001. Lamb supervised the internal affairs investigators in question and therefore knew of instructions given to the officers. The allegations included specific charges that a Romanian monitor and his wife engaged in trafficking women into Bosnia and Herzegovina. According to the deputy chief of mission at the Romanian Embassy in Washington, D.C., these allegations proved false. Letter from Stelian Stoian, deputy chief of mission, Embassy of Romania, to Human Rights Watch, March 12, 2002.

³⁰⁰ Human Rights Watch telephone interview, high-level U.N. official [name withheld], March 14, 2002.

³⁰¹ U.N. News service, “U.N. OIOS Found No Evidence of IPTF Involvement in Trafficking,” February 4, 2002. It is important to note that Human Rights Watch and other organizations pointed to individual involvement in trafficking-related activities, never alleging widespread and systematic trafficking by IPTF monitors.

UNMIBH's Response in the Prijedor Case

The events in Prijedor in November 2000 provide one of the clearest examples of UNMIBH's failure to investigate allegations involving IPTF monitors in trafficking-related misconduct. As already described above, on November 13, 2000, IPTF monitors with SFOR backup raided three Prijedor nightclubs and freed thirty-four women and girls. A week later, Milorad Milakovic, husband of the owner of the nightclubs, a former police officer, and "president of the association of nightbar owners of Prijedor," called a press conference in Banja Luka to denounce the IPTF and lodge allegations that "David," an IPTF monitor, had demanded 20,000 Deutschmarks (€1,0256/U.S.\$13,888) in protection money.³⁰² Also present were fifty-six bar owners and their body guards, wearing jackets and tee-shirts emblazoned with "IPTF Go Home" and "SFOR Go Home."

The UNMIBH press offices first claimed that the local police, not IPTF alone, had found the women during the raid.³⁰³ UNMIBH's claim was contradicted less than a week later, when the minister of interior of Republika Srpska, Sredoje Novic, told a local newspaper, "We had condemned the action of the IPTF and SFOR and we believe that it was out of their mandate and authorizations. Local police was totally avoided and involved afterwards, when something needed to be documented."³⁰⁴

On November 30, the UNMIBH spokesman for Banja Luka and Bihac, Alun Roberts, reported that six members of the IPTF would be removed from the mission and repatriated for exceeding their authority under the UNMIBH mandate in connection with the November 13 raid.³⁰⁵ SRSJ Jacques Paul Klein stated, "These were our best officers, but they did not follow the rules, and that cannot be tolerated," and claimed that he accepted the resignations "more out of sorrow... than anger."³⁰⁶ But it was unclear how the UNMIBH selected these six for repatriation.³⁰⁷ An IPTF monitor who faced repatriation for participation in the raid told Human Rights Watch that at least twenty-five IPTF monitors in the station participated in the unauthorized raid.³⁰⁸

Klein also denied Milakovic's allegations that IPTF officers engaged in racketeering but claimed that UNMIBH was investigating.³⁰⁹ Vincent Coeurderoy, commissioner of the IPTF, also confirmed that an internal investigation was underway.³¹⁰ Human Rights Watch made inquiries about the status of the internal investigation in April 2001, five months after the Prijedor incident. According to Julian Harston, deputy special representative of the secretary-general, "I haven't seen the report, although I have asked.... It's still foggy. I don't think that there has been much digging."³¹¹

³⁰² UN Press and Information Office, "Summary of Today's Press Conference in Banja Luka By Milorad Milakovic, President of the Association of Night Bar Owners of Prijedor and Owner of One of the Coffee Bars," November 20, 2000.

³⁰³ *Nezavisne Novine*, Banja Luka, November 16, 2000, p. 16, translation by Department of U.N. Public Affairs, UNMIBH. See also *Glas Srpski*, Banja Luka, p. 4, November 23, 2000. The presence of local police remained a controversial question: Milka Milakovic, owner of the nightclub "Maskarada," initially stated that Serbian police officers were present at the raid. One IPTF officer involved in the raid told Human Rights Watch: "IPTF and SFOR and everyone from the station was there. There were twenty-five guys and two Czech SFOR detachments. Also there were three to four local police. And unfortunately, the local police did not get so involved and the local police did not do a lot. We shot ourselves in the foot." Human Rights Watch telephone interview, IPTF monitor repatriated for taking part in the raid [name withheld], April 24, 2001. See also Goran Djogic, "Erasing Unsuitable Officers," *Reporter*, Banja Luka, November 29, 2000, pp. 10-12.

³⁰⁴ *Glas Srpski*, Banja Luka, "Statement of Sredoje Novic," Minister of the Interior of Republika Srpska, Banja Luka, November 22, 2000, p. 3, translation by Department of U.N. Public Affairs, UNMIBH.

³⁰⁵ *Glas Srpski*, "Exceeded their mandates over nightbar raids," Banja Luka, November 30, 2001, p. 5.

³⁰⁶ Colum Lynch, "Six U.N. Officers in Bosnia Resign After Unauthorized Raid," *Washington Post*, November 30, 2000, p. A20.

³⁰⁷ According to Dennis Laducer, then deputy commissioner of the IPTF, the six had all visited the clubs either to drink or as clients of sexual services. But the women interviewed after the case broke indicated that eleven, not six men, had visited the establishments. Human Rights Watch telephone interview, Dennis Laducer, December 12, 2001.

³⁰⁸ Human Rights Watch telephone interview, IPTF monitor repatriated after Prijedor case, April 24, 2001.

³⁰⁹ Colum Lynch, "Six U.N. Officers in Bosnia Resign After Unauthorized Raid," *Washington Post*, November 30, 2000, p. A20.

³¹⁰ Alexandra Kroeger, "U.N. Policemen Disgraced in Bosnia," BBC News, November 30, 2000.

³¹¹ Human Rights Watch interview, Julian Harston, deputy SRSJ, Sarajevo, April 9, 2001.

One high-level UNMIBH official in Banja Luka with intimate knowledge of the case similarly noted the lack of a report on the investigation. He told Human Rights Watch, “I am not sure that there ever was an investigation. There needed to be a complete record. A chronology. We asked Bihac [regional headquarters] to do the chronology of what happened. It did not seem to happen.”³¹² Deputy IPTF Commissioner Dennis Laducer also stated that he never saw a final report on the case, although UNMIBH security officers did provide a briefing for him in April 2001.³¹³ According to Alun Roberts, interviewed in December 2001, the case is now closed.³¹⁴

While in Bosnia, Human Rights Watch investigators reviewed the complete internal affairs and Joint Task Force documents binders on the Prijedor investigation. The binders contained testimonies given by the women held in the three nightclubs raided by IPTF and SFOR (Crazy Horse I, Crazy Horse II, and Mascarada). The binder also contained lists of names and descriptions of IPTF monitors provided by the trafficked women. According to the report, internal affairs obtained detailed descriptions of eleven IPTF officers from Prijedor and Sanski Most, nine of whom the trafficked women alleged had procured sex with them in the nightclubs.³¹⁵

Human Rights Watch could not find any statements given by the IPTF monitors repatriated by UNMIBH. We also could not find any evidence that the officers sent home had received any sort of due process protections to determine whether they were among the eleven “clients” or visitors to the nightclubs named by the trafficked women.³¹⁶ Finally, although UNMIBH officials insisted that they hoped to see Milka Milakovic, the co-owner, convicted as a trafficker, Human Rights Watch could not find any evidence to indicate that the repatriated IPTF officers, who likely knew most about the case, had given any testimony to assist in convicting the traffickers and nightclub owners. The prosecutor on the Milakovic case confirmed that the IPTF monitors and the trafficked women returned to their home countries before providing testimony to an investigative judge.³¹⁷ In the apparent rush to repatriate the IPTF monitors and silence the media uproar, UNMIBH indirectly scuttled the prosecution of the owners of the nightclub.³¹⁸ As one IPTF monitor in Prijedor who participated in the raids told Human Rights Watch, “The monitors were not interrogated before they were sent home. That’s a disaster. They could have told what was the procedure—how they paid for sex. They could have provided evidence.”³¹⁹

Equally disturbing, Human Rights Watch could not find any evidence to indicate that UNMIBH investigators had probed into the extortion allegations made by Milakovic against the American IPTF monitor. Human Rights Watch met with Milorad and Milka Milakovic, husband and wife, on two occasions to determine whether they had ever been questioned by UNMIBH investigators. Both denied that any investigators from the international community had ever approached them for an interview.³²⁰

³¹² Human Rights Watch interview, UNMIBH official [name withheld], Banja Luka, March 29, 2001.

³¹³ Human Rights Watch telephone interview, Dennis Laducer, deputy commissioner, IPTF, December 12, 2001.

³¹⁴ Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, December 12, 2001.

³¹⁵ Internal Affairs internal report, Prijedor case, reviewed by Human Rights Watch, April 10, 2001. It is unknown whether these eleven participated in the raid. It is clear that several of the nine accused of having sexual relations with the women did provide transportation to Sarajevo from Prijedor after the raid.

³¹⁶ Although the ostensible reason for the repatriation of the six monitors was “exceeding their authority,” other monitors who also participated in the raids did not face repatriation.

³¹⁷ Human Rights Watch interview, prosecutor in Milakovic case, Prijedor, April 6, 2001.

³¹⁸ As of October 2002, the Milakovic case remained on hold, with little progress since April 2001. Because the victims did not provide testimony to an investigative judge, the court refused to admit their statements into evidence, effectively scuttling the case. The removal of the chief prosecutor by the Office of the High Representative after an investigation of his professional ethics also held up prosecution of the case, although the case remained open. The binders on the Prijedor case included memoranda noting that UNMIBH attempted on multiple occasions to have an investigative judge from Prijedor travel to Sarajevo to take testimony from the women, but the authorities in Prijedor refused to cooperate. The Milakovic family has since opened a new establishment, the Sherwood Forest Hotel, in Prijedor. Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, October 29, 2002.

³¹⁹ Human Rights Watch interview, IPTF monitor [name withheld], Prijedor, March 28, 2001.

³²⁰ Human Rights Watch interview, Milorad and Milka Milakovic, Prijedor, March 28, 2001. It does not appear that the two were interviewed before the case was closed.

An internal affairs officer assigned to the investigation explained the paucity of the record, saying that when he told his supervisor that he had a shovel and asked how deep he should dig, he said he was told: “only scratch the surface.”³²¹ Indeed, it appears that UNMIBH accepted the resignations of or repatriated only those IPTF monitors whose names appeared in the local newspapers. One of the monitors, who chose voluntary repatriation rather than dismissal in the wake of the Prijedor scandal, told Human Rights Watch, “It was a bit of a tidy-up job. It was a mess.”³²² In a telephone interview with Human Rights Watch, he stated, “We took the option to go home voluntarily. I would have gotten kicked out anyway.” After the raid in November 2000, he interviewed ten of the women personally. He told Human Rights Watch, “The women gave a lot of names. They spoke to IPTF and gave names of [IPTF] people implicated. A couple of names came up, and they are still in the country. We [and the others who were sent home] were publicized—our names were in the papers. It was hard on the Americans, but other names came up and they remained there.”³²³

Operation Makro

The obfuscation that characterized the Prijedor investigation also plagued the official reporting on joint raids conducted in both entities in March 2001. The Office of the High Representative media round-up, published on March 5, 2001, provided a glowing report of successful police raids in Bosnia and Herzegovina. The statement averred that 177 women “were freed” during the secret operation, which included raids on thirty-nine clubs across Bosnia and Herzegovina and the arrest of forty-eight alleged suspects.³²⁴ An official UNMIBH statement maintained that a total of 177 women, mostly from Romania, Moldova, Ukraine, and the Russian Federation, were “liberated” during the raids. UNMIBH, trumpeting the success of the operation, lauded the country’s law enforcement officers for their cooperation during the action and indicated that the IPTF and IOM were assisting the women. SRSJ Jacques Paul Klein said that the operation “clearly demonstrates to all of us that police training has paid off; professionalism has been enhanced; and the ability to work constructively together, regardless of entity or ethnic origin, is possible.”³²⁵

But again, the reality differed substantially from this portrait. Of the 177 “rescued” women and girls, only thirteen made it to the IOM shelter in Sarajevo.³²⁶ The rest appeared to have vanished. An April 2001 internal report submitted to the Office of the High Commissioner for Human Rights (OHCHR) in Geneva stated:

This was a considerable operation which reportedly led to the rescue of some 177 women and the arrest of an undisclosed number of offenders.... All were stated to be victims of trafficking and were under the care of the U.N. and IOM. This would have been laudable but unfortunately does not seem to reflect the reality. To date IOM have thirteen women, a further twelve have since sought assistance, but whether this is as a result of the police action or otherwise has yet to be determined.³²⁷

Indeed, thirty-four of the “rescued” women faced arrest, charges, and fines.³²⁸ NGO representatives from Lara told Human Rights Watch that many of the women found themselves back at their nightclubs soon after the raids.

³²¹ Human Rights Watch interview, IPTF internal affairs investigator [name withheld], Sarajevo, March 24, 2001.

³²² Human Rights Watch telephone interview, IPTF monitor repatriated after Prijedor case, April 24, 2001.

³²³ Human Rights Watch telephone interview, IPTF monitor repatriated after Prijedor case, April 24, 2001. Although this monitor attested that he had not engaged in any wrongdoing, Dennis Laducer, then deputy commissioner of the IPTF, told Human Rights Watch that all of those sent home had visited the clubs either as clients for sexual services or to drink. Human Rights Watch telephone interview, Dennis Laducer, IPTF deputy commissioner, December 12, 2001.

³²⁴ OHR Media Round-up, March 5, 2001, on file with Human Rights Watch.

³²⁵ UNMIBH press release, “Successful Joint Entity Police Operation Rescues 177 Victims of Trafficking,” March 3, 2001.

³²⁶ Human Rights Watch interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, March 19, 2001. Two of the thirteen were girls under the age of eighteen.

³²⁷ Interim Report to OHCHR Geneva on Police Action to Rescue Women and Child Victims of Trafficking March 2, 2001, on file with Human Rights Watch.

³²⁸ Fourteen women were sentenced to fifteen days of imprisonment and deportation from the canton. Nineteen women were fined 400 KM and sentenced to deportation. UNICEF, UNHCHR, OSCE/ODIHR, “Trafficking in Human Beings in Southeastern Europe,” June 2002, p. 66.

Charges against Bosnian citizens for mediating in prostitution were dropped “due to a lack of evidence.”³²⁹ No bar owners faced charges after the raids in Tuzla, even though one of the owners admitted that he engaged in trafficking.³³⁰ In addition, six women (three Romanian, two Moldovan, and one Ukrainian) in the same region received sentences of fifteen days of imprisonment for prostitution. In Zvornik seven (five Romanian and two Moldovan) of the 177 women “rescued” in the raids faced fines of 50 Deutschmarks (€26/U.S.\$23) and ten days of detention.³³¹

A Record of Impunity

When asked if any IPTF officers had faced prosecution in Bosnia and Herzegovina or their home countries for illegal activities, UNMIBH officials could not point to any cases where the U.N. secretary-general had waived immunity. They stated that repatriation served as the only punishment for involvement in trafficking-related misconduct, but they also could not point to any prosecutions in home countries. Julian Harston, deputy special representative of the secretary-general in Bosnia and Herzegovina, commented, “Waiving immunity is a very difficult thing to do. We are hard pressed to get police to serve here. The facility for it [waiving immunity] exists.... I don’t know of any occasion where they were prosecuted at home.”³³²

Dennis Laducer, then deputy commissioner of IPTF, told Human Rights Watch that although UNMIBH had repatriated some eighteen international IPTF personnel for trafficking- and prostitution-related offenses, “I don’t think that anyone has been prosecuted for this.”³³³ Human Rights Watch found that UNMIBH failed to follow up once IPTF monitors accused of misconduct returned home. No institutional procedure guaranteed that reports of misconduct followed the officers home to their police stations or employers. At a July 26, 2001 press conference, UNMIBH spokesman told members of the press corps, “You have to understand that once the U.N. sends these files to the individuals’ countries, it is up to their governments to take action, and the U.N. is no longer in the picture.”³³⁴ In an April 4, 2002 letter to Human Rights Watch, the United Nations headquarters Bosnia and Herzegovina desk officer, Andrei Shkourko, noted that the “mechanisms for ensuring follow-up [on internal investigative reports] by the authorities of the contributing countries need to be strengthened.”³³⁵ According to one U.S. government official, in some instances, the investigations into misconduct ceased after IPTF personnel returned home. According to Bob Gifford of the U.S. State Department, “There has been a practice at the U.N. where individuals who are being investigated have the opportunity to suddenly leave the country, and then the U.N. tends to drop its investigation.”³³⁶

³²⁹ Ibid.

³³⁰ Office of the High Commissioner for Human Rights, “Additional Information on Operation Makro: April 4, [2001],” memorandum on file with Human Rights Watch.

³³¹ Ibid.

³³² Human Rights Watch interview, Julian Harston, deputy SRSR, Sarajevo, April 9, 2001. Under sections 20 and 23 respectively of the Convention on the Privileges and Immunities of the U.N., the U.N. secretary-general shall have the right and the duty to waive the immunity of any official or expert on mission “in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the U.N.”

³³³ According to information provided by Laducer, thirteen of the monitors repatriated for misconduct as of April 2001 were repatriated on the basis of charges related to prostitution and/or trafficking. Human Rights Watch interview, Dennis Laducer, deputy commissioner of IPTF, Sarajevo, April 8, 2001. An additional five faced repatriation for charges relating to trafficking and participation in prostitution. Human Rights Watch telephone interview, Dennis Laducer, December 12, 2001. According to a letter to the editor from Jacques Paul Klein, special representative of the secretary-general in Bosnia and Herzegovina, UNMIBH repatriated twenty-four monitors, including eight Americans, for misconduct. Jacques Paul Klein, “Letter Regarding the Report ‘U.N. Police in Bosnia: Who’s Watching?’” *International Herald Tribune*, June 8, 2001.

³³⁴ U.N. joint press conference, July 26, 2001, Sarajevo.

³³⁵ Letter to Human Rights Watch from Andrei Shkourko, senior political affairs officer, U.N. headquarters, April 4, 2002, on file with Human Rights Watch.

³³⁶ Testimony of Bob Gifford, Subcommittee on International Operations and Human Rights, “The U.N. and the Sex Slave Trade in Bosnia: Isolated Case or Larger Problem in the U.N. System?” April 24, 2002, Serial No. 107-85.

The problem of the jurisdictional gap under U.S. law has already been noted.³³⁷ According to Brooke Darby, an official in the U.S. Department of State's International Narcotics and Law Enforcement division, the Department of State did refer one case of a U.S. IPTF monitor who purchased a woman, but the Department of Justice did not prosecute. Darby told Human Rights Watch, "We would jump for joy if we could prosecute these cases. We're still working with the Department of Justice on this."³³⁸

The blanket immunity enjoyed by IPTF officers also troubled local officials. The state prosecutor for Republika Srpska told Human Rights Watch:

The allegations are not in the competence of the national prosecutor's office—they have immunity. It cannot be a case in this office. But I would welcome it if some kind of procedure would be brought against those people in their home countries. For the sake of others who work in the international community there should at least be prosecutions. There is some kind of corruption among the men of the international community—we are all human. I don't know of a single case where someone was charged at home. I am not entitled to bring charges.³³⁹

³³⁷ U.S. police officers hailed from numerous local police stations in the U.S.; other officers had already retired. These two factors rendered discipline by a home police employer difficult, if not impossible.

³³⁸ Human Rights Watch telephone interview, Brooke Darby, Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State, Washington, D.C., February 25, 2002.

³³⁹ Human Rights Watch interview, Borislav Dimitrievic, Republika Srpska chief prosecutor, Banja Luka, March 29, 2001.

XI. SFOR CONTRACTOR INVOLVEMENT

Human Rights Watch did not find direct evidence that SFOR soldiers engaged in trafficking of women and girls in Bosnia and Herzegovina.³⁴⁰ Substantial evidence, however, pointed to involvement by SFOR U.S. civilian contractors, who had more freedom to move around Bosnia and Herzegovina than the SFOR peacekeepers and did not face the same prohibitions on visiting nightclubs.³⁴¹ The contractors, many of them employed by DynCorp, faced allegations of buying women, transporting trafficked women, and violence against trafficked women. DynCorp issued a statement in January 2002 stating that the corporation “took prompt action to understand and deal with the situation,” including termination of contracts of individuals found to be involved in improper behavior.³⁴² DynCorp, a Reston, Virginia-based government contractor, with annual revenues of approximately U.S.\$1.9 billion in 2001, provides numerous and varied services to U.S. and foreign governments around the world.³⁴³

U.S. SFOR Contractors and Trafficking

Internal investigations undertaken by the Criminal Investigation Division (CID) of the U.S. Army uncovered evidence of direct contractor involvement in trafficking within Bosnia and Herzegovina. In a United States Army Criminal Investigation Command report obtained by Human Rights Watch, an investigator documented the following events:

About 1530 [3:30 p.m.], 1 May 2000, a CID source notified... this office, that several U.S. government contractors [approximately five] were involved in white slavery. Source stated that several members of DynCorp, who live off base, purchased women from local brothels and had them live in their residences for sexual and domestic purposes. Source stated that the individuals purchased the women from local “mafia” and when tired of the women would sell them back....³⁴⁴

Four of the five DynCorp employees named in the above investigation as purchasers of the women denied the allegations.³⁴⁵ One, Kevin Warner, confessed. In a sworn statement provided to U.S. Army criminal investigators, Warner admitted that he had purchased a woman from a brothel near the military base:

I have been working for DynCorp for the last six months. During my last six months I have come to know a man we call “DEBELI” which is Bosnian for fat boy. He is the operator of a nightclub by the name of Harley’s. Harley’s is a nightclub that offers prostitution. Women are sold hourly, nightly, or permanently. I was told by one of the employees at Harley’s that Debeli goes to the Republic of [Srpska] to buy women. From speaking with people, I have learned that the women, mostly from Moldavia [Moldova], come to Serbia to find work. Once in Serbia the women fall into a prostitution ring and [are] sold into Bosnia, sold at the Arizona Market.... DEBELI makes an arrangement with the women that

³⁴⁰ Human Rights Watch learned of a 1999 case of trafficking by a Russian soldier from IPTF internal reports and from the IPTF monitor who investigated the case and interviewed the women. According to the internal report, a Russian SFOR soldier named Sasha transported two Ukrainian women to Bosnia and Herzegovina and sold them to the owner of the nightclub “CAT.” Human Rights Watch interview, Dawn White, IPTF monitor, March 19, 1999. IPTF Incident Report, 99/DOB/045, March 10, 1999, on file with Human Rights Watch.

³⁴¹ Human Rights Watch takes no position on prostitution per se. However, when SFOR soldiers and contractors engage in direct activities related to trafficking—such as purchasing women for personal use—these activities violate both domestic and international human rights protections.

³⁴²“Statement by DynCorp in Response to the Current Website and the Anticipated Release of the February 4, 2002 Issue of *Insight Magazine*,” on file with Human Rights Watch. Many of the DynCorp employees on military contracts are former U.S. military direct employees. DynCorp contractors provide logistical support for the U.S. military bases in Bosnia and Herzegovina.

³⁴³ DynCorp 2001 Annual Report, <http://www.dyncorp.com/Financial/annual/01report/intro.htm> (retrieved November 11, 2002).

³⁴⁴ United States Army Criminal Investigation Command, “Agents Investigation Report,” ROI Number 0075-00-CID597-49891, p. 1.

³⁴⁵ Ibid.

they split what they earn 50/50. The women work off their debt to DEBELI until he [has] made the money he paid for them back. Until then, DEBELI keeps their passport. I have come to know DEBELI well to the point that he offered me an UZI to purchase. Around that same time I was approached by one of the women working there, [name withheld]..., who asked me to help her. I wanted to help her get back home to Moldavia so when DEBELI asked if I wanted to purchase the UZI I asked him what it would take to get [name withheld] to stop prostituting. He told me I could have them both [the Uzi and the woman] for 1,600 Deutschmarks [€821/U.S.\$740]. Ever since then [name withheld] has lived with me as a housemate. She does not speak much English but knows that she could leave any time she wanted.³⁴⁶

The subsequent investigation yielded evidence suggesting that the women in the clubs were trafficking victims and indicating contractor involvement in illegal activities. The report confirmed that Kevin Werner,³⁴⁷ a DynCorp employee, provided investigators with a pornographic videotape that appeared to document a rape. The CID report stated:

At 1802 [6:02 p.m.], 2 Jun 00, SA Scott Godwin, this office, collected as evidence one 9mm. Uzi, Automatic Sub-machine gun, a 32 round magazine, and a videotape from Werner. At 1815 [6:15 p.m.], 2 Jun 00, SA Godwin and the undersigned reviewed the videotape provided by Werner. A review of the videotape revealed a white male matching the description of Hirtz³⁴⁸ engaging in sexual relations in two separate occasions with a female. The first encounter disclosed the male receiving fellatio from the white female matching Hirtz's description. The second encounter displayed the same male engaging in sexual intercourse with a different white female. During the encounter the male leaves the view of the camera and returns with what seemed to be a bottle of oil. At the time the male returns to the bed, where the female was locate[d], the female sees the bottle and tells the male "no" numerous times. The male gives her a reply and begins to have intercourse with the female again.³⁴⁹

Warner also admitted that he had received a copy of the pornographic videotape from Debeli, copied the tape, and used it to encourage his boss, John Hirtz, to treat him "fairly." Warner alleged that Hirtz discussed layoffs with Debeli, in order to avoid laying off workers who still owed Debeli money.³⁵⁰ In a sworn statement, Hirtz admitted that he had discussed lay-offs with Debeli, whom he knew provided sexual services, "About three weeks ago I came to Harley's and spoke with Debeli. I asked him if anyone owed him money because I anticipated people were going to be laid off, and I did not want them to leave without paying their debt to anyone in Bosnia."³⁵¹

Warner's testimony that the women could be purchased "permanently" signaled to Human Rights Watch that these women had been trafficked.³⁵² In the final U.S. Army report, however, investigators found probable cause only to conclude:

Werner committed the offenses of illicit possession of a weapon and procuring and pandering when he purchased an UZI, 9 mm, Automatic machine pistol... and the freedom of a Moldavian prostitute for

³⁴⁶ United States Army Criminal Investigation Command, "Sworn Statement," File number 0065-00CID597, Tuzla, Bosnia and Herzegovina, June 2, 2000, on file with Human Rights Watch. According to an internal DynCorp e-mail obtained by Human Rights Watch, investigators found one of the women in the house of one employee. This was not reflected in the official U.S. Army report. E-mail correspondence from Darrin Mills, site supervisor, to Chris DiGesualdo, DynCorp, June 4, 2000, on file with Human Rights Watch.

³⁴⁷ In documents relating to the CID investigation and the lawsuit against DynCorp, Warner is spelled both with an "e" (Werner) and with an "a" (Warner). Human Rights Watch quotes the spelling as given in each of the relevant documents.

³⁴⁸ John Hirtz worked as the site supervisor for DynCorp in the U.S. military Comanche Base, Bosnia and Herzegovina. His name is spelled "Hertz" in other documents related to this case.

³⁴⁹ United States Army Criminal Investigation Command, "Agents Investigation Report," ROI Number 0075-00-CID597-49891, p. 3.

³⁵⁰ United States Army Criminal Investigation Command, "Sworn Statement," File number 0065-00CID597, Tuzla, Bosnia and Herzegovina, June 2, 2000, on file with Human Rights Watch.

³⁵¹ United States Army Criminal Investigation Command, "Sworn Statement: John David Hirtz," File number 0065-00-CID597, Tuzla, June 2, 2000, on file with Human Rights Watch.

³⁵² United States Army Criminal Investigation Command, "Sworn Statement [of Kevin Warner]," File number 0065-00CID597, Tuzla, Bosnia and Herzegovina, June 2, 2000, on file with Human Rights Watch.

1,600 Deutschmarks [€821/U.S.\$740] from the owner of Harley Davidson's bar." In addition, the report concluded that, "Hirtz committed the offense of procuring and pandering when he solicited sexual intercourse from two female prostitutes who worked at the Harley Davidson's bar."³⁵³

The report did not indicate that investigators ever interviewed the Moldovan woman who had been purchased. Nor did investigators properly delve into allegations that Hirtz may have raped one of the women on the videotape or that the women were trafficking victims.³⁵⁴ The investigators apparently did not follow up on allegations made by two DynCorp employees that another employee bought a woman for 13,000 Deutschmarks (€6,667/U.S.\$6,018).³⁵⁵

Instead, the CID referred the matter to the local police for investigation of the charges of illegal possession of a weapon and procuring and pandering.³⁵⁶ In the final paragraph, the report stated:

...it was determined that the offense was committed by a civilian who is no longer subject to the [Uniform Code of Military Justice], there are no violations of federal criminal statutes with which the person can be charged, and no other Army interest exists. On 17 Jun 00, this Report of Investigation was referred to the Zivinice Police Department... who assumed jurisdiction in this investigation.³⁵⁷

But local police denied to Human Rights Watch that they had authority to arrest, detain, or prosecute SFOR contractors for crimes committed in Bosnia and Herzegovina. The chief of police in Zivinice, a village near Tuzla, told investigators:

Two times DynCorp employees were sent home. Maybe four or six were sent home. The girls talked about Kevin, and they have Kevin on video. One of the guys made porno movies with two of the women. It is a crime in Bosnia. We couldn't bring charges against him under Annex IA of Dayton. That Annex states that people who are in the IC [international community] mission are not under our jurisdiction. They will be prosecuted in their own countries. When we find a foreigner is involved, this is the biggest problem for us. We can't do anything against them—they are above the law. On the video [filmed outside the nightclubs], the number plates [have the letters] CP. These are the contractors' jeeps. I'd like someone to help with this. You can't do anything about this. If we could prioritize, this is one of our main problems.³⁵⁸

³⁵³ Department of the Army, U.S. Army Criminal Investigations Command, 48th MP Detachment (CID), Eagle Base, Bosnia and Herzegovina, "CID Report of Investigation," p. 1, on file with Human Rights Watch.

³⁵⁴ The CID report included a transcript of Hirtz's sworn statement. The investigator questioned Hirtz about the apparent nonconsensual sexual intercourse in the videotape. The transcript reads:

Q: Did you have sexual intercourse with the second woman on the tape?

A: Yes.

Q: Did you have intercourse with the second woman after she said "no" to you?

A: I don't recall her saying that. I don't think it was her saying no.

Q: According to what you witnessed on the videotape played for you in which you were having sexual intercourse with the second woman. Did you have sexual intercourse with the second woman after she said "no" to you?

A: Yes.

Q: Did you know it was being videotaped?

A: I set it up.

Q: Did you know it is wrong to force yourself upon someone without their consent?

A: Yes.

³⁵⁵ Telephone Deposition of Joseph Becker, Ben Johnston v. DynCorp, Inc., District Court of Tarrant County, Texas, February 21, 2001, p. 76, on file with Human Rights Watch.

³⁵⁶ Letter from U.S. Department of the Army, 48th MP Detachment, to the Chief of Police of Zivinice, June 17, 2000, on file with Human Rights Watch.

³⁵⁷ "CID Report of Investigation," p. 3, on file with Human Rights Watch.

³⁵⁸ Human Rights Watch interview, Safet Huseinovic, chief of police, Zivinice, March 27, 2001. The police also noted that the U.S. Army CID had taken the videos away from the local police department and failed to return them as promised.

Not only did the local police believe that they lacked jurisdiction in the case, but Warner and Hertz's quick return to the United States rendered prosecution in Bosnia and Herzegovina impossible.³⁵⁹

Several weeks later, it appeared that local police and IPTF found the woman Kevin Warner had purchased. According to an IPTF human rights officer in Tuzla who interviewed the woman:

One girl was sold, and her last owner was Kevin. He bought her for himself. She woke up with a new toy on her pillow and 20 [Deutschmarks] each day. She lived with him like a prostitute. He was involved in some kind of weapons case—there was suspicion involved with weapons trading, and he left. He left her here, and the crime department discovered her. She gave information about the police involved in organized crime.³⁶⁰

And according to the IPTF official incident report on her case:

She was promised a job in Italy as a waitress. She was sold the first time in Hungary and then in Yugoslavia. Case recommended for closure. No further meetings with her planned. We do not expect any development of the case. Her last owner was Kevin, she stayed with him in Dubrave in a private house. In all place[s] she was force[d] to do sexual services with paid clients but usually she got no money. Kevin gave her passport back before he left. [The victim stated]: "Kevin paid 3000 DM [€1,538/U.S.\$1,388] for me."³⁶¹

DynCorp employees faced accusations that they had purchased women and their passports from local brothels in Bosnia and Herzegovina long before the repatriation of Warner and Hertz. In 1999, DynCorp repatriated five employees from SFOR installations after allegations emerged that they had purchased women. Joseph Becker, a DynCorp manager, stated that the contractors were accused in 1999 of "buying girls out from... slavery with the intention of marriage."³⁶² In a deposition taken on February 21, 2001 he defended the men for purchasing the women's freedom:

I had an opportunity to interview those people, and, without exception, all of them indicated that they would do it again, and they were in tears.... I had an opportunity to go [on] the world-wide web—I typed in "bought from slavery" and had 69,000 hits, and actually the history, in the history of our country and the history of the civilized world, the practice of buying people who you feel are being mistreated, beaten[] or used as slaves, take them and marry them produced sixty—over 69,000 hits... Those four individuals that I talked to were sure that that was the case [that purchasing the women was a morally correct thing to do].... They made a personal sacrifice to do what they thought was right.³⁶³

But Ben Johnston, a former employee at DynCorp, reported a completely different interpretation of the facts. In a deposition given under oath in connection with a wrongful termination lawsuit filed against DynCorp by Johnston (see below), he stated:

At that time I heard you could purchase women, that they knew a way... they falsified their passports or that they would get them falsified, or that you could get basically any age girl you wanted, the name of

³⁵⁹ In a letter to Human Rights Watch, Charlene Wheelless, vice president of DynCorp, stated, "We categorically deny that we transferred any of these individuals back to the U.S. to avoid prosecution. Former employees who returned to the United States from Bosnia did so after being terminated by DynCorp for improper conduct." Letter of March 5, 2002, on file with Human Rights Watch.

³⁶⁰ Human Rights Watch interview, IPTF human rights officer [name withheld], Tuzla, March 24, 2001.

³⁶¹ IPTF Incident Report, Tuzla, June 26, 2000.

³⁶² Telephone deposition of Joseph Becker, Ben Johnston v. DynCorp, Inc., on file with Human Rights Watch.

³⁶³ *Ibid.*, pp. 39-41. While purchasing a human being in order to free them does not constitute trafficking, Human Rights Watch maintains that these cases should be investigated to determine if this indeed was the motive of the purchaser. At a minimum, investigators must interview the trafficked women themselves to determine whether they could leave freely.

the clubs to get them at, just that type of thing... a lot of people said you can buy a woman and how good it is to have a sex slave at home.³⁶⁴

According to the testimony given by Johnston in his deposition, a fellow employee, Richard Ward, told him that Ward could purchase a woman for him. Johnston stated, “He says he’ll get me one for—you can have one for 100 marks [€51/U.S.\$46] a night or buy them for two or three thousand marks [€1,026 to €1,538/U.S.\$925 to U.S.\$1,388]. They can be yours, and they can be your ‘hoes’.”³⁶⁵

Johnston stated under oath that DynCorp turned a blind eye to the involvement of DynCorp personnel in these activities.³⁶⁶

Richard Ward’s name also appeared in confidential UNMIBH reports on trafficking. In a February 2001 memorandum obtained by Human Rights Watch, Maxwell Woodford, the IPTF gender officer in Sarajevo, urged reinvigoration of a stalled 1999 investigation of two local police officers who fraudulently obtained a visa “to legitimize the stay of a Mold[ovan] woman... purchased from a nightclub owner by an American civilian SFOR employee.”³⁶⁷ Richard Ward, named as the U.S. SFOR employee in the memorandum, allegedly paid 300 Deutschmarks (€154/U.S.\$138) to someone who claimed to be a police officer in order to procure the document for his Moldovan girlfriend, purchased from the nightclub.³⁶⁸ Only in 2001, two years later, did the two police officers face criminal charges, which were eventually dropped.³⁶⁹

In all, Johnston named eight DynCorp staff members who allegedly admitted to him that they had purchased women and girls in 1999 and 2000. And although five employees went home after the U.S. Army CID intervened in 1999, Johnston alleged that DynCorp employees continued to purchase women. Johnston stated that although some employees faced repatriation, “There was nothing said at work about ‘you couldn’t do it’... so it just continues. It continued and continued.”³⁷⁰

Johnston made the allegations outlined above in a statement filed with CID in Bosnia and Herzegovina. The U.S. Army placed him in protective custody, and he left several days later. DynCorp laid him off, refused to pay for his plane ticket back to the United States, and refused to ship his tools home. According to his official letter of discharge from DynCorp, Johnston committed the violation of “misconduct, violation of standards and conditions of employment and employment agreement” by bringing “discredit to the Company and the U.S. Army while working in Tuzla, Bosnia and Herzegovina.”³⁷¹ Local police in Zivinice confirmed that Johnston had assisted with the investigation.³⁷² DynCorp settled the case with Johnston for an undisclosed sum in August 2002.

³⁶⁴ Deposition of Benjamin Dean Johnston, *Ben Johnston v. DynCorp, Inc.*, District Court, Tarrant County, Texas, March 20, 2001, pp. 50-52, on file with Human Rights Watch.

³⁶⁵ *Ibid.*, p. 54, on file with Human Rights Watch.

³⁶⁶ Human Rights Watch contacted DynCorp in December 2001. DynCorp refused to comment on the case. DynCorp settled with Ben Johnston for an undisclosed sum in August 2002.

³⁶⁷ Internal Interoffice Memorandum from Maxwell Woodford to Satya Tripathi, “Allegations of Forgery Against Two Local Police Officers, One of Whom is Serving in the UN Mission in East Timor,” February 4, 2001, on file with Human Rights Watch.

³⁶⁸ *Ibid.* Human Rights Watch also obtained the original Bosnian police report on this incident, Tuzla Canton Ministry of the Interior, Crime Investigative Department Narcotics Division, “Information,” No. 08-01/2-1, August 5, 2000. The officers did not face disciplinary action from the Bosnian authorities. Human Rights Watch telephone interview, Satya Tripathi, deputy chief U.N. human rights office, December 14, 2001.

³⁶⁹ Human Rights Watch telephone interview, Satya Tripathi, deputy chief, U.N. human rights office, December 18, 2001. Ultimately, neither officer faced criminal or disciplinary penalties. In late 2002, the IPTF commissioner de-authorized the two officers. Human Rights Watch e-mail correspondence with UNMIBH official [name withheld], November 1, 2002.

³⁷⁰ Deposition of Benjamin Dean Johnston, *Ben Johnston v. DynCorp, Inc.*, District Court, Tarrant County, Texas, March 20, 2001, p. 57, on file with Human Rights Watch

³⁷¹ DynCorp, “Letter of Discharge,” June 9, 2000, on file with Human Rights Watch.

³⁷² Human Rights Watch interview, criminal division chief, Zivinice, March 27, 2001.

The practice of quickly repatriating contract employees severely hampered local investigations and attempts to prosecute traffickers. One IPTF human rights officer told Human Rights Watch of a case in which local authorities requested that an American, who had been caught having sexual intercourse with one of the women during a March 2001 raid of the “Istanbul” nightclub, serve as a witness against the owner of the club. When the investigative judge was ready to interview him at 2:00 p.m. the next day, the American had already departed for Croatia.³⁷³ It was unclear whether this employee worked for DynCorp or another contractor. In a March 2002 letter to Human Rights Watch, DynCorp denied that it had transferred any individuals back to the United States to avoid prosecution.³⁷⁴

A May 2000 UNMIBH report on trafficking also highlighted another case of an SFOR contractor, whose nationality and employer could not be determined by Human Rights Watch and who purchased two women.³⁷⁵ In December 1999, local police found a Romanian woman and a Moldovan woman locked inside the apartment of an SFOR civilian contractor in Vlasenica. The two, one of whom was a girl of sixteen, claimed that they were held against their will and told local police that the SFOR contractor had paid a bar owner 7,000 Deutschmarks (€3,590/U.S.\$3,240) to purchase them.³⁷⁶ NATO declined to waive his immunity, and the man left Bosnia and Herzegovina a few days later. According to the UNMIBH report, his employer relieved him of his duties for misconduct.³⁷⁷

Impunity for SFOR Contractors Engaged in Trafficking-Related Crimes

Human Rights Watch’s research showed, and DynCorp confirmed, that none of the contractors accused of trafficking-related crimes faced prosecution in the United States.³⁷⁸ Human Rights Watch submitted multiple freedom of information act (FOIA) requests in an attempt to track down any cases brought against contractors for trafficking-related offenses.³⁷⁹ A letter received from the U.S. Department of Justice Criminal Division stated, “We have conducted a search of the appropriate indices to Criminal Division records and have located no records responsive to your request.”³⁸⁰ The U.S. Department of Defense also confirmed that no cases had been prosecuted under the Military Extraterritorial Jurisdiction Act as of October 2002 due to the failure to issue regulations implementing the law.³⁸¹

DynCorp and Corporate Responsibility

Human Rights Watch believes that corporations must have adequate safeguards in place to prevent employees from engaging in human rights abuses. DynCorp’s personnel have participated in human rights violations and the company has not done enough to ensure that adequate safeguards are in place to prevent such activities. DynCorp

³⁷³ Human Rights Watch interview, IPTF Human rights officer [name withheld], Tuzla, March 24, 2001.

³⁷⁴ Letter from Charlene Wheelless, vice president, Dyncorp, March 5, 2002. The letter stated, “Former employees who returned to the United States from Bosnia did so after being terminated by DynCorp for improper conduct.... [W]e never repatriated any employee or former employee to avoid the pressing of charges against those individuals.”

³⁷⁵ The U.N. report did not divulge the nationality of the contractor.

³⁷⁶ U.N. Mission in Bosnia and Herzegovina Legal and Human Rights officer and U.N. Office of the High Commissioner for Human Rights in BiH, “Report on Joint Trafficking Project,” May 2000, p. 15, on file with Human Rights Watch.

³⁷⁷ Ibid.

³⁷⁸ DynCorp confirmed that none of its own contractors faced prosecution: “The Company at all times cooperated with the authorities in investigating these matters. To our knowledge, no criminal action was instituted by either the U.S. Army or authorities in either country with respect to the activities of the individuals.” DynCorp letter, March 5, 2002. Under MEJA, the contractors could be prosecuted in U.S. courts for “conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States.” Military Extraterritorial Jurisdiction Act, Public Law 106-523, section 3261 (a).

³⁷⁹ Specifically, Human Rights Watch submitted FOIA requests to the Department of State, Strategic Headquarters Allied Powers Europe, the Department of Justice, the Department of the Army and the U.S. European Command. None of the responses indicated that any prosecutions had occurred.

³⁸⁰ Letter from Thomas McIntyre, Department of Justice Freedom of Information/Privacy Act Unit, to Human Rights Watch, January 28, 2002, on file with Human Rights Watch.

³⁸¹ Human Rights Watch telephone interview, attorney [name withheld], Office of the General Counsel, U.S. Department of Defense, Washington, D.C., October 30, 2002.

has a code of conduct for its personnel.³⁸² However, the code appears to be insufficiently enforced given the fact that allegations of purchase of women and girls by DynCorp employees reemerged in 2000, just one year after the repatriations of several employees for engaging in the same activity. These facts suggest that the changes and internal controls that the corporation adopted were insufficient. DynCorp has a responsibility to enforce its own code of conduct and to ensure that its employees do not engage in the trafficking of human beings.

³⁸² DynCorp's core values statement can be found at <http://www.dyncorp.com/about/values.htm> (retrieved November 10, 2002).

XII. CONCLUSION

This report has documented egregious human rights abuses committed against women and girls trapped in debt bondage in Bosnia and Herzegovina. Around the country women and girls face violence, sale as chattel, and forced labor, all in contravention of international law. Some of the local officials tasked with preventing and protecting women from these abuses have directly benefited from trafficking. By failing to prosecute traffickers and corrupt state officials, the state of Bosnia and Herzegovina has created an environment ripe for trafficking in persons.

For too long, the government has shunted responsibility for combating trafficking over to the international community, content to participate in meetings and to draft action plans but unwilling to live up to the commitments made under international law. The government of Bosnia must work to ensure protection for victims of trafficking and cease prosecution and punishment of those victims.

At present, UNMIBH and the International Organization for Migration, mostly out of necessity, have taken on responsibility for the protection of trafficked women and girls. But even those mechanisms in place fail to protect victims adequately. In using a definition of trafficking that abandoned many victims to prosecution under Bosnian law, UNMIBH until late 2001 embraced stereotypes and discrimination against women and girls in the sex industry. Human Rights Watch found some positive signs that this changed with the introduction of the STOP teams in 2001. Nevertheless, UNMIBH has failed to investigate fully and transparently the role of its own employees in facilitating and attracting this modern form of slavery to Bosnia and Herzegovina. It is critical that the U.N. and its member states ensure that effective mechanisms are in place for prosecuting crimes committed by individuals attached to post-conflict operations in Bosnia and Herzegovina and around the world.

Without corrupt officials—both national and international—trafficking cannot flourish. Efforts made by UNMIBH in the previous two years to protect victims of trafficking, while commendable, have not given sufficient attention to the patronage of brothels and purchasing of women by U.N. IPTF monitors. The Bosnian government has taken no perceptible steps to begin prosecuting traffickers and cracking down on corrupt police and local officials complicit in trafficking. If the international community and the government of Bosnia and Herzegovina are to live up to their international legal commitments, this must change.

Additional Recommendations

To the Bosnian Government

- Implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime (Trafficking Protocol).
- Ensure that any new federal or local legislation complies with the Trafficking Protocol. Among other things, new legislation should criminalize the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery or servitude.
- Provide information to each trafficking victim, in a language that she can understand, on victim protection services available in Bosnia and Herzegovina.
- Provide victims of trafficking with information about the disposition of cases pending against their traffickers.

- Implement the short-term residency permit scheme outlined in the Temporary Instruction on Treatment of Trafficking Victims to provide for a period for humanitarian relief and reflection to allow victims to decide if they wish to cooperate with authorities in criminal cases.
- Ensure that trafficking victims can exercise their right to apply for asylum.
- Create a mechanism to allow trafficked persons to sue for compensation and other civil remedies from traffickers. Enforce the judgments.
- Provide funding for trafficking victims to return to Bosnia and Herzegovina to testify against their traffickers in criminal proceedings. Provide witness protection to these victims before, during, and after trial.
- Provide legal services for victims of trafficking.
- Cooperate with local nongovernmental anti-trafficking organizations to identify and provide services and protection for trafficking victims.
- Provide funding to local NGOs conducting services for trafficking victims in Bosnia and Herzegovina.

To UNMIBH

- Ensure that IPTF monitors involved in trafficking or trafficking-related offenses have their employment terminated.
- When an IPTF monitor is repatriated for disciplinary reasons related to trafficking, it must be clearly stated in writing that the reasons for termination of their employment was engagement in forced prostitution/trafficking. Such individuals should be banned from serving in other U.N. missions.
- Request that the U.N. secretary-general waive immunity in appropriate cases and allow local prosecution of citizens engaged in trafficking or buying of women and girls and their passports.

To the IPTF and EUPM

- Monitor the issuance of visas by the foreigners' department.
- Develop information and intelligence-sharing mechanisms with countries of origin that do not compromise the safety or confidentiality of trafficking victims.
- Ensure that open files receive adequate follow-up once an IPTF or EUPM police monitor investigating a particular case leaves the mission.

To DynCorp

- Ensure that employees comply with local Bosnian and federal U.S. law while working in Bosnia and Herzegovina. While DynCorp has made some efforts to improve its code of ethics, it should explicitly deal with the issue of trafficking of persons for forced prostitution and prescribe disciplinary measures to be taken in such cases.
- Ensure that employees face disciplinary action if they do participate in these and other illegal activities.

- Ensure full cooperation with investigations by authorities, including making company personnel available to investigators for questioning even by postponing their repatriation to the United States.
- Forward information about alleged wrongdoing by employees to the appropriate authorities in order to allow them to investigate whether criminal violations occurred in either Bosnia and Herzegovina or the United States.
- Communicate fully all policies relating to trafficking and criminal conduct to employees and the interested public.
- Publicly report on implementation and enforcement of such policies to the extent that they do not jeopardize the rights of employees or victims.

To the OSCE

- Provide additional funding to NGOs in Bosnia and Herzegovina engaged in anti-trafficking projects through the Office for Democratic Institutions and Human Rights (ODIHR) anti-trafficking fund.
- Enforce the code of conduct relating to trafficking and OSCE staff in field missions.
- Provide regular, periodic training on women’s human rights and trafficking in persons for all OSCE staff.
- Make trafficking in persons an integral part of all human rights field reporting.
- Review implementation of the commitments made in Vienna, Moscow, and Istanbul with regard to trafficking and with a view to ensuring adequate follow-up.
- Press participating states to ratify and implement the Trafficking Protocol.

To the Stability Pact for the South Eastern Europe Task Force on Trafficking in Human Beings

- Ensure that the monitoring of national plans of action includes a focus on corruption and state complicity in trafficking.
- Publish the conclusions of the monitoring report undertaken by the Stability Pact Task Force on Bosnia and Herzegovina.
- Integrate qualified NGO experts in the design and implementation of training programs on trafficking.

To the Council of Europe

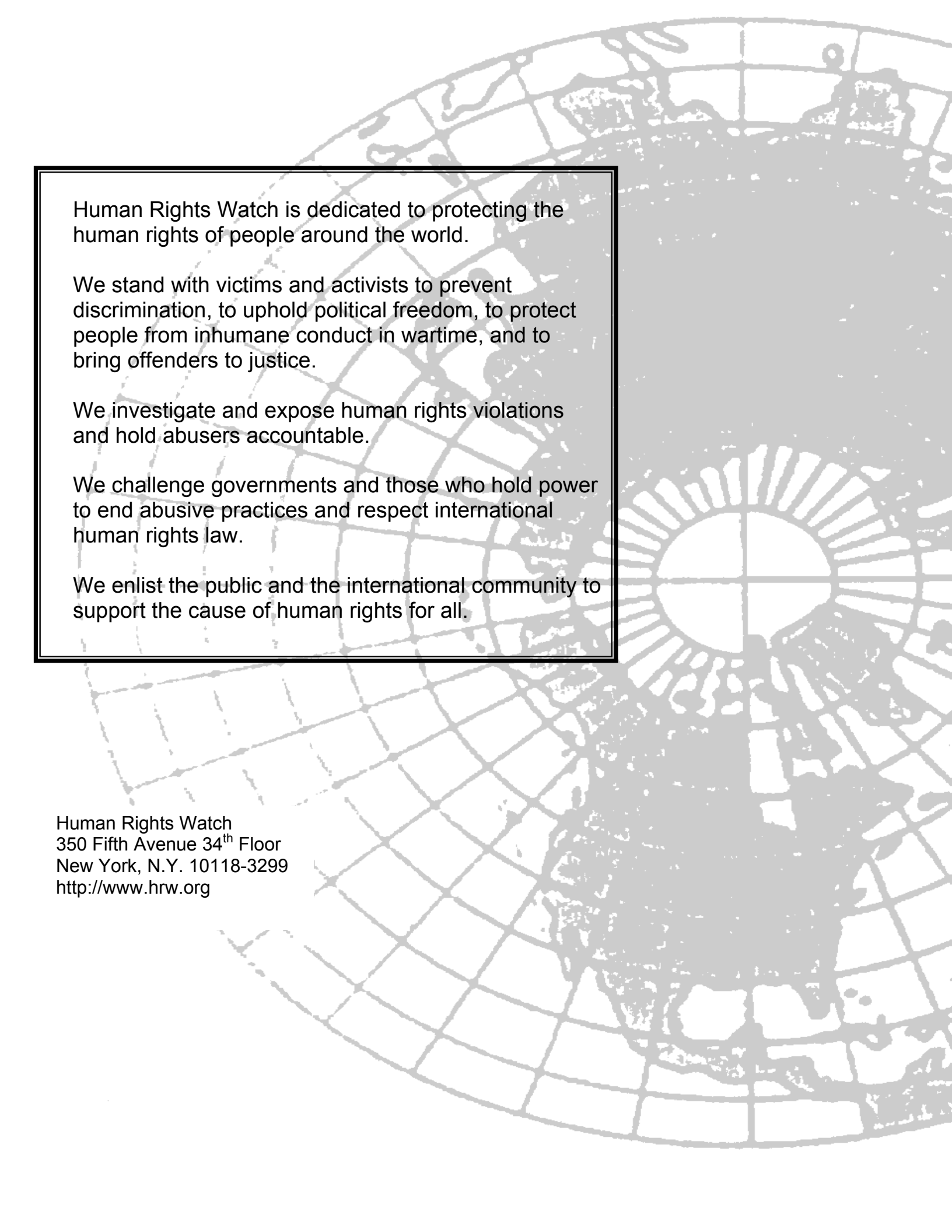
- Provide technical assistance to the government of Bosnia and Herzegovina in the area of legal reform to bring anti-trafficking laws into accord with the Trafficking Protocol and European standards.
- Design and facilitate effective training programs for police, prosecutors, and judges on trafficking in persons and women’s human rights.
- Ensure that all “model anti-trafficking legislation” contains explicit provisions for the protection of victims, includes special services for child victims of trafficking, and covers trafficking into all forms of forced labor and servitude.

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