Editorials

Balkan briefing. Abuses of human rights in the Kosovo region of the Balkans

I spent three weeks in Macedonia during late May and early June of 1999 acting as the medical officer to the Home Office team responsible for the humanitarian evacuation of Kosovan refugees to the United Kingdom. My remit was to identify refugees with health care needs that could best be treated in the UK and to collect any useful information.

At that time the Kosovan refugee population was at or close to the highest it reached during the crisis. During the final week of my tour of duty an agreement was reached on the withdrawal of Serbian forces from Kosovo. The difficulties of repatriating refugees was only just being anticipated.

The most abiding memory of the short time I spent in daily close contact with the Kosovan Albanians refugees in Macedonia was the extent to which their human rights had been abused. I have, therefore, chosen to concentrate on these issues in this paper.

There will be considerable scope for criticism of the facts represented in this paper and the interpretation I have placed upon them. It is at this time almost impossible to write an objective account of the experiences faced by the Kosovan refugees that escaped to live in Macedonia during the Spring and Summer of 1999. The number of refugees were such that no one agency ever truly had a complete overview of the situation. The United Nations High Commission for Refugees (UNHCR) were able to count the heads, obtain crude details of the numbers of separated families and identify some of the most severely abused and vulnerable people; but the day to day care of most of these people was handled by such a multiplicity of non-governmental organisations (NGOs), that a consistent and reliable database detailing the experiences of the refugees and their needs was never compiled. Such data as I could obtain were selective and biased because of the impossibility of one person seeing a representative group of refugees selected from a population that numbered at least 260 000 people at that time. Inevitably the impressions that I formed are, therefore, potentially unreliable. However, I have tried to provide a selected commentary using only information that I could test, all be it crudely.

Abuses of the human rights of the Kosovan Albanian people

The degree to which the human rights of the refugee Kosovan Albanian people were subjected was truly astonishing. The reporting of such abuses through the British media, before the United Nations peace keeping force (KFOR) entering Kosovo, did not begin to indicate the extent to which such abuses had been perpetrated.

The most commonly quoted standard for the protection of human rights is the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948. When judged against this document the abuses that were reported to me by refugees and that I believed to be credible, or that I observed directly, included;

DISCRIMINATION ON GROUNDS OF RACE AND RELIGION:

Article 1 declares that "All human beings are born free and equal in dignity and rights . . .";

Article 2 that "Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national and social origin . . .".

The Kosovan refugees in Macedonia were all, with very rare exception, ethnic Albanians, and predominantly Muslim.

THE RIGHT TO LIFE, SECURITY AND PROTECTION:

Article 3 states "That everyone has the right to life liberty and security of person";

Article 5 that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Reports of direct physical violence, including beatings, rape and murder were common. These reports included the forced witness of the murder or degradation of a family member. Acts of physical violence had been visited upon children.

Supporting evidence for these reports ranged from soft observations such as the readiness with which surviving men cried at the recollection of the manner in which their families had been treated, unusual in a culture that is careful to present a very controlled outward appearance, through to clear evidence of old physical injury.

However, the most prevalent and visible harm suffered by the Kosovan Albanian people was the mental distress suffered by their children that was caused by them having being forced to watch acts of violence. Many were simply frightened by the presence of any stranger, unwilling to leave their tents; some bore signs of direct physical violence; some had very overt behavioural disturbances, including profound psychological muteness; some very young children displayed hysterical anxiety at the sight of armed soldiers, including NATO forces.

FALSE ARREST, DETENTION, ABSENCE OF A FAIR TRIAL AND PUNISHMENT:

Article 9 includes the words " . . . no one shall be subjected to arbitrary arrest, detention or exile";

Article 10 that "everyone is entitled . . . to a fair and public hearing by an independent and impartial tribunal, in the determination of . . . any criminal charge against him";

Article 11(2) that "No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence . . .".

Members of the United Kingdom humanitarian evacuation team removed 44 men from a party of 52 men aged between 14 and 70 years of age to safety in England. The rest of this party travelled to Albania. They had been transported to the Macedonian border crossing point at Blace after having being held in detention at Lipjan jail in Kosovo. Investigations by ourselves and UN protection officers revealed no evidence to suggest that they had been held as a result of committing any criminal offence. None had been imprisoned after any form of trial or hearing.

All had been beaten regularly. They had witnessed both mock executions and real executions. They had witnessed the torture of other inmates.

The lengths of detention reported by them ranged from two to six weeks. Some had been held in this jail on suspicion of having been members of the Kosovan Liberation Army (KLA), most for having taken part in opposition political activities.

Two further groups of political prisoners from Lipjan jail were subsequently released across the Macedonian border, with few exceptions they too were political prisoners. They reported having been subject to the same mistreatments.

THE RIGHT OF RESIDENCE AND TO HAVE A HOME:

Article 13 (1) states that “Everyone has the right to freedom of movement and residence within the borders of each state”;

Article 17 (1) that “everyone has the right to own property . . .”;

Article 17 (2) that “No one shall be arbitrarily deprived of his property”.

Many of the Kosovan refugees that I spoke to left their homes because of fear, often having been threatened with violence. Frequently they reported having had to pay money to army or paramilitary personnel to ensure safe passage.

Some left because their homes were deliberately destroyed and they could no longer find shelter for their families.

Some were forced onto transport out of Kosovo provided by the Yugoslav Army, such as the train service that often operated daily between the Kosovan capital of Pristina and the Macedonian border at Blace.

Approximately 850 000 Kosovans left their homes to seek refuge in another country. The camps themselves were a testimony to the huge numbers of people who had been denied the right of lawful use of their own property and reasonable personal physical security.

THE RIGHT TO A NATIONALITY:

Article 15(1) states that “Everyone has the right to a nationality”;

Article 15 (2) that “No one shall be arbitrarily deprived of his nationality . . .”;

Many people had had all documents, passports and portable property taken from them. The removal of proof of identity removed the ability of many to prove their nationality.

Was the abuse systematic?

The most widely circulated reports of human rights abuses have focused upon unlawful killings. These were clearly numerous. One ethnic Albanian interviewed by myself had clear knowledge of at least 20 friends having been murdered out of a pool of some 200 friends; it should however be noted that this was a professional person, closely connected with human rights movements in Kosovo and the friend pool may have been significantly biased towards those types of people that were the particular targets of Serbian violence.

However, while there were many well reported instances of unlawful killings (it was almost impossible to find a refugee tent in the camps where some story of witness to greater or lesser acts of violence could not be found), significantly many of these acts were not associated with known atrocities; nor was it suggested by many of the refugees that they directly experienced the massacre of a large proportion of members of a family or a village grouping.

The extent of their witness to acts of violence suggested that there had been a planned attempt to ensure that every generation of every family had personally experienced some deeply mentally scarring act. The scale of demonstration of violence perhaps having been more important to its perpetrators than simply the numbers of people killed.

Although these abuses were only suffered, or witnessed, by the current generations of Kosovan Albanians, it is quite probable that many future generations will also be scarred because of the strength of the oral tradition in the large extended families that comprise the majority of this society. The strength of this oral tradition is well known, a fact that I am sure was considered in the planning of acts of violence.

As a result I came to believe that a systematic campaign of terror had been used to try to instil an absolute fear of return to Kosovo in this refugee population. These acts taken together with the selective murder of opposition leadership figures, human rights activists and professionally skilled persons (termed by the media at the time of the Bosnian crisis *eliticide*) leads me to believe that both of these abuses were part of one orchestrated effort to ensure that three objectives were met;

Firstly, that the Kosovan Albanian population was driven from their homes;

Secondly, that a profound mental fear for their own safety would prevent them from returning to their country and their homes;

Thirdly, that should some attempt to return be made, the population would find no infrastructure of education, health care or any professional services, and no political leadership to advocate for their rights.

Having met many Kosovan Albanians over my three weeks tour of duty I believe that this system of creating long term mental anguish will fail to prevent the long term return of Kosovans still living in the region.

I feel that there is little point in stating in this report the types and numbers of assaults and murders of civilians that were reported to me by refugees (with convincing remaining circumstantial evidence) as this will be better done by others; except to state that the numbers of such assaults are only starting to be guessed at, but must involve at least 0.5%–1% of the population having been the direct subject of extreme (in many cases lethal) violence in order to yield such a high level of convincing reporting by so many refugee families.

Discrimination in the Kosovan health care system

Apart from the obvious scale and variety of murder, physical assault and mental anguish I believe that there is also an emerging case for examining discriminations in the health care services that have been offered to Kosovan Albanians during the past 10 years; discrimination is particularly evident in their management of midwifery and child health services.

The population of the camps may be biased for a number of reasons and collection of good quality health care data was not being undertaken. Nevertheless, it would seem from simple observation that the prevalence of birth injuries was unusually high; that congenital diseases had been untreated and that those suffering from such injuries or failures to rehabilitate their impairments were generally all under the age of 12 years. That most pregnancies have gone unsupervised because of the mothers fear of injury being likely to be inflicted upon them by Serbian health care staff is incontrovertible. The definitive proof of adverse health status having arisen from discriminatory health care services will be dependent upon a proper survey of health status that will have to await the resolution of this conflict and the return of all of the refugees.

Particularly disturbing were the reports of a small number of Albanian mothers that Serbian midwives had deliberately injured their children at birth. Two cases of alleged deliberate skull fracture were referred to me, only one presented for treatment in the UK and had two clear depressed and healed skull fractures, a further case was seen by a colleague. If such cases, or similar mistreatments, do exist in numbers, given that such an act is in clear breach of professional trust, they represent very significant crimes.

I later came to learn that many Albanian health care staff were dismissed from their posts at the beginning of this decade. This timing is coincident with the observation that I have reported above.

Discussion

I structured my analysis of the human rights abuses that I believe had occurred around those basic expectations contained within the Universal Declaration of Human Rights. These rights, adopted by the General Assembly of the United Nations over 50 years ago, form an aspirational agenda. Unless a government seeks to enshrine them within their own country’s body of substantive laws they are not enforceable.

Many instances of the abuses that occurred in Kosovo are being examined as potential war crimes. War crimes always involve an abuse of human rights, but comprise a selective group of abuses. The notion of war crimes is an evolving one. The body of law that they represent has become better defined as new conflicts have arisen and does include the essential concept that unjustified violence against another country or its people is wrong (defined as crimes against peace). In modern history they start with the constitution of the Nürnberg Trials. In the case of Kosovo war crimes they are defined by the Statute of The International Criminal Tribunal for the former Yugoslavia¹ as authorised following the passing of resolution 808 by the United Nations Security Council.²

The war crimes under investigation in Kosovo by the international community are crimes that have given rise to:

“grave breaches of the Geneva Conventions of 1949” such as wilful killing, torture and deportation (article 2); “violations of the laws or customs of war” such as the use of chemical weapons, wanton destruction of property not justified by military necessity, the attacking of undefended civilian settlements and the plundering of private property (article 3);

“genocide”, which includes not just killing members of a national, ethnic, racial or religious group, but also causing serious bodily or mental harm to members of that group in order to destroy it in whole or part (article 4); “crimes against humanity”, which includes persecution on political, racial and religious grounds (article 5).

The systematic gathering of evidence of the scale and nature of these abuses has only just begun, but will concentrate on the prosecution of war crimes, not the documentation of the scale of abuse of human rights. It will, given the need to have forensically secure evidence, give greatest weight to the demonstrable physical harm suffered by many, not the mental distress caused to most.

The concept of a protracted investigation into these war crimes, taken together with the possible futility of ever bringing the key suspects to trial has led some people to criticise the undertaking of such a war crimes investigation. It is true that the pursuit of such investigations may hinder the political process necessary to bring about an assured peace and that no new knowledge will emerge that will help us prevent or ameliorate many of the types of harms caused, but it still seems right to me, having witnessed a little part of the aftermath, to ensure that the story is recorded accurately.

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1 Statute of the international tribunal for the former Yugoslavia. Reprinted in *Human Rights Law Journal* 1993;14:211.

2 Security Council Resolution on establishment of an international tribunal for the former Yugoslavia. Reprinted in *Human Rights Law Journal* 1993;14:197.