



Chechnya: No Means to Live

*An Appraisal
of Violations
of Economic, Social
and Cultural Rights
in Chechnya*

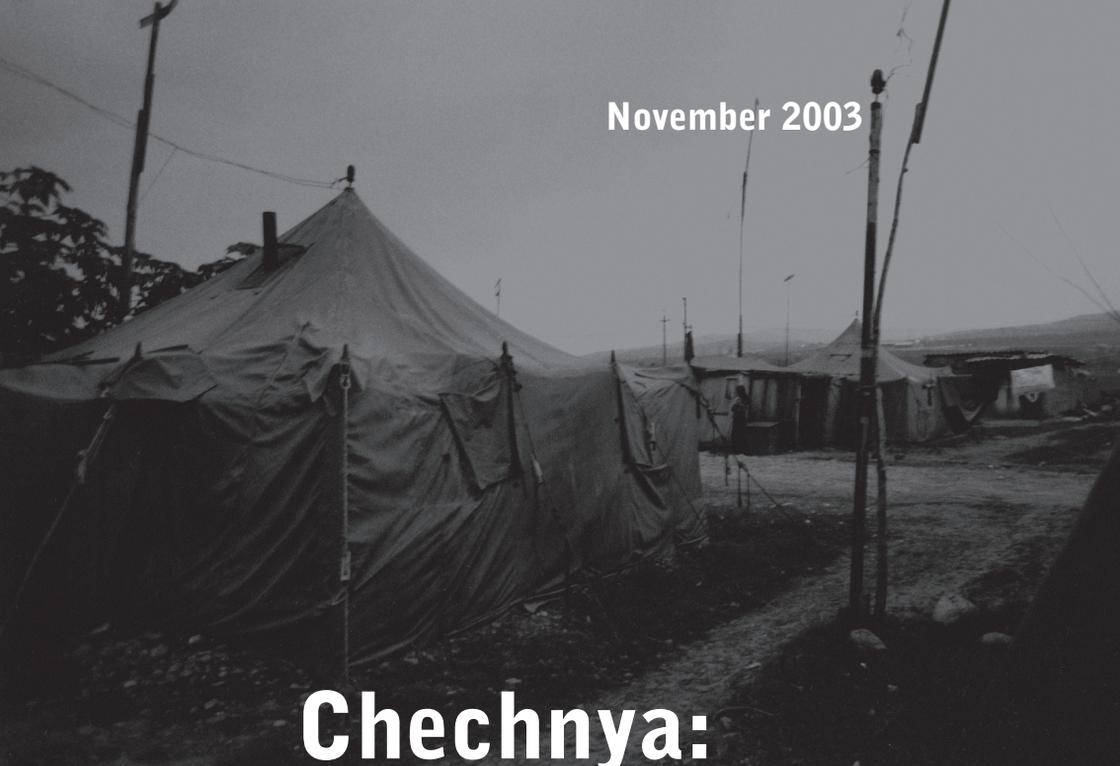
**In Collaboration with: Echo of War
Russo-Chechen Friendship Society**

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As a background to this process, OMCT supported field research carried out by the Nizhny Novgorod Human Rights Society in partnership with the Russo-Chechen Friendship Society. Many conclusions and extracts from this comprehensive report available in Russian have been integrated in the present report. Both reports were presented jointly to the UN Committee on Economic Social and Cultural Rights. OMCT deeply thanks Sergey Shimovolos who directed the research, Stanislav Dimitrievsky who wrote it, and Natalia Estemirova, Mikhail Ezhiev, Imran Ezhiev who carried out field research at the risk of their lives.

OMCT PROGRAMME ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

OMCT's work in the field of torture, summary executions and other forms of cruel, inhuman or degrading treatment or punishment has highlighted that the occurrence of such violations can neither be dissociated from socio-economic factors, nor from the enjoyment of economic, social and cultural rights. Such relationship can be looked at from different perspectives: the socio-economic background of the victim, the socio-economic context in which the violation occurs or the victim's rehabilitation.

Today, torture and other forms of cruel, inhuman or degrading treatment or punishment most frequently affect people coming from the underprivileged classes of society.¹ Moreover, a socio-economic situation characterised by poverty, social exclusion and by an unequal distribution of productive resources plays an undeniable role in the emergence of torture.² In terms of the victim's rehabilitation or compensation, the entire socio-economic context, along with the enjoyment of economic, social and cultural rights, become fully relevant when one looks at issues such as access to justice or reintegration in mainstream society.

In this regard, women and children are often the victims of violence due to, among other factors, their socio-economic marginalisation within certain societies. Indeed, as highlighted in several of OMCT's documents, violence against children frequently affects minors who

1 See the report of OMCT's Programme on Economic, Social and Cultural Rights and OMCT's Urgent Appeals "Economic, Social and Cultural Rights at www.omct.org; See also U.N. Doc. A/55/290, 11 August 2000, para 35 ; U.N. Doc. E/CN.4/2001/66/Add.2, para 9.

2 See the reports of OMCT's Programme on Economic, Social and Cultural Rights and OMCT's Urgent Appeals "Economic, Social and Cultural Rights" at www.omct.org; See also U.N. Doc. A/55/290, para 35; U.N. Doc. E/CN.4/2001/66/Add.2, para 9 (Brazil) ; U.N. Doc. E/CN.4/2000/9/Add.4, para 17 (Kenya); U.N. Doc. E/CN.4/1997/7/Add.3, para 5, 83 (Venezuela) ; U.N. Doc. E/CN.4/1998/38/Add.2, para 77 (Mexico) ; U.N. Doc. E/CN.4/1995/34/Add.1, para 9 (Russian Federation) ; U.N. Doc. E/CN.4/2000/9/Add.2, para 21(Cameroon); U.N. Doc. CAT/C/XXV/Concl.5, para 5 (Cameroon); U.N. Doc. CAT/C/XXV/Concl.4, para 4(f) (Canada); U.N. Doc. CAT/C/XXV/Concl..3, paras 5(e) et 7 (g) (Australia).

are economically and socially marginalised.³ Similarly, violence against women is often linked to their role in societies that tend to marginalise them and treat them as second-class citizens.⁴ Frequently, certain States do not recognise their obligation to exercise due diligence in the prevention, investigation and punishment of violence against women.

Moreover, recent developments in the jurisprudence of the UN Committee against Torture (CAT), in which OMCT played an important role, drew a clear relationship between violations of economic, social and cultural rights and the occurrence of cruel, inhuman or degrading treatment or punishment in the context of house demolitions and forced evictions.

Since its 1991 General Assembly, held in Manila, OMCT has paid specific attention to these considerations in its fight against torture, summary executions and other forms of cruel, inhuman or degrading treatment or punishment. Today, through its Programme on Economic, Social and Cultural Rights, OMCT examines the indivisibility and interdependence of all human rights regarding the prevention of torture, summary executions and other forms of cruel, inhuman or degrading treatment or punishment, with a view to addressing the particular vulnerability of certain groups to such violations.

As part of its Programme on Economic, Social and Cultural Rights, OMCT provides training to human rights defenders and human rights organisations on UN human rights mechanisms, with a focus on economic, social and cultural rights. In doing so, OMCT also supports local organisations in successfully working with the UN Committee on Economic, Social and Cultural Rights to improve the enjoyment of economic, social and cultural rights in their own countries.

The submission of this report to the UN Committee on Economic, Social and Cultural Rights stems from such support to and collaboration with Chechen human rights NGOs. As part of this process, Zainap Gashaeva, director of “Echo of War” and Imran Ezhiev, director of the Russo-Chechen Friendship Society regional office in Nazran, came to Geneva in November 2003 to support the presentation of this report to the Committee, raise particular issues with the

3 See the reports of OMCT’s Programme on Children’s Rights at www.omct.org.

4 See the reports of OMCT’s Programme on Violence Against Women at www.omct.org.

Committee and conduct advocacy with the Committee's members. This work is also the result of a tripartite collaboration between different programmes within OMCT, i.e. the Programme on Economic, Social and Cultural Rights, the Programme on Violence Against Women and the Children's Rights Programme.

This project was coordinated and managed by: Nathalie Mivelaz, Programme Manager, OMCT Programme on Economic, Social and Cultural Rights; Séverine Jacomy, Programme Manager, OMCT Children's Rights Programme; and Lucinda O'Hanlon, Programme Officer, OMCT Violence Against Women Programme.

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INTRODUCTION

This report addresses issues related to the enjoyment of economic, social and cultural rights (hereafter ESC rights) in Chechnya, along with the particular situation faced by internally displaced persons (hereafter IDPs) in Ingushetia. This report finds its origins in the review, by the United Nations Committee on Economic, Social and Cultural Rights (hereafter the CESCR), of the fourth periodic report presented by the Russian Federation.⁵

The decision to focus on Chechnya and on IDPs from Chechnya stems from particular and interrelated concerns. The unique and extremely worrying situation in Chechnya requires, in itself, a specific focus and monitoring. This need is matched by the fact that the Russian Federation failed to address this particular situation in its fourth periodical report to the CESCR.⁶

Yet, issues related to the enjoyment of ESC rights are fully relevant to the Chechen conflict.⁷ Not only has the Chechen population been suffering from massive and widespread exactions committed by the Russian authorities, but these circumstances also have a devastating effect on the civilian population through displacement, demolition of houses, deficiency of shelter, lack of water, scarcity of foodstuff, destruction of schools, the quasi-total absence of health services and restricted access to basic services due to military checkpoints, curfews, cleaning operations (“zatchiski”) and targeted operations.⁸

In addition, the authorities of the Russian Federation are purposely restricting access to the Chechen territory to independent journalists,

5 The first audience of this report is the UN Committee on Economic, Social and Cultural Rights (hereafter the CESCR) that reviewed in November 2003 the fourth periodical report presented by the Russian Federation. In this report, the Russian Federation was expected to present the progresses and difficulties it has faced in implementing the International Covenant on Economic, Social and Cultural Rights (ICESCR).

6 UN Doc. E/C.12/4/Add.10, 27 November 2001.

7 UN Doc. E/C.12/Q/RUS/2, 14 January 2003, § 7 and 9; UN Doc E/C.12/1/Add.94, 28 November 2003.

8 For more information about ESC rights during conflicts, see A. ROSAS & M. SANDVIK, *Economic, Social and Cultural Rights in Armed Conflicts*, in Economic, Social and Cultural Rights: A Textbook, edited by A. EIDE, K. KRAUSE & A. ROSAS.

as well as to international and regional human rights mechanisms. This lack of monitoring on the ground by external actors exacerbates the very difficult security situation faced by those Chechens collecting information on human rights abuses in the Republic.

For instance, on December 31, 2002, the Organisation for Security and Co-operation in Europe (OSCE) decided not to renew its mandate for Chechnya because the authorities of the Russian Federation wanted it to be restricted to the coordination of humanitarian assistance in the region. Former tasks of the OSCE in Chechnya included, among others, the creation of mechanisms guaranteeing the rule of law, the promotion of a peaceful resolution of the crisis, as well as dialogue and negotiations with a view to establishing a cease-fire and eliminating sources of tension.⁹ Russia also answered negatively to the requests made by the UN Special Rapporteur on torture and the UN Special Rapporteur on extra-judicial executions to visit Chechnya. Although the Special Rapporteur on violence against women, its causes and consequences had received an invitation from the Russian Federation to visit Chechnya, her trip was postponed for “security reasons”. As of November 2003, her visit had not been rescheduled. As a positive development, OMCT takes note of the June 2002 visit carried out by the UN Secretary-General’s Representative for Children and Armed Conflict, Mr. Olara A. Otunnu¹⁰, and the October 2003 visit carried out by the UN Secretary-General’s representative on internally displaced persons, Mr. Francis Deng.¹¹ OMCT considers these visits as first steps towards greater access to the Chechen territory by international human rights mechanisms.

The information gathered in this report has been collected during a seminar on the United Nations human rights mechanisms, held in Ingushetia in October 2003. This seminar was organised by the World Organisation Against Torture (OMCT) and the Chechen NGO “Echo of

9 OSCE Assistance group to Chechnya, Mission Survey, www.osce.org.

10 See <http://www.un.org/special-rep/children-armed-conflict/index.html>

11 See UN Press Release, *United Nations Secretary-General’s representative on internally displaced persons ends visit to Russian Federation*, 15 September 2003, at <http://www.unhcr.ch/hurricane/hurricane.nsf/FramePage/Repdisplaced?OpenDocument&Start=1&Count=7&Expand=1>.

War” and gathered around 50 Chechen representatives of cultural, educational, journalistic and human rights organisations. During their stay in Ingushetia, members of the OMCT team also had the occasion to collect testimonies, conduct interviews with IDPs, as well as to meet with other Chechen and Russian human rights organisations working either in Ingushetia, in Moscow or both. Material collected by researchers of the Russian-Chechen Friendship Society has also been used to draft this report, along with the report prepared by the Nizhny Novgorod Society for Human Rights on ESC rights in Chechnya.¹² Secondary sources such as newspapers, as well as reports by international organisations, humanitarian agencies or other human rights NGOs have also been used and are referred to when appropriate throughout the report.

The report begins with preliminary remarks outlining some historical benchmarks related to the two Chechen wars, along with the current socio-economic situation faced by the Chechen population. An evaluation of the current situation in Chechnya also highlights the contrasts between the official discourse on normalisation and the reality prevailing throughout the Republic, where exactions are still taking place on a large scale and where the population faces difficult living conditions. The report then develops into different parts addressing specific issues related to the justiciability of ESC rights in Chechnya, the situation of women, the protection of the family, the enjoyment of the right to adequate housing, to health and to education, along with questions related to the impact of restrictions on movement on access to basic services, as well as the situation of human rights defenders.

The collection of information, the interviews conducted, along with the gathering of testimonies have revealed the interrelatedness between the enjoyment of ESC rights in Chechnya and other human rights violations such as summary executions, rape, enforced disappearances, torture and other forms of cruel, inhuman or degrading treatment or punishment. In most cases, victims are facing a whole range of abuses where violations of ESC rights are intrinsically related to other human rights abuses. A situation where people are in constant fear for their life and those of their relatives and friends, where almost every family has lost at least one of their members, and where summary executions,

12 See acknowledgements section.

enforced disappearances, rape, torture and other forms of cruel, inhuman or degrading treatments remain common features has an inevitable impact on the enjoyment of ESC rights. As a result, while focusing on those rights, the report also addresses other abuses that have taken place and are still occurring in Chechnya.

The authors of the report are fully aware of the fact that this report hardly covers human rights violations committed by Chechen fighters, as very little information was received on this topic. However, the scope, as well as the scale of human rights violations committed by the Chechen fighters is reported by the population to remain less significant than the ones committed by governmental (Federal or Pro-Russian Chechen) servicemen.

I. PRELIMINARY OBSERVATIONS

1. Russia and Chechnya: a history of conflict

The Chechen Republic is situated in Southern Russia and the North-Eastern part of the Caucasus. It neighbors the Russian Republics of Ingushetia, North Ossetia, and Dagestan and shares its Southern border with Georgia. The total area of Chechnya is 17.3 thousand square kilometers and it is rich with oil and other natural resources.¹³

The Chechens are a native nation of the Northern Caucasus and there is a long history of tension and outright hostility between the territory of Russia and Chechnya (as part of the larger region of the Caucasus). Russia annexed the territories of the Caucasus, including Chechnya, in 1859 after almost thirty years of fighting. During the Second World War, Stalin accused the Muslim populations of the Caucasus region of collaborating with the Nazis and deported over 380,000 Chechens in 1944 to Kazakhstan. They were repatriated only in 1957 by the Soviet government under Khrushchev.

The question of Chechnya's independence resurfaced in the context of the Soviet Union's dissolution, when several former Soviet Republics gained their independence. In October 1991, Djokhar Dudaev, a former general in the Soviet army, was elected president of Chechnya and proclaimed Chechnya's independence in November 1991. From 1992 to 1994, Dudaev stayed in power despite pressures exerted by Moscow. Although a Constitution was adopted in 1992, after a dispute with the Parliament in 1993, he installed an authoritarian regime. In 1994, the internal situation prevailing in Chechnya was close to a civil war between Dudaev's supporters and pro-Russian groups supported by both the Federal government and the Russian Secret Service.

13 Annex 1: Map of Chechnya.

2. The first war in Chechnya

In December 1994, the Russian army entered Chechnya in an attempt to restore Russian sovereignty over the territory. The war that ensued was devastating for Chechnya and it lasted for almost two years due to the strong resistance by Chechen fighters. Estimates report that around 400,000 persons (out of 1.2 million people in Chechnya) were displaced, while the war led to massive destructions of towns and villages, along with severe exactions by Russian Forces on the civilian population. Indeed, the first war was characterized by indiscriminate use of military force against civilians. It is estimated that 50,000 civilians¹⁴ died in this war, and the Russian army lost between 4,000 and 10,000 soldiers.¹⁵

On August 31, 1996, a peace agreement, which became known as the Khassavyurt agreement, was signed between Aslan Maskhadov, the leader of the Chechen fighters (Dudaev had been killed in the war), and Russian General Lebed. The agreement provided for the retreat of Russian troops from the Chechen territory and a final settlement of the status of Chechnya by December 31, 2001.

Between January 1997 (when the last Russian troops left Chechnya) and October 1999, Chechnya enjoyed self-rule. On January 27, 1997, democratic elections were held, Aslan Maskhadov was elected President of the Chechen Republic and Chechnya was renamed "Ichkeria." During this period, Chechnya experienced rising crime rates, corruption and hostage-takings, along with the emergence of a movement, under the direction of leaders such as Chamil Bassaiev, against the installed government to establish a regime based on Islamic principles re-uniting Chechnya with Dagestan. Little was done to rebuild Chechnya, despite economic prosperity over that period.

14 GREG HANSEN, *Humanitarian Action in the Caucasus: A Guide for Practitioners*, p. 20 (1998); see also Moscow Helsinki Group, *Human Rights in the Russian Regions, Report 2001*, p. 292 (2002).

15 FIACAT, *Mission Report*, August 2002, p. 2.

3. The second war in Chechnya

The second Chechen war broke out in September 1999 in the wake of the August invasion by Chamil Bassaiev's troops in Dagestan, along with a series of bombings, attributed to Chechen "terrorists", that took place in Moscow and other parts of Russia. The Russians alleged that the Chechen government had connections to the group that invaded Dagestan and stated that the invasion and the bombings were the work of "Chechen terrorists". As such, the second Chechen war was presented as an "anti-terrorism operation."

The second war has been described as occurring in several phases. The first phase, beginning in September 1999, witnessed indiscriminate bombing of Chechnya with extreme casualties suffered by the civilian population. By March 2000, the war had entered a second phase where the bombing campaigns decreased but the terror remained constant. The Russian forces were present in all parts of Chechen territory but had not succeeded in gaining control. Furthermore, Russian soldiers responded to continued guerrilla warfare by attacking the civilian population. In January 2002, the Federal Security Service (FSB, former KGB) took over from the army as the organ heading up the operation in Chechnya. There has been a notable increase in "clean-up" operations as well as targeted operations by armed men who wear masks, or "death squads," which have led to severe violations of human rights against civilians.

4. The flawed discourse of normalisation

In the most recent phase, since 2002, when the FSB took control over operations in Chechnya, the Russian government has been claiming that the situation in Chechnya is "normalised." In efforts to assert control over Chechnya and to demonstrate that the region has returned to normality, two votes have been organized over the past year in Chechnya. In March 2003, there was a constitutional referendum, which approved a constitution establishing Chechnya as an autonomous Republic within the Russian Federation, but the legitimacy of the referendum has been seriously doubted. Additionally, in October 2003, a presidential poll was held, in which Akhmad Kadyrov was elected. Similarly however, many doubts were expressed about this poll as

many of the serious opposition candidates were forced out of the race a month before. With respect to the actual process on the election day, the voting places were reportedly empty¹⁶ and there were no election monitors (the OSCE and the Council of Europe having refused to send international observers).

Reports indicate that the current situation in Chechnya is anything but normal, with continued “cleansing” operations, targeted attacks, as well as cases of torture, disappearances and extrajudicial executions. Although abuses appeared to decrease in the time before the referendum in March and before the election in October, violations have reportedly increased with renewed force after each of these steps towards “normalisation.” Furthermore, the Chechen people continue to live in fear and fiercely dispute claims of normality. Some observers have indicated that violations are anticipated to get even worse with the upcoming federal elections (for the Duma in December 2003 and the office of the president in March 2004). Claims of normality in Chechnya also must be contrasted with the fact that there has been little effort to reconstruct the economic and social conditions in the Republic and the capital of Grozny remains 90% in ruins. Overall, the Russian government’s political discourse of “normalization” is fundamentally flawed and is leading to the propagation of certain abuses, such as the forced return of internally displaced persons, discussed below.

5. The current socio-economic situation faced by the Chechen population¹⁷

Today, in Chechnya, the population faces harsh living conditions both in the countryside and in towns. Unemployment is widespread and financial resources remain very limited due to lack of economic opportunities throughout the Republic. In Grozny, the unemployment rate is reported to reach around 92%. In the countryside, cultivations have been reduced to a strict minimum and farmers face difficulties in reach-

16 Echo of War and Secours Catholique have provided eye witness accounts and photos.

17 This part of the report is primarily based upon testimonies collected by OMCT team in Ingushetia in October 2003 and on the research carried out by the Nijny Novgorod Society for Human Rights.

ing their fields due to restrictions on the freedom of movement and the presence of landmines. In the towns and cities, most people are surviving through small jobs in the informal sector or with pensions received by a relative.

Health services remain scarce and most people simply cannot afford the high cost of medicines. As a result, many ill people remain unattended. The absence of safe drinking water and sanitation, along with the bad quality of water that people buy from bottles and trucks also increases diseases among the population.

Shelter remains problematic throughout the country, as around 80% of the housing stock has been destroyed during the two wars. In addition a lot of people, in the best cases, are living in houses with holes in the roofs or without windows. The process of compensating those who have lost their houses and properties as part of the hostilities, launched before the October 2003 presidential elections, has been criticised for its unfairness and political bias. While demolitions of houses are still taking place in some parts of the country, pressure is being put on IDPs in Ingushetia to return to Chechnya. In this respect, the conditions for IDPs' return are not being met, in terms of security, and because the current housing stock does not have the capacity to host returnees.

The whole educational system has been seriously affected by the two wars and many children have been unable to go to school. As a result, for a couple years, children received no formal education and now, some children have been placed in so-called specialised schools that are usually attended by children with disabilities. Higher education has also been seriously affected by the two wars and many Chechens are concerned about the lack of specialised professors to guarantee quality education at this level.

Overall, the socio-economic reconstruction remains very slow and many concerns have been raised about the diversion of funds allocated to this process. Corruption in the military and the pro-Russian Chechen administration, along with low salaries paid to soldiers, health personnel and administration staff have resulted in the development of a system where bribes have to be paid to go through checkpoints, to get treatment at hospitals, to speed up an administrative or legal process, or even to recuperate the dead body of a relative who was kidnapped by Russian servicemen.

The massive abuses committed and still being committed by the Russian Armed Forces and other State agents have left most of the Chechen population in a constant state of stress, affecting both their physical and mental health. People sleep at night with their clothes on so that they are always ready to leave if forced to by the circumstances or by a special operation of the military. The right to life remains a constant preoccupation and high levels of anxiety put serious limits on people's ability to reconstruct their socio-economic life.

In an article written for the Russian newspaper "Novaya Gazeta", the Russian journalist Anna Polytkovskaya reports the situation prevailing in the village of Komsomolskoye of the Urus-Martan district through an interview of a villager, Magomed Dudushuyev. Despite its peculiarities, the situation puts an interesting light on the current living conditions faced today by most of the Chechen population.

"By the way, they say about 150 families have returned. But no one has a house.

- Do you have a Head of the administration? Village Council?

- No, nothing. We live by ourselves.

- How can that be?

- We do not have them and that is all.

- Show me your house then.

- No house either.

- And where do you live?

- In a cattle-shed.

Magomed Dudushuyev has a large family — his wife Lisa, six children and his mother. The life of the Dudushuyev family is concentrated in a tiny adobe hut today. They have built it this summer. Their house lies in ruins nearby, destroyed by a direct hit. The ruins are carefully covered with a blue cloth. Such clothes were handed out in Komsomolskoye as a help from the UN.

- Of course, we wish they distributed the building materials. We cannot build a house just ourselves. Neither now nor in the nearest future. Only the poorest people and people with many children live in the village. They cannot even get to Ingushetia. So I protect my building with garbage from the rain. Until the better times.

What, if everything changes, Magomed is saying and chokes coughing. It is tuberculosis for sure.

- What did you have for lunch?

- We had no lunch.

- And for breakfast?

- Corn cookies and tea.

Dudushuyevs' children look terrible. The same dehydrated bodies as their father's. It is difficult to get water in the ruins, be warmed up. The electric cables hang around as if they were offering themselves to people wishing to commit a suicide. The picture is completed by the look of the young generation of Komsomolskoye today: eyes saying about starvation, hollow cheeks and bare feet with ragged clothes."¹⁸

18 Anna Polytkovskaya, *The village which does not exist*, in Novaya Gazeta, N° 73, 8 October 2002.

II. JUSTICIABILITY OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS, RULE OF LAW AND ACCESS TO JUSTICE IN CHECHNYA

The justiciability of ESC rights in Chechnya is intrinsically related to the question of access to justice for the Chechen people and the functioning of the justice system throughout the Republic. Different sources and persons consulted highlighted that judicial bodies in Chechnya are inefficient and that the Russian Constitution, in reality, does not apply in the territory of the Chechen Republic. While the courts began to operate throughout Chechnya in January 2001, the rule of law has not yet been restored.

The laws and regulations applying in Chechnya are inadequate for protecting the civilian population from human rights abuses and it is reported that such laws are rarely observed. For example, there is a law regarding “clean-up” operations (amended numerous times through various decrees),¹⁹ which provides that police conducting such operations should identify themselves, ensure that the registration number of their vehicle is clearly visible, involve local authorities and local residents as observers and submit reports at the end of all such operations detailing the person taken into detention and the weapons seized. However, the most recent decree²⁰ appears to only apply to members of the Ministry of Home Affairs police units but not to members of the Ministry of Defence, FSB forces or other persons engaging in such operations. Additionally, it is reported that the persons conducting “clean-up» operations rarely observe this law.²¹

Due to this lack of protection and ongoing abuses committed by Russian servicemen, thousands of individuals, whose relatives have disappeared, were assassinated, raped or tortured, have tried to obtain justice and to have those responsible condemned. In most cases, the

19 The initial law concerning “clean-up” operations, called the “anti-terrorist law,” was passed on July 3, 1998. Decrees nos. 46 (July 25, 2001) and 285 (August 24, 2001) amended this law and attempted to guarantee civilians’ rights during “clean-up operations, but without success. See FIACAT, *supra* note 15.

20 Decree No. 80, issued on March 27, 2002.

21 UN Doc. CAT/C/CR/28/4, *Conclusions and Recommendations of the Committee against Torture: Russian Federation*, 6 June 2002; FIACAT, *supra* note 15.

doors of justice have remained closed and investigations were not opened. Where investigations were opened, they often went nowhere or, in some cases, the complainants become targets of abuse because of their quest for justice.

Thus, people living in Chechnya are deprived of their rights, along with their access to justice. What happens today in Chechnya is a well-organised system of impunity that allows those responsible for abuses to escape punishment. In such a context, justiciability of ESC rights, meaning the possibility of claiming violations of ESC rights before national courts, remains wishful thinking. As a result, victims cannot obtain redress and compensation for human rights violations, including violations of ESC rights.

1. Limited access to justice for human rights abuses committed in Chechnya

Access to courts throughout Chechnya remains seriously limited due to jurisdictional issues, problems related to geographical access, economic resources, as well as refusal by the authorities in Chechnya to receive complaints regarding human rights violations committed by the Russian Armed Forces and other State agents. Long and burdensome procedures, corruption within the legal system, along with threats against complainants also constitutes serious limiting factors. Taken together, these different obstacles render it practically impossible for any victim of human rights violations –civil and political rights as well as economic, social and cultural rights– to obtain redress at the national level. As a result, many victims have brought their cases to the European Court on Human Rights, arguing that national remedies are inefficient and not available.

1.1. Lack of physical access to courts

The lack of physical access to courts remains a crucial factor limiting access to justice in Chechnya. Currently, only 10 Courts are operational throughout the Republic and they often remain far away from villages. As a result, people must travel great distances to register their complaints and then they must assume the added costs of accommodation and living expenses while travelling. For instance, a person living in the

Staropromyslov District of Grozny has to travel 120 kilometres to reach the nearest court, located in the Natelechny District. In doing so, this person will have to go through over 20 military checkpoints, with all the risks, humiliations and payments involved. Yet, even if the person is able to travel such a distance, the courts almost never consider claims against the actions of armed forces.

1.2. Jurisdictional issues restricting access to justice in criminal cases

Jurisdictional issues also tend to seriously restrict access to courts in criminal cases for victims of human rights abuses in Chechnya. As a result, courts tend to categorically refuse cases related to human rights violations committed by the Russian Armed Forces.

For instance, the strict division between those who must be tried by military tribunals (members of the armed forces) and those who have to be tried by civilian courts (police officers and officials from the Ministry of Home Affairs) often prevents the opening of investigations and consideration of cases by the courts. As the status of suspects is frequently undetermined when cases are first being investigated, oftentimes neither the military prosecutor nor the civilian prosecutor will take up the case, both claiming lack of jurisdiction.²² Furthermore, for crimes that can be punished with over 5 years in prison, the Chechen courts do not have jurisdiction and thus complainants must travel outside the Republic in order to pursue these claims. This reality makes courts de facto inaccessible for many people.²³

Thus, judges reportedly refuse to accept cases related to human rights violations by the Russian authorities on the grounds that people have to go to Moscow to present them. Similarly, guards reportedly stand at the gate of Chechen courts, preventing people who want to file a complaint from accessing the building. As a result, the guards call the Court's Secretary out of the building, the discussion takes place in the street and the complainants cannot go inside. The Court's Secretary explains to them in a very difficult manner that they have to go to

22 FIACAT, *supra* note 15.

23 *Ibid.*

Moscow, which is completely impossible for the majority of complainants. Indeed, many victims simply cannot afford to go to Moscow to bring a complaint.²⁴

As a result, these jurisdictional issues perpetuate a system of impunity in Chechnya, as most human rights abuses remain unpunished. De facto, investigations are not being opened, cases are being closed and victims are discouraged from pursuing judicial avenues of redress.

*On August 18, 2001 during the special operation carried out by the soldiers in the village of Gehi, in the Urus-Martan District, the house of the Abaev family was plundered under the command of the Major-General Gaidar Gadjiev. The Abaev family lodged a complaint and the judge Suptyan Yandarov informed them that he would not consider it because "there was a secret order not to consider the complaints from the citizens regarding the actions of the troops."*²⁵

In those few instances where cases have been pursued, military personnel accused of grave human rights abuses reportedly receive minimal punishments from the courts.²⁶ Moreover, judgements are often not implemented. *In a case against the Interior Ministry on the demolition of a house by the Russian Armed Forces in Urus Martan in 2001, the Basmaa District Court in Moscow ruled that the house was demolished without necessity. The Ministry of Interior appealed the ruling but it was refused. This case, the only one dealing with illegal demolition of houses in Chechnya, is an exception and was taken up by a famous lawyer, Abdulay Abzaev. Yet, the complainants were forced to make many visits, to gather a lot of papers and the decision has still not be implemented.*²⁷

24 Testimonies collected by OMCT team in Ingushetia in October 2003.

25 *Ibid.*

26 Secours Catholique Français, *Rapport de Mission 19-31 Mai: Ingouchie-Tchéchénie*, Juin 2003.

27 Testimonies collected by OMCT team in Ingushetia in October 2003.

1.3. Jurisdictional issues restricting access to justice in civil cases

In addition to the limitations regarding criminal procedures, civil procedures before Chechen courts are also restricted as judges may not consider cases where the demanded amount for reparations exceeds 9,000 roubles (approximately 300.— USD). As such, Chechen courts effectively cannot consider demands of reparation for material damages caused by the action of armed forces, including the demolition of houses and the loss of property.

1.4. Financial issues restricting access to justice

Another concern remains the fact that many victims, given the current socio-economic situation prevailing in Chechnya, cannot afford the costs involved in any legal proceeding. In July 2000, a newly reformed Bar of the Chechen Republic resumed its work, a positive step towards the reconstruction of the legal system. However, legal aid remains inaccessible for the majority of people living in Chechnya. On one hand, there are not many lawyers currently working in Chechnya. On the other hand, the cost of their services is so high that the majority of victims cannot afford to hire such a lawyer.

For instance, Sultan Uguev tried to lodge a complaint against the Defence Ministry for the killing of his son by soldiers. The Grozny Bar Association requested 8,000 dollars for representing him in the court on that case.²⁸

2. Lack of security for those bringing complaints

The security of those who bring complaints concerning human rights abuses before the courts is also a matter of serious concern. Indeed, in many instances, people trying to obtain redress at the national level have faced repeated threats, harassments, attacks, ill treatment, kidnapping and executions. In this respect, verbal menaces, beatings and threats directed against the family are common.

28 Interview with Abdulla Khamzaev, the lawyer representing the interests of the victim in the case against the colonel Budanov, "The murderer appeared before the court." Newspaper Remedial, No. 1(44), January 2002.

The vulnerability of those bringing complaints before national courts, and the fact that they may be killed or may disappear in the worst instances, acts as a serious deterrent and limiting factor in the context of access to justice. Besides its direct impact on the complainants' physical and psychological integrity, such a pattern also highlights the horror of the current situation prevailing in Chechnya, where a quest for justice and redress is being met by a well-targeted system of repression, reducing the population to silence.

3. Absence of other alternatives

Other avenues to address human rights violations in Chechnya are also seriously limited. Under international pressure, the Russian government has established several ad hoc mechanisms, such as Parliamentary Commissions and the Office of the Special Representative of the President for human rights in Chechnya, to address human rights violations. Unfortunately, these mechanisms have proven ineffective in the face of severe human rights abuses.

For instance, a 1999 Presidential Decree appointed a Special Representative of the Russian President on human rights in Chechnya, Mr. V. Kalamonov. The Special representative set up public offices on the territory of Chechnya and by mid September 2000, his office had already received over 8,000 applications. More than 50 % of all applications were related to the lack of information about detainees and missing relatives, restrictions of movement, ill treatments by soldiers and officers, arbitrary arrests and beatings. The majority of such complaints were not addressed by the Special Representative "due to lack of resources", while some complainants report having been threatened personally to drop their cases. On July 12 2002, a new Presidential Decree appointed a new Special Representative, Abdul-Khakim Sultygov. Since that time, the receiving of the complaints was almost stopped, and the Special Representative has limited his activities to political issues.

III. DISCRIMINATION AGAINST WOMEN, INCLUDING VIOLENCE AGAINST WOMEN

The conflict in Chechnya has had an effect on women as well as men. According to available data, women constitute at least 10 % of the total number of civilians killed in the Chechen Republic in 2002.²⁹ It is important to note that men are primary targets in the context of the conflict in Chechnya, being subjected to arbitrary detention, torture and enforced disappearances in larger numbers than women. However, not only are women similarly subjected to these violations, but women have also experienced the wars in Chechnya in different ways than men. Widows make up a large part of the Chechen population and, as widows, many women have had to assume new roles in the family and community. In addition to this reality, women face serious obstacles in finding disappeared relatives, women are subjected to sex-specific violence such as rape and women are targeted by the military on account of their relationships with combatants. Furthermore, an increased visibility of women suicide bombers has led to a government policy of searching all Chechen women in increasingly invasive ways.

1. Women Heads of Households: The Effect of Disappearances and Increased Number of Widows in Chechnya

Disappearances are widespread in Chechnya, the victims of which are mostly men. Accordingly, it is the women who frequently take on the responsibility of finding their disappeared relatives by pursuing administrative and legal avenues. As such, women must assume the financial costs of such procedures and by demanding to know the whereabouts of their relatives, they may put their safety and that of their families' at risk. When women file cases to find their disappeared relatives, they face enormous obstacles in receiving any information as the various government institutions merely pass the blame between each other, with no one actually conducting a transparent investigation. As described above, frequently investigations are suspended with the

29 Moscow Helsinki Group, *Human Rights in the Russian Regions*, 2002, p. 236.

authorities claiming that the perpetrators were unidentifiable. Although the new Penal Code in Russia allows for the prosecution of authorities for failing to properly investigate a case, the necessary evidence to file such a case is often “classified,” thus leaving no real possibility of holding prosecutors accountable for their inadequacy.³⁰ In some cases, as mentioned previously, when the body of their relative is found, women are forced to pay in order to get the body back from the authorities.³¹

Besides pursuing individual cases, women have also played an instrumental role in organising against the widespread disappearances in Chechnya. At least three protest rallies have been organized, mostly by women, in a six month period with the protestors demanding to know the whereabouts of their disappeared relatives. These protests took place in March 2003 in Grozny, for two days from June 28-30 just outside of Grozny and on August 19, 2003 in Grozny.

The psychological trauma and hardships suffered by women on account of the fact that their male relatives have disappeared cannot be underestimated. The Secretary General’s report on Women, Peace and Security recognized that “the ‘disappearance’ of male relatives affects women’s status in their societies and traumatizes women who cannot find closure as long as they are hoping for the return of their relatives.”³²

Additionally, the widespread disappearances and deaths of Chechen men have led to the existence of a large number of widows in Chechnya. According to available data, in 1997, before the start of the second war, the number of widows in the Chechen Republic was 3000 and it is now suspected that that number is much higher.³³ The high number of widows in Chechnya has changed the role of women in Chechen society with women now being forced to assume the entire responsibility of supporting and caring for the family. As the new heads of households, women have become responsible for finding food to feed their families as well as money to shelter and clothe their families,

30 Secours Catholique, *supra* note 26.

31 FIACAT, *supra* note 15, pp 8, 11.

32 *Women, Peace and Security, Study submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000)*, p. 29 (2002), available at <http://www.un.org/womenwatch/daw/public/eWPS.pdf>.

33 Testimonies collected by OMCT team in Ingushetia in October 2003.

in addition to the added responsibility of pursuing legal and administrative procedures when their male relatives have disappeared or been killed. When a woman's husband is disappeared or killed, she receives no public support in the form of pensions. Children are entitled to an allocation when their father is killed, and oftentimes the entire family becomes dependent on this money, but such allocation is dependent on the presence of a death certificate. In cases where the husband is disappeared, families are often reluctant to apply for a death certificate because it gives the police a justification to cease the search for their relative.

2. Rape and Sexual Violence

Interviews conducted, as well as numerous reports, reveal that Russian troops have been responsible for the rapes of many women during the course of the two conflicts in Chechnya. Women are particularly vulnerable to such sexual violence during "cleansing" operations of private homes. As many men are no longer in the homes (having fled the perpetual dangers of arbitrary arrest, detention and torture, as well as having joined the combatants in the mountains), women are often alone in the home when soldiers enter. Cases have also been reported of women being raped in front of their husbands and other male relatives or women being raped while being forced to watch their relatives being attacked in other ways. In addition, women are also vulnerable to rape at checkpoints and in detention centres.

The case of Iman, which occurred on July 27, 2002, is illustrative of the horrors that women face. On July 26, 2002, Iman's husband had helped his neighbour to repair a car, which, unbeknownst to the husband, belonged to a Chechen fighter. The next day, Russian soldiers entered the home of Iman and her husband and proceeded to torture Iman's husband as well as her 11 month old daughter, and then took her husband away. On the following day, the soldiers returned to Iman's house.

"They took Iman into the bedroom, demanding that she confess to being a Chechen fighter. They pinned her to the wall, cutting off her breath. They brutally kicked and beat her with a kalashnikov butt. They tried to rape her, but she put up such a fight that they pulled out a

syringe filled with green liquid, which they said would kill her, and then injected her with it. Iman felt a sharp burning sensation and an intense pain before she lost consciousness. She awoke naked, lying on the bed, completely numb and as if paralysed. The soldiers left after repeating that it would make her suffer a long while, and that if she ever spoke about what happened, they would kill both her and her daughter."³⁴

It is extremely difficult for women to report these crimes given cultural obstacles which dissuade them from admitting that they have been involved in any sexual activity, forced or not. Such an admission, under traditional viewpoints, makes a woman unmarriageable, or if she is already married, such an admission may make her vulnerable to divorce or to further violence. One interviewee acknowledged that the subject of violence against women, including rape, is a completely taboo subject and it is impossible for women to talk about it. As another Chechen woman has explained:

*"If they [raped women] come home, they would be better off shooting themselves. If anyone laid a hand on them they'd be written off for good here in Chechnya. It's a kind of law. A sullied daughter is worse than a dead one to her father. It's a terrible disgrace. She'll never get married and no one will say a kind word to her, even though it's not her own fault she was dishonoured."*³⁵

Furthermore, when women attempt to file complaints about these crimes, the police reportedly will not investigate the case.³⁶

In one case, reported to OMCT team and highly covered by the local and international media, a Russian colonel, Yuri D. Budanov, was charged with murdering a 18 year old Chechen girl, Kheda Kungaeva. The evidence of the case showed that Ms. Kungaeva had also been raped before being strangled to death. Budanov was arrested in March 2000 (two days after the murder) and he admitted murdering Kungaeva but denied having raped her. The trial began in February 2001 with Budanov being charged only with murder and not with rape. The trial

34 FIACAT, *supra* note 15, p. 5.

35 Petra Procházková, *Aluminum Queen*, April 7, 2002, republished by Prague Watchdog, available at <http://www.watchdog.cz>.

36 Testimonies collected by OMCT team in Ingushetia in October 2003; Human Rights Watch, *Russia: Investigate Sexual Violence by Troops in Chechnya*, April 10, 2002.

was postponed several times while Budanov underwent psychiatric examinations, eventually resulting in a psychiatric institution claiming that he was insane at the time of the murder and thus could not be held criminally accountable for his actions. As such, he has been transferred to a psychiatric institution rather than a prison.³⁷ No one has been charged for the rape of Kungaeva.

Reports from the Russian-Chechen Friendship Society also show that many women, similar to men, have been disappeared, arbitrarily detained, tortured and summarily executed in Chechnya.³⁸

One example is three women who were arrested in Grozny on June 3, 2000—Nura Luluevaya Saidalievna, and her two cousins Raisa and Markha Gakaev. Reports indicate that these three women were detained by men in camouflage uniforms along with a man, Zavala Tazurkaev, who had tried to help them when he heard their screaming. The bodies of all four detainees were identified in a mass grave found in February 2001 near Khankala.³⁹ Testimonies collected indicate that it is usually the most beautiful women and girls who disappear.

In another case, the wife of Abubakar Amiroff disappeared and was eventually killed in 2000 by Russian police. On January 11, 2000, she had gone to Grozny to collect some children's clothes. She was nine months pregnant and she was detained at a checkpoint on her way to Grozny. Her husband searched for her for fourth months, and then she was found in the basement of small house in Grozny, where she had been killed by three bullets, one in the back of her head and two in her chest. There was also a deep cut running across her abdomen. All efforts by her husband to investigate and find justice on this case have been thwarted by threats and violence against him.⁴⁰

37 International Helsinki Federation (IHF), *Annual Report: Russia 2003*; Human Rights Watch, *Russian Federation: Serious Violations of Women's Human Rights in Chechnya*, January 2002.

38 The Russian-Chechen Friendship Society, Press Release # 494, August 5, 2003. Press Release #481 July 27, 2003, Press Release #463 JULY 10, 2003, Press Release #451 June 24, 2003

39 Memorial, *Persons Detained in Chechnya by Military and Internal Affairs - Agents Become Victims of Summary Executions*, available at <http://www.memo.ru/eng/memhrc/texts/khankala.html>

40 Testimonies collected by OMCT team in Ingushetia in October 2003.

3. Operation Fatima

Additionally, in recent months, in an effort to find female suicide bombers, women are at greater risk of being detained and thus, potentially vulnerable to violence while in detention. After the suicide bombings in Tushino, allegedly committed by women terrorists, the government reportedly issued Order No. 12/309 on July 9, 2003, known as operation “Fatima,” whereby police were instructed to detain all women wearing the traditional Muslim headscarves.⁴¹ As part of this new operation, women are strip searched at checkpoints.⁴² Although women guards are supposed to conduct these searches, oftentimes male guards are present. People from Chechnya are outraged by this practice because, in their culture, making a woman undress is a severe form of humiliation.⁴³ With regard to searches, it is also reported that pregnant women are vulnerable to being searched at checkpoints because the soldiers want to verify that the women are actually pregnant and not hiding explosives.⁴⁴

One case resulting from operation “Fatima” is the disappearance of Ayshat Saydulayeva. According to reports, Ms. Saydulayeva was arrested in her home village in the Urus-Martan District, being accused of having contacts with guerrillas based on the allegation that she had photos of herself with members of the Chechen resistance. She has not been seen since her arrest and her whereabouts are unknown.⁴⁵ Another recent case concerned a woman who had received a letter from a friend, who had been one of the women who participated in the Moscow hostage taking. Although the letter was received previous to that attack, according to the report, members of the FSB arrested the recipient of the letter and detained her for four days. When she was released, they warned her that if a terrorist attack happens, she will be the first suspect.⁴⁶

41 Nadezhda Kevorkova, *Irrespective of Status and Age: Operation Fatima is Mounted in Moscow*, in *Moscow Gazette*, July 23, 2003, p. 4.

42 Testimonies collected by OMCT team in Ingushetia in October 2003.

43 *Ibid.*

44 Médecins du Monde, *Report Chechnya*, July 2002, p. 26.

45 Prague Watchdog, *Police Operation “Fatima” Brings First Results*, July 19, 2003, available at www.watchdog.cz.

4. Targeting of Women Based on Personal and Familial Relationships

Women are also targeted because of their relationship to Chechen fighters or Russian servicemen. *For instance, the body of Mrs. Tsagareva, sister of a Chechen commander, Mr. Magomed Tsagarev, was found in February 2003 in a town near Urus-Martan. Local residents reported that a car drove into the forest, an explosion was heard and then the car drove away in an unknown direction—the body was found at the scene of the explosion.*⁴⁷ *On another occasion, the wife and daughter of a policeman who worked for the Chechen Ministry of Interior were killed. A commander of a Chechen rebel group claimed responsibility for this murder, as revenge for the policeman's collaboration with Russian forces.*⁴⁸ It has also been reported that women's links to fighters may hinder their access to public support. For example, a woman was unable to claim the full pension for her children because the authorities labelled her dead husband as a fighter.⁴⁹

46 Testimonies collected by OMCT team in Ingushetia in October 2003.

47 The Russian-Chechen Friendship Society, Press Release # 366, February 28, 2003.

48 Prague Watchdog, *Family of Chechen Policeman Killed in Grozny*, March 23, 2002, available at www.watchdog.cz

49 Testimonies collected by OMCT team in Ingushetia in October 2003.

IV. PROTECTION AND ASSISTANCE FOR THE FAMILY

Prior to the two wars, the population of Chechnya was a mix of Russians, Chechens, Armenians and other minority groups, following various family patterns. Most ethnic groups other than Chechens having left the country, the current family structure is now characterised by the Chechen traditional family structure and by the effects of the conflict on the whole Chechen population. The situations of urban and rural families inside Chechnya and of families of refugees outside Ingushetia may be distinguished.

1. Family structure in Chechnya today

Families are usually large with 72.3% of the families having up to 5 members and 26 % from 6 to 8 members. Many families have been divided due to the conflict. *“Many former residents, especially the male representatives of the family, prefer to live outside Grozny, mostly in rural areas of Chechnya or in neighbouring Ingushetia. (...) [In Grozny], there is a noticeable difference in the ratio of females to males. The gender discrepancy is significant above 16 years of age, which is also the age when males are exposed to the greatest risk of being considered separatist fighters. (...) On average there are 35.4% less Grozny men than women above 16 years old.”*⁵⁰

In addition to grief due to the absence or death of male family members, wives and children have to shoulder all domestic problems. Even when healthy men remain in the family, they often do not work for fear of being noticed and targeted by armed forces.⁵¹ Families also bear the psychological burden of the previous generation. During the 1944 deportation of Chechens to Kazakhstan, thousands of people died. Elders still tell how “non-transportable” family members (mainly elderly,

50 Danish Refugee Council, *Grozny Household Survey*, September 2001.

51 This situation can be witnessed both in refugee families (as witnessed during OMCT visit to the Bart refugee camp, 16 October 2003) and in families still living inside Chechnya (as reported during the OMCT/Echo of War seminar, October 2003).

ill women, and children) were burnt.⁵² Most family histories are marked by these events.

2. State support for the family

Family welfare in pre-war Chechnya was guaranteed through self-protection, as well as by the strong family-oriented Soviet support system. On the one hand, the family was the main support unit in the Chechen society for young couples and the elderly, as well as for orphans even of distant relatives, which the family had a traditional duty to support. On the other hand, the family was strongly supported and controlled by the State welfare system, through various benefits and services specifically earmarked for different groups of families, mothers, and children, according to their number, age, health status, etc. Both of these foundations have been destroyed by the two consecutive wars.

2.1. Family benefits

The payment of cash benefits for children was interrupted in Chechnya as well as in the rest of the Russian Federation in the early 1990s. Since 2001, the system of benefits has gradually resumed in Chechnya. On 10 September 2003, the Federal Minister for Chechnya, Stanislav Ilyasov, told journalists that child support is being paid. He claimed that “more than 360,000 people have returned to Chechnya over the last three years. Over 220,000 people receive unemployment benefits, and more than 400,000 children get child support allowances.”⁵³

Yet, the monthly benefit per child is only 70 roubles (about 2.4 USD). This amount is far too limited, considering the fact that most families have hardly any source of regular income (92% unemployment rate in Grozny). Rather, many families live on the pension of the elders. In 2001, the average monthly pension was 893.9 roubles, about 30 USD, but could range from 80 to 6,000 roubles (less than 3 USD up to 200

52 These events were recalled by Salamat Gaev during the OMCT/Echo of War seminar, in reference to his unique collection of testimonials of the deportation: “*Khaibakh: sliedsvye prodoljiet’sa*”, S.Geav, M.Khadisov, T.Chagaeva, “Kniga”, Grozny, 1994.

53 Reported by Russian News Agency Itar-Tass, Moscow, 17 October 2003.

USD) depending on the former salary and status of the pensioner⁵⁴. Severely disabled children kept at home (for instance with cerebral palsy) may also receive a monthly pension of 600 roubles (20 USD). Orphans are also entitled to 700 roubles per family (about 24 USD).

However, for most families, obtaining these State benefits is in itself a source of extreme difficulties and great risks. Since payments are issued at the place of registration of the family, refugees or people having moved to a different part of Chechnya for security reasons have to travel back to unsafe areas to receive their payment. In addition, the cost of travel (including heavy bribes at each check point) can easily cost more than the anticipated benefits. When one or both parents are missing, there is a delay of 6 months before the disappearance can be recognised as such and before the family becomes entitled to a special pension (without retroactivity of payment). Many pleas for such pensions are refused in Chechnya and/or families are encouraged to accept the delivery of a death certificate, entitling them to a pension for orphans - implying that they must stop all searches for the disappeared and cannot bring complaints against the State anymore concerning the disappearance⁵⁵. Some people also encounter difficulties with birth registration and adoption registration, which deprives them of State support for these children. UNHCR reported that “among other obstacles, IDPs not in possession of sojourn registration in Ingushetia are currently not able to officially register birth of children born in Ingushetia”.⁵⁶

Common testimonials show how these different obstacles are usually combined together; *Assia, 63 year old, currently lives in Bart refugee camp (Karabulak, Ingushetia) in a tent that has not been changed in 5 years. She came from Urus-Martan in 1999, fleeing bombings that destroyed her house. She has been a widow for 28 years. She is the head of a family of 7 living together in the tent: 3 daughters (out of 5), 1 adopted son, 2 grandchildren. She adopted her son during the first war,*

54 Danish Refugee Council, *supra* note 50.

55 Testimonies collected by OMCT team in Ingushetia in October 2003.

56 UNHCR, *Paper on Asylum Seekers from the Russian Federation in the context of the situation in Chechnya*, February 2003, p.19.

when his parents died in the conflict. At the register office, she was convinced by a civil servant not to file his adoption, as this was a heavy process in the absence of death certificates of his parents, and to register him as her child. Since then, she has been refused all State benefits and recognition of his status of war orphan. Assia always fears to go back to her village but she needs to, in order to get her pension for retirement on which the whole family lives. She manages her budget in order to go as rarely as possibly (saving money in order to be able to pick up her pension every 2 or 3 months instead of each month). She says that in Chechnya, there is no security anywhere. Her village is fully occupied by Russians soldiers. When she goes back, she witnesses fellow villagers exploding on mines, bombs, and extrajudicial executions⁵⁷.

In 2002, the Alize family faced at the same time the disappearance of the head of the family and subsequent deprivation of State support. As the father was paraplegic, he used to receive a pension for “invalids” (disabled). One day, he was kidnapped. State welfare services stopped the payment of his pension since the very first day of his disappearance. His wife and five children were left with nothing to live on. The Lenin District Court declared one year later that the death was acknowledged – so only then could the payments be made. The family receives today the basic 70 roubles per child/month (around 2.4 USD) and the pension for orphan family: 700 roubles per month (around 24 USD). The widow receives nothing on her own. The Court has decided officially against any compensation for the disappearance.⁵⁸

2.2. State services

Many State institutions directly benefiting families have been physically destroyed or closed. Maternity homes and hospitals were randomly bombed and shot at, such as on 21st October 1999⁵⁹ when a rocket exploded in the yard of the only functioning maternity home in Grozny at that time, killing 13 women and 15 infants.⁶⁰ At the present moment

57 Testimonies collected by OMCT team in Ingushetia in October 2003.

58 *Ibid.*

59 Memorial “Point strikes,” *Random use of force by the federal troops*, September-October 1999. Publishing house “Links”. Moscow, 1999, pp.7-15.

60 *Ibid.*, p 8; Also reported by Radio “Svoboda”, Andrey Babitsky and Khasin Raduyev in the broadcast “Liberty Live,” 22 October 1999.

“women can get medical consultations about future births in a small room in this destroyed home.”⁶¹ Out of the 325 pre-school institutions that existed in the early 1990s in Chechnya, 308 institutions were closed due to the military actions and devastation between the wars – their buildings were demolished by bombings and artillery shootings. The rest were occupied by different administrative authorities, housing for migrants or seized by military or police authorities of the Russian Federation.⁶² By the beginning of 2002, only 19 pre-school institutions were operational in Chechnya.⁶³

Hence, in order to subsist, families can no longer count on the support of other relatives, or on sufficient and adequately delivered support from the State. They have to resort to petty jobs, including children. Some teenagers are allegedly employed in illegal oil production. Others accompany their mothers to trade on markets. Girls bear most of the burden of domestic work while their parents (mothers) are busy finding means of subsistence, working outside or taking care of the younger children and the elderly.

At least 6000 families live below the poverty line and all families live in an extremely tense psychological state. Yet, some groups are naturally more vulnerable to the effects of such multiple stresses. Within Chechnya alone, the UN humanitarian assistance services⁶⁴ have identified more than 90,000 such vulnerable individuals, including pregnant and lactating women (13,228), infants from 0 to 36 months (34,819), disabled persons (23,909), elderly without adequate social support (2080), orphans and children with a single-parent (17,726).

61 The Russian-Chechen Friendship Society, Press release #358, February 11, 2003.

62 Thus, the Ministry of Employment of the Chechen Republic, with its office in Staropromyslovsky district of Grozny, occupies a kindergarten building.

63 T.I. Aliyeva et al., *Evaluation Report/Education in the Chechen Republic: situation, problems, perspectives of the reconstruction and development*, Moscow/Grozny, 2002, pp 29-42.

64 Table 3: Vulnerable groups in Chechnya, Danish Refugee Council, Mission Report. North Caucasus June / July 2003, OCHA September 9, 2003.

3. Children as deliberate targets

In general, child protection is a matter of utmost concern. Officials estimate that there are currently about 290,000 children (persons under 18) in Chechnya. However, 18 years does not appear to be considered by Russian authorities as the age until which all children deserve special protection, provision and participation rights as enshrined in UN Convention on the Rights of the Child.

Russian authorities have made several clear statements lowering the threshold of child protection—if any—down to 10 years and considering all children as potential enemies. In 2000, an order of the Russian army specified that all male refugees between 10 and 60 were forbidden to enter or leave Chechnya. On 10th January 2000 General Kazantsev, Commander of the North Caucasus Group of Forces announced that *“Soldiers will only treat women, children under 10 and the elderly as refugees. Everyone else will be arrested and dealt with separately.”*⁶⁵ In an interview in February 2000 with Novaya Gazeta concerning incidents in Arkhan Yurt in which many women and children perished, General Chamanov (now elected governor of Ulianovsk region) argued that *“the wives and children of Chechen bandits are bandits themselves.”* It is also reported that in February 2003, on NTV “Freedom of Word” programme, Mitrofanov, member of Parliament and of Zhirinovskiy’s Liberal Democratic Party of Russia answered the question *“Why are small Chechen children detained and tortured ?”* by saying that *“Because they are future bandits”*.

There are recurrent allegations of male adolescents being detained and tortured in the same conditions as adults. Their names are allegedly changed and they are transferred to other parts of Russia after interrogation and torture, where their families have very little chances of locating them. Girls are regularly detained during “cleaning up operations.” They are abused and tortured and sometimes released after a few days.⁶⁶ Human rights defenders or adults suspected of collaboration with rebel groups also regularly receive threats

65 Voice of America news, 10 January 2000, <http://www.voanews.com>.

66 Testimonies collected by OMCT team in Ingushetia in October 2003. In some cases, local populations have obtained the release of adolescents detained after “cleaning operations”, thanks to demonstrations and official requests from the head of the local administration to the Russian military.

concerning their family members, especially their children, even though the children are not involved whatsoever in their activities.

There are even cases of small children being used or tortured themselves during the interrogation of their parents, as is evident in the case of Iman, mentioned earlier.

*On 27 July 2002, in Tsotsin-Yurt, Russian soldiers raided the house of Iman, 27 years old, because, as a service to some neighbours, her husband was repairing a car, which turned out to belong to a Chechen fighter. "at 11.00 am, 20 Russian soldiers surrounded their house and broke in. They pinned Iman against the wall, threatening to kill her 11 months old daughter unless her husband immediately returned home. Iman's sister-in-law, also present, managed to fetch him (...). Helpless, she watched the soldiers torture her daughter. They tied stockings around the child's neck, from which they dangled her. Then, they rolled up a towel very tightly and struck it against the little girl, who was almost strangled by then (...). The soldiers finally left with Iman's husband, leaving pools of blood behind them."*⁶⁷

Russian authorities argue that rebel groups also target children. But these allegations do not compete with the cruelty of exactions committed against children by Russian or pro-Russian Chechen forces.

*Residents of Chechnya's Grozny and Gudermes districts have staved off attempts on the part of militants to recruit children to stage terrorist attacks on the federal forces and the authorities, Ilya Shabalkin, a spokesman for the Regional Operational Headquarters for coordinating the counter-terrorist operation in the North Caucasus, reported. In the village of Suvorov-Yurt, Chechnya's Gudermes district, locals turned out a "spokesman" for a bandit unit, who was offering their children money and trying to hire them to stage terrorist acts. According to Shabalkin's account, the parents turned to the district interior office, which detained the recruiter on the spot and is now interrogating him.*⁶⁸

Moreover, children continue to die from the indiscriminate and excessive use of force by armed forces of all sides (bombing, indiscriminate

67 FIACAT, *supra* note 15.

68 RIA Novosti, 8 April 2003.

shooting, terrorist attacks, etc.) as well as from mine-related injuries. According to UNICEF, in 2002, there were up to 500,000 mines in Chechnya and 7000-10,000 mine victims, including 4000 children and youths.⁶⁹ In September 2003, UNICEF noted a considerable decrease of reported casualties, but still several hundreds additional deaths from mine explosion were recorded in the first half of 2003⁷⁰.

Finally, even beyond the borders of Chechnya, children are used as a means of pressure on refugee families. Many examples of such pressures are reported, where families were either forced to return to Chechnya or pressured to give information on wanted relatives. In May 2003, in Alina camp, when looking for two individuals, masked men took away two children of the family. They were detained and finally released from the Ministry of Interior of Ingushetia upon signature of documents by their relatives.⁷¹ In September 2003, refugees from the Bela camp who had newborn babies were forced to leave since the gas (heating) was cut off by the Migration services and special police task force. Seventy children born in 2003 were still living in the camp despite previous operations of forced displacement.⁷²

There are also testimonials of children's resilience and recovery. However, the NGO Médecins du Monde that has been maintaining psychosocial rehabilitation programmes in refugee camps and inside Chechnya insists that the recognition of what children have gone through is indispensable for any long-term psychological rehabilitation process and that the psychological state of the adults who care for them is also instrumental to their present well-being.⁷³ But presently, all adult family members –if they are alive and present– are unbearably tense. And the total impunity enjoyed by perpetrators of crimes committed against them, only perpetuates the suffering of these children.

69 UNICEF, *Donor Up-date*, 16 October 2002.

70 UNICEF, *Humanitarian Assistance in the North Caucasus: Situation report N°74*, 1 September 2003.

71 Note for the File General NGO Coordination Meeting 11 July 2003, Moscow – OCHA in the Russian Federation.

72 Moscow Helsinki Group, *Chechen presidential elections: Human Rights Monitoring Bulletin*, 26 October 2003.

73 Médecins du Monde, *Les enfants dans la guerre et les blessures qui ne se voient pas. Enfants oubliés de la Tchétchénie*, Santé Mentale Enfants – Témoignages, Novembre 2002.

The only future perspective that families have is to “reproduce.” Young widows who should mourn for one year according to the ancestral Chechen tradition are now allowed, if not encouraged—against their own culture and traditions—to re-marry as soon as possible in order to have more children and thus curb what the Chechen community considers to be a genocide.

V. THE RIGHT TO ADEQUATE HOUSING

The housing conditions throughout Chechnya remain appalling. In general, they result from the demolition of the housing stock by military strikes during the first and second wars, along with punitive actions conducted by the Russian Armed Forces against entire villages suspected of supporting Chechen fighters. During such actions, houses have been randomly burned or blown-up.⁷⁴ Lootings have also reportedly taken place during such operations. In addition, houses have been destroyed or seized because they were located close to military bases or were needed to accommodate military personnel.

As a result, people often left their villages, houses or flats and are currently living in IDP camps in Ingushetia, in temporary accommodation centres (TACs) in Chechnya or with relatives either in Chechnya or Ingushetia. Those who remained in their houses or flats often face difficult living conditions as, in the best cases, people are living in buildings with holes in the roof and without windows. While the massive bombing has stopped, strikes continue to take place in the southern parts of the Republic. The reconstruction of the housing stock remains very limited and the majority of the victims have not been compensated.

1. The destruction of the housing stock during the two wars

The massive random bombardments that took place during the first and the second wars (end of December 1994 to February 1995; September/October 1999 to February/March 2000) hit the majority of cities and villages throughout the Republic, excepting some villages

74 The European Court of Human Rights, as well as the UN Committee against Torture have ruled that in such instances the demolition of houses and forced evictions constitute a form of cruel, inhuman or degrading treatment or punishment; See *Conclusions and Recommendations of the Committee against Torture: Israel*. 23/11/2001, CAT/C/XXVII/Concl.5. , para 6j); Communication No. 161/2000, UN Doc. CAT/C/29/D/161/2000 (2 December 2002), para 9.2; European Court for Human Rights, *Case of Selçuk and Asker v. Turkey*, 24 April 1998, paras 79-80; European Court for Human Rights *Case Bilgin v. Turkey*, 16 November 2000 para. 100-102; *Case Dulas v. Turkey*, 30 January 2001 para. 54-55.

located in the northern parts of Chechnya. The majority of houses and buildings have been destroyed during the second war by artillery strikes.

During these strikes and bombardments, civilian buildings were not distinguished from military ones and, as a result, a lot of villages have been completely destroyed. For instance, in the countryside, 20% of the villages have been completely destroyed (around 50 villages in total). Similarly, villages in the Shatoi and Itum-Kale Districts, along with villages located in the Urus Martan District have been destroyed at 80%. Altogether, not a single District across Chechnya (even those loyal to the Russian government) has more than 50% of its housing stock intact.

Currently, no precise data are available concerning the total number of houses and buildings that have been destroyed during the two wars. However, estimates indicate that around 80% of houses across Chechnya have been destroyed. Moreover, around 80% of housing in Grozny has also been destroyed. Some numbers even indicate that 90-95% of Grozny has been destroyed.⁷⁵ In terms of numbers, the Mayor of Grozny indicated that 784 houses, in which 14,000 apartments were located, have been completely damaged during the second military campaign.⁷⁶

Grozny was severely destroyed during the first war, as well as the second one during which the capital was exposed to heavy aerial bombings and artillery fire, especially from mid-December 1999 to early February 2000.⁷⁷ Grozny's population, which in the 1980s rose to over 350'000 people, went down to 213'000 in 1997 and was then reduced to less than 20'000 inhabitants during the military campaign of January 2000.⁷⁸ Today, the population of Grozny is estimated at about 50'000 inhabitants.

While military bombardments have significantly diminished, they are still going on, notably in the southern mountainous part of Chechnya where the Vedeno, Shatoy and Itum-Kale Districts are located, as well as in the Shali and Grozny Districts.

75 Secours Catholique, *supra* note 26.

76 The Russian-Chechen Friendship Society, Press release #207, April 10, 2002.

77 Danish Refugee Council, *supra* note 50.

78 *Ibid.*

On January 26, 2003, night shelling by the Russian Armed Forces partially destroyed several houses of the Neftyanka village located in the Vedenovskiy district. One of the shells got into the yard of Mairbek Khabuseev, 61 years old, damaging the gates and the roof.⁷⁹ The house of Salman Eshiev, 50 years old, was practically destroyed: the shell breached the roof, the walls, the window and the doors.⁸⁰ Albek Bakashev, 60 years old, was wounded in the yard of his house and his house was also partially destroyed, the windows and the door being broken.⁸¹ Local residents say that such bombardments are not rare and that they have already become accustomed to this hard situation.⁸²

On April 7, 2003, the Avtury village in the Shali District was shelled. According to testimonies, some shells went off in the immediate vicinity of the grazing cowherd. Some cattle were killed.⁸³

On July 15, 2003, at about 4:05 am, the Russian Armed Forces (direction of the Grozny airport) shelled the Petropavlovskaya settlement of Grozny County District. A shell hit the house of Ulbieva Petmat Seidakhmetovna located in Nagornaya Street 36 and seriously damaged it: the window-frames and doors were smashed and all of the valuables and furniture were damaged.⁸⁴ Ulbieva Petmat Seidakhmetovna appealed to the Grozny County District police demanding to institute legal proceedings. The police rejected her appeal, telling her that she should address it to the Domiciliary District Court.⁸⁵ Yet, according to the Russian Federation's law, no court can institute legal proceedings: this is the duty of investigating bodies of the police or the procurator's office.

On August 23, 2003, the outskirts of the Serzhen-Yurt village in the Shali District were shelled from a military unit of the Russian Armed

79 The Russian-Chechen Friendship Society, Press release #351, January 30, 2003.

80 The Russian-Chechen Friendship Society, Press release #353, February 3, 2003.

81 The Russian-Chechen Friendship Society, *supra* note 80.

82 The Russian-Chechen Friendship Society, *supra* note 79.

83 The Russian-Chechen Friendship Society, Press release # 396, April 19, 2003.

84 The Russian-Chechen Friendship Society, Press release #475, July 23, 2003.

85 The Russian-Chechen Friendship Society, *supra* note 84.

86 The Russian-Chechen Friendship Society, Press release #507, August 28, 2003.

Forces.⁸⁶ *The inhabitants of the village spent the whole night in the basement of their houses. Some houses have been seriously damaged as a result of the shelling (holes in the roofs, smashed doors and windows frames).*

2. Burning and blowing-up of houses as a form of collective punishment for alleged support to Chechen fighters

Cleaning operations or “zatchiski” conducted by the Russian Armed Forces against entire villages have been occurring on a large scale under the pretext of identity checks. During such actions, villages are completely sealed-off for several days: atrocities are committed and houses have been randomly burned or blown-up. As part of these operations, lootings of property, money, cattle and other valuables are taking place. Russian soldiers usually break into villagers’ houses and help themselves to the property inside.

These operations have been carried out on a massive and systematic scale by the Russian Armed Forces through the end of 2002 and were presented by the authorities as operations aimed at checking the identities of the villagers. These operations generally follow military offensives by Chechen fighters against the Russian Armed Forces. Besides the demolitions of houses and the looting of property, these operations were accompanied by other massive human rights violations such as arbitrary arrests, torture, extrajudicial executions and other forms of cruel, inhuman or degrading treatments or punishments. During such operations, villages often remained under siege for several days, preventing people from reaching their fields, work, schools, health facilities or market places.

On March 30, 2003, a week after the referendum, a cleaning operation took place in the village of Lalkhoi-Molkhk of the Kurtchaloi District by the Russian Armed Forces. The majority of soldiers were wearing masks, the military vehicles did not have plates and the village administration had not been informed about such an operation. No representatives of the Procurator’s office or of the Local department of Internal Affairs were present. Several cases of looting and house demolitions were reported and an important number of young men have been beaten up. Many cows belonging to the villagers were killed by the soldiers

*who then took the meat with them. This cleaning operation was a reply to an action carried out by Chechen fighters in the same village on March 21, 2003 during which they took with them a Russian soldier.*⁸⁷

Targeted punitive operations, during which houses are being demolished and valuables stolen, are also taking place against families or relatives of suspected fighters or “terrorists.”

*On December 12, 2002, members of the Russian Armed Forces in Armed Patrol Cars drove to the house of Malika Umalatova in the village of Khatuni in the Veden District.*⁸⁸ *Nobody was home, nevertheless the soldiers broke into the house and took away some valuables. After that, they burned the two-story house to the ground. The decision to carry out this operation was made after the soldiers learnt that one of Malika Umalatova relatives had taken part in the “Nord-Ost” theatre attack in Moscow.*

3. Destruction or seizure of houses located near military bases

Houses have also been destroyed or seized because they were located close to military bases or were needed to accommodate military personnel.

For instance, on October 1999 in the Kalinov village located in the Naur District, inhabitants of 2 blocks of apartments, the Russian Armed Forces evicted around 120 families. Their personal belongings, furniture and other property also were stolen by the military as they were prevented from taking anything except what they were wearing at the time of the eviction. A military base (helicopter regiment) is located in the neighbourhood of these two apartment blocks, along with offices of the Federal Security Services (FSB) and of the Main Investigation Office of the Russian Armed Forces (GRU). Following the eviction, generals and officers of these departments installed themselves in these apartments with their families. They are still living there. Kindergartens and schools have also been provided for their children, contrasting with the lack of educational infrastructure for Chechen children and students. The

87 Secours Catholique, *supra* note 26.

former residents tried to go back to their apartments to get their belongings, but they could not go inside the flats. Today, four years after the eviction took place, these people have not received any compensation and are living in destitute conditions. They reportedly applied to the Defence Minister of the Russian Federation, the Military Prosecutor, the General Prosecutor of the Russian Federation, and the Human Rights Representative of the President in Chechnya but they have not had any positive answer from these offices. They also applied before the Russian High Court but again, without any result.⁸⁹

A Military Commander of a neighbouring military base came to the Inji Quarter village located in the Vedeno District and asked the inhabitants to sell their houses to the armed forces. When the inhabitants refused, the military forces began to blow-up the houses alleging that Chechen fighters were hiding in these houses at night to attack Russian soldiers. People who expressed their anger were detained and many of them are reportedly still missing. The Vedeno District has been extensively targeted by the Russian Armed Forces during the second war, alleging that a lot of fighters were hiding in villages.⁹⁰

Houses near the Khankala military base were also reportedly exploded for no reason at all, except their location close to this camp, where the majority of interrogations and torture take place.

4. Lootings and stealing of property by the Russian Armed Forces

As mentioned, lootings and stealing of property often occur during cleaning or targeted operations. Stealing of property by soldiers also occurs after people had to flee their houses because of bombing or shelling. Russian soldiers also come to villages and rob foodstuff from the population.

For instance during the year 2002, in a number of villages of the Vedeno District (Katuni, Elistanzhi, Markhety), Russian units have

88 The Russian-Chechen Friendship Society, Press release #328, December 23, 2002.

89 Testimonies collected by OMCT team in Ingushetia in October 2003.

90 *Ibid.*

systematically engaged in cattle robbery.⁹¹ According to the victims, soldiers break in at night, encircle settlements, go round the farmsteads, threaten the villagers with weapons and drive the cattle away. Apparently, soldiers carried out such robberies because they were suffering from hunger.

From April 16 to April 18, 2003, in the Serzhen-Yurt village in the Shali District, soldiers of the Russian Armed Forces committed a number of robberies.⁹² The soldiers were not interested in valuables or money but in foodstuff. They entered houses by force and stole potatoes, sugar, flour, etc. The families of Uskhadzhev Isa and Takhiev Akhmed underwent such robberies and were robbed a chepalgash (a kind of flat cake made of wheat flour either with cheese and curd). On April 18, 2003, residents who underwent such requisitions started to complain to a representative of the Russian-Chechen Friendship Society. When the soldiers learned about such complaints, a Major of the Russian Armed Forces offered to pay 1000 roubles to compensate each robbed family. The residents of the village advised the Major that none of them had been robbed food worth such amount of money. At the end, each family got 500 roubles as an indemnity and they advised the Major to feed his soldiers better.

In many cases, however, families do not get any compensation when Russian soldiers steal their property, foodstuff or cattle.

5. The current housing situation across Chechnya and the forced return of IDPs from Ingushetia

The housing situation in Chechnya remains precarious for various reasons. Many people are currently living in temporary accommodation centres (TACs) in bad and crowded conditions. Those who are living in the remaining houses and buildings are also facing a difficult situation: leaks in the roofs are common due to holes and windows are often lacking. In many instances, walls are also partially destroyed while the roofs are also seriously damaged. In the worst cases, people are living in seriously destroyed houses or even in totally destroyed buildings.

91 The Russian-Chechen Friendship Society, Press release #304, November 6, 2003.

92 The Russian-Chechen Friendship Society, Press release #399, April 23, 2003.

Overall, throughout Chechnya, gas and electricity cuts remain frequent, while the water and sanitation systems have not been reconstructed. In villages, the destroyed houses often have not been reconstructed and those who have not fled to Ingushetia frequently live in cattle-sheds, in ruins or in very precarious constructions made of cartons and plastic.

Despite the fact that the current housing stock does not have the capacity of hosting returnees, and that houses are still being demolished by the military in some parts of the country, pressure is being put on IDPs in Ingushetia to return to Chechnya. In this respect, the conditions for IDPs' return are not being met, in terms of security, but also because the current housing stock does not have the capacity of hosting returnees.

5.1. The situation in Grozny

The shelter situation in Grozny remains extremely difficult. The most densely populated areas of Grozny are the Lenin District, followed by Staropromislov, Zavod and Oktyabr' Districts.⁹³ The Staropromislov and Lenin districts are actually those with a larger number of undamaged houses or apartment blocks.⁹⁴ By contrast, houses and apartment blocks are heavily destroyed in the Oktyabr' District and significantly destroyed in the Zavod one.⁹⁵

According to a survey conducted by the Danish Refugee Council in September 2001, persons who returned to Grozny during the year 2000 already occupied most of the houses appropriate for living and there appeared to be very limited shelter opportunities for additional returnees.⁹⁶ The survey concluded in 2001 that the majority of premises fit for accommodation in Grozny were already occupied.⁹⁷ At that time, 93,4% of the Grozny population was reported to live in houses with insignificant destruction, partially damaged roofing slates or damaged roofing slates and frames.⁹⁸ 5,1% were reported to be living in

93 Danish Refugee Council, *supra* note 50.

94 *Ibid.*

95 *Ibid.*

96 *Ibid.*

97 *Ibid.*

98 *Ibid.*

houses with partially destroyed walls and seriously destroyed roofs, while another 1,1% was reported to live in houses with seriously destroyed walls and fully destroyed roofs.⁹⁹ The remaining 0.4% was reported to be living in totally destroyed buildings often in the basements of devastated blocks of apartments.¹⁰⁰

This survey described a situation that was prevailing in September 2001, where most houses “appropriate” for living were already occupied. As such, and given that almost no reconstruction of damaged building has taken place since that time, returnees are and will be confronted with a serious lack of housing when coming back to Grozny. In such a context, the forcible return of IDPS is particularly worrying, as people have nowhere to go.

5.2. The reconstruction: a slow process

In 2000, the Russian government announced the implementation of a reconstruction programme in Chechnya, along with the building of new houses. However, very little has been done since that time, mostly due to lack of financing and diversion of funds. The State Building Administration of the Russian Federation is in charge of financing Chechnya’s reconstruction and federal money allocated to the reconstruction of houses in Grozny goes through a whole range of intermediaries.¹⁰¹ At the end of the chain, the enterprise in charge of the reconstruction only gets a small amount, which is often not sufficient to pay the workers’ salaries who end up selling the construction material.¹⁰² As a result, nothing is being constructed and it happens that fires are being purposefully set: the administration can then claim that they had reconstructed but that everything was destroyed by the fire.¹⁰³

If houses are rebuilt, they are done by the people and not by the authorities. Moreover, houses that were rebuilt for the last three years were sometimes purposely exploded by the Russian Armed Forces

98 *Ibid.*

99 *Ibid.*

100 *Ibid.*

101 Secours Catholique, *supra* note 26.

102 *Ibid.*

103 *Ibid.*

after periods of strikes, as punitive measures or because they were located in the neighbourhood of military bases. Overall, hundreds of houses are still destroyed and most people do not have resources and building material to reconstruct their destroyed buildings.

5.3. Lack of basic services

Basic services such as water, electricity and gas are lacking. Overall, the water-pipe and the sewages system are still not working in Grozny and in other parts of the Republic. Testimonies highlight that for the last 4 years, people have had to buy water in bottles of 35-40 litres. Each bottle costs 3-4 roubles (approximately 0.10 USD). The lack of financial resources among the population, along with the high unemployment rate throughout the Republic, means that water has become a luxury for many people. Moreover, some testimonies highlighted that the water in the bottles was dirty and not safe for drinking. Such a situation prevails both in Grozny as well as in the rest of the Chechen territory.

From 1999, when military operations started in Chechnya, the water supply in the Starye Atagi village has been stopped. A military division is still located at the pumping station. As a result, local residents buy drinking water that is taken to them in special water carriers. Residents in the village have appealed to various institutions requesting that the work at the station resumes. Yet, the question is still pending.

Electricity and gas are also reported to be scarce, while there are a lot of cuts. A person living in Grozny reported to OMCT that she often had to go in the street to prepare food because the gas was repeatedly turned off.¹⁰⁴ Testimonies highlighted that before the elections the authorities promised that the people would get gas, electricity and water for free, which is unlikely to happen. Overall, people interviewed pointed out to the total absence of any service. In the countryside, lack of gas supply also remains an acute problem, especially in the southern districts. As a result, villagers have to go out in the forest to chop firewood, with the risk of becoming victims of landmines.

104 Testimonies collected by OMCT team in Ingushetia in October 2003.

5.4. The forcible return of IDPs: nowhere to go

IDPs in Ingushetia have been pressured or forced to return to Chechnya, facing constant harassment, threats, and reduction of the humanitarian assistance, along with cutting of gas and electricity supplies. In addition, they have been promised adequate shelter and assistance in Chechnya as an incentive to return, promises that, most of the time, proved illusory. In line with these efforts to return IDPs to Chechnya, three main camps in Ingushetia have been closed to outsiders, including humanitarian workers. Additionally, there have been numerous reports of deteriorating security within Ingushetia, with several “cleaning up” operations taking place in the region over the past months. The spillover of these types of operations into Ingushetia is a deeply troubling development and observers have labelled it as a new strategy to force Chechen IDPs back to Chechnya by creating insecurity in the IDP camps.

Overall, both the security situation in Chechnya, along with the lack of adequate shelter shows that the necessary conditions have not been met for the return of IDPs. *According to one testimony collected during OMCT’s mission to Ingushetia, a woman, who is internally displaced with her family, expressed her hesitancy in returning to Chechnya, and her husband’s outright refusal to return. She said that although they were scared to return, they realise that the more people who leave the camps, the more difficult it will be for them to stay. Her mother reported that the conditions for returning IDPs in Chechnya are horrendous. As part of the pressure to make people return, the daughter said that people had come knocking on her door multiple times trying to convince her to go back and vote, promising her aid in return.*¹⁰⁵

One NGO surveyed IDPs living in tent camps in Ingushetia in February 2003 and found that more than 98% of the interviewed population do not want to return to Chechnya in the near future, that insecurity is the main reason, and that 74% of families stated having no more home in Chechnya¹⁰⁶.

105 Testimonies collected by OMCT team in Ingushetia in October 2003.

106 Médecins Sans Frontières, *Left without a choice, Chechens forced to return to Chechnya*, April 2003.

*With regard to the worsening security situation in Ingushetia, during one interview with internally displaced women, it was reported that a couple weeks before, masked men arrived outside the camp administration building. They told all the people around there to get down and not look while they took one of the men, who had been playing cards, beat him and then took him away. The man's friends and family telephoned all over trying to find out where he had been taken, but they were told to cease these efforts if they wanted to see him again. When the man was returned, the police said that it had been an error. Such operations are reportedly more and more frequent in Ingushetia, particularly in the camps.*¹⁰⁷

It is estimated that there are about 366,000 internally displaced persons in the Russian Federation, which has a total population of 148,000,000. Specifically, as a consequence of the latest outbreak of conflict in Chechnya since 1999, some 95,000 Chechens have sought refuge in the neighbouring territory of Ingushetia.¹⁰⁸ According to UN Office for the Coordination of Humanitarian Affairs (OCHA), during the month of July 2003, 2,201 IDPs left Ingushetia to return to Chechnya. Of these returnees, 1,851 IDP's returned with the assistance of the Chechen Forced Migrant Committee. Also during that month, Vesta, a UNHCR NGO partner, reported only 228 IDP arrivals in Ingushetia from Chechnya.¹⁰⁹

An intergovernmental agency called 'United Headquarters for Creating Conditions for Returning People from Tents in the Republic of Ingushetia' was formed in November 2002 by the Russian, Ingush and pro-Moscow Chechen officials.¹¹⁰ Representatives of the United Headquarters and of the FSB made rounds in the major camps in order to explain the advantages of moving back to Chechnya. They continu-

107 Testimonies collected by OMCT team in Ingushetia in October 2003.

108 Global IDP Database, *Russian Federation, Chechens Pressed to Go Home*, 23 March 2003, available at <http://www.db.idpproject.org> (citing the Danish Refugee Council).

109 Office for the Coordination of Humanitarian Affairs (OCHA), *Humanitarian Action in Chechnya and Neighbouring Republics (Russian Fed.)*, 16-31 July 2003, available at [http://www.reliefweb.int/w/rwb.nsf/0/d1332af3ea95091bc1256d7a0049f2e9?](http://www.reliefweb.int/w/rwb.nsf/0/d1332af3ea95091bc1256d7a0049f2e9?OpenDocument) OpenDocument.

110 Human Rights Watch, *Into Harm's Way: Forced Return of Displaced People to Chechnya*, p. 5 (2003).

ously pressure families to sign the voluntary return forms, which promise them shelter in temporary accommodation centres recently built in Chechnya, money for the voyage as well as money for a few months of humanitarian supplies. Once the voluntary return forms are signed, it is not possible to re-register as an IDP and receive government humanitarian assistance. The reality in Chechnya for the people who have returned is far from the promises made by the government, with inadequate housing, no running water and not enough money for survival.¹¹¹

An important number of returnees to Chechnya end up living in Temporary Accommodation Centres (TACs) as many houses have been destroyed and are not yet reconstructed. Living conditions in the TACs are reported to be difficult, as most buildings do not have gas, electricity, heating, water or sanitation. Unsanitary toilets are often installed outside of the building and remain difficult to access for disabled and old persons. Every family (around 4 to 12 people) gets a room, where sometimes there is not enough space to put a bed for each person. Overall, most TACs are overcrowded and host more families than the planned number. For instance, a TAC located in Poniatkova Street, Grozny, near the Khankala military base, is designed to house 900 persons.¹¹² Today, 1190 persons are living there.¹¹³ Some TACs are also located in buildings that are partially destroyed or simply inhabitable. There are currently 16 temporary accommodation centres across Chechnya with 8 in Grozny, 3 in Argun, 2 in Gudermes, 2 in Sernovodsk and 1 in Asinovskaya.¹¹⁴

Given the policy of forced return, TACs do no longer have the capacity to host all returnees. As a result, many of them are being placed in houses near TACs. The Migration Service promised many of these families that it would pay their rent if they could find a place to live. Yet, none of these families have received any financial support from the administration.

111 For a more detailed description of the pressure put on IDPs in Ingushetia to return to Chechnya, please see Memorial, Svetlana Gannushkina, *The Internally Displaced Persons from Chechnya in the Russian Federation* (2003).

112 Secours Catholique, *supra* note 26.

113 *Ibid.*

114 *Ibid.*

6. The issue of compensation: a fundamentally flawed process

The process of compensation for houses that have been demolished by the Russian Armed Forces and other State agents has officially started with the creation of a Commission on Compensation. While one could welcome such development, its political bias, lack of transparency, the conditions set up to receive compensation, along with the priority given to those who are close to the Chechen authorities, put into question the validity of such a development, as well as its ability to compensate the victims. According to many testimonies, compensation is still a hope rather than a reality.

The whole process of compensation for demolished houses seems intrinsically related to political developments in Chechnya, and in particular with the October 2003 Presidential elections. Just before the elections, the authorities publicly claimed that 150 families had already been compensated. Such information is not only incorrect, as the number of person being actually compensated is much lower, but just after the elections reports indicate that the compensation process has been stopped.

Lack of transparency also characterises the whole process of compensation. Given that the authorities disclose false numbers concerning the compensation, it remains very difficult for the public at large to have access to the list of those who have actually been compensated.

In addition, conditions for getting compensation prevent an important number of people from being compensated. To be included in the lists of the Commission on Compensation, a person must prove that her/his house has been completely destroyed (100%). This means that if this person's house has been destroyed at 80%, regardless of the fact that she/he cannot live there anymore, she/he won't get any compensation at all. In addition, people should present the following documents in order to get compensation: a document confirming the ownership of the house or flat and a report on the level of destruction. A demand for compensation, before being accepted, has to go through several levels, starting with the district administrators up to the Ministry of the Interior.¹¹⁵ Such conditions exclude an important number of people

115 The Russian-Chechen Friendship Society, Press release #536, October 3, 2003.

and families from the whole process of compensation. Around 20% of those who actually had their house completely destroyed, approximately 39,000 to 40,000 persons, are reportedly not included in the list. Moreover, reports indicate that a lot of the people on the list are no longer living in Chechnya but in Moscow.¹¹⁶

In terms of the amount to be allocated for the compensation, testimonies highlighted its inferiority as compared to the amount given to the victims of the floods that devastated the Krasnodar region in August 2002 and left an important portion of the residents homeless. Testimonies questioned such discrepancy and highlighted its discriminatory nature.

The payment of compensation for destroyed houses started on September 29, 2003 in branches of the Rosselkhoz Bank in the Grozny, Gudermes and Znamen Districts.¹¹⁷ Up to present, only 36 families have received compensation. Out of these 36 families, 22 no longer live in Chechnya and are actually living in Moscow, sometimes for more than 15 years. One interviewee revealed that he had the name of 6 families who have been compensated (out of the 36) and it turned out that they were relatives of Zargaev, who is a representative of Chechnya in the State Duma. In general, many people expressed their concern that those who have received compensation are either relatives of Kadyrov or persons who are close to the Chechen administration.¹¹⁸

115 The Russian-Chechen Friendship Society, Press release #536, October 3, 2003.

116 Testimonies collected by OMCT team in Ingushetia in October 2003.

117 The Russian-Chechen Friendship Society, *supra* note 115.

118 Testimonies collected by OMCT team in Ingushetia in October 2003.

VI. THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

Fundamental elements of the right to health such as availability, accessibility, acceptability and quality have been seriously affected by the two Chechnya wars. Despite the Russian authorities' discourse on the normalisation of the situation in Chechnya, the current situation does not show significant signs of improvement.

The lack of access to safe drinking water, a healthy environment, and adequate sanitation facilities, obstacles to accessing healthcare, along with the shortage of medical supplies and medical staff, have had a serious impact on the entire Chechen population and have led to a significant increase in illnesses.

In addition, the health of the population is directly affected by the current armed conflict and people in Chechnya have suffered injuries and deaths resulting from anti-personnel mines. Cases of torture and other forms of cruel, inhuman or degrading treatment or punishment, along with enforced disappearances continue to be widespread, directly impacting the health of the victims.¹¹⁹ The conflict has also had a severe impact on the psychological health of the population.

Military forces have directly obstructed the availability of medical care by taking hospitals as military barracks. Doctors and other medical staff are also reportedly harassed and subjected to torture for their medical assistance to alleged Chechen fighters. Reports further indicate that doctors face obstacles in documenting torture of patients.

1. The Health of the Population

The Chechen population suffers from a wide variety of diseases, only some of which will be addressed in this report. Vulnerability to disease is exacerbated by horrendous environmental conditions and hospitals with unsanitary surroundings. Furthermore, as a population that has lived through years of war, Chechens are extremely vul-

¹¹⁹ UN Doc. HRI/GEN/1/Rev.5, General Comment No. 14 of the UN Committee on Economic, Social and Cultural Rights, § 3 and 8.

nerable to psychological troubles. Years of war have also led to a rise in the number of people with drug addiction problems.

1.1 Tuberculosis

Tuberculosis remains the most common and widespread disease in Chechnya. According to reports, the rate of tuberculosis infection in Chechnya is around 3 to 4 times higher than in Russia, while available data are not precise due to the lack of effective monitoring mechanisms. Nevertheless, according to one estimate,¹²⁰ 325 out of 1000 people suffer from tuberculosis in Chechnya in areas with high population density. In Russia generally, the tuberculosis rate, as estimated by the World Health Organization (WHO), is 134 cases per 100,000 persons.¹²¹

From 2000 to 2002, all of the 39 mobile X-ray systems, which existed in Chechnya, have been destroyed, along with the tuberculosis sanatorium. A WHO report on the treatment of tuberculosis in Ingushetia revealed that over one third of the persons treated were IDPs from Chechnya. The same report acknowledged that many of these persons were subsequently returned to Chechnya where there are no facilities, equipment or even the necessary medicine for treating tuberculosis.¹²²

“Here in our (Groznenko-selsky)¹²³ district the percentage of the examined population is very low. Because there is no working X-ray system, it is impossible to diagnose tuberculosis in the early stages. There are no preventive X-ray examinations of the population due to the lack of the medicine – tuberculin. No tuberculosis diagnostics and re-vaccinations are given to children in required ages (7 and 14 years). Only 828 people were examined within 10 months. It is 0,8% of the

120 This is according to Field hospital “Disasters’ medicine,” which is situated in the town of Nazran. This hospital identifies and treats patients with tuberculosis among the refugees from Chechnya.

121 World Health Organization, available at http://www.who.int/gtb/publications/globrep/pdf/country_profiles/rus.pdf.

122 World Health Organization, *Health Action – in the North Caucasus*, May-June 2003.

123 Groznensko-slesky district – the largest in the republic with its territory and population (139,020 people).

necessary quantity. Newly identified patients with tuberculosis amounts to 64.¹²⁴

It is further reported that very few people who are infected with tuberculosis are brought to the hospital for treatment.

*“Thousands of patients with active forms of tuberculosis are identified annually, but not more than 15-20% of them are brought to hospitals. Tens of thousands of children and teenagers live in contact with ill people. No medical prevention or other measures are taken for early identification of this disease because there is no necessary equipment, no tuberculin. The personnel deficiency is a serious problem.”*¹²⁵

1.2 Psychological Health

Testimonies collected overwhelmingly indicated that many people in Chechnya exhibit symptoms of severe psychological trauma as a result of the wars and the ongoing conflict. These symptoms include heart pains, difficulty breathing, depression, memory loss, and headaches, among other problems. The population of Chechnya continues to live in fear each day and almost every family has lost at least one member, through death, disappearance, or detention. Efforts to rehabilitate the population psychologically have been lacking as most psychiatric facilities have been completely destroyed during the war. There are currently only 2 working psychiatric clinics in the whole republic, one in the village of Darbanihi (150 places – they previously had 300 places), and in the village of Samashki (60 places – they used to have 350) with according departments. In addition, only there are reportedly a very limited number of psychiatrists available to give consultations throughout the Republic. These resources are not nearly enough to meet the needs of a population traumatized by years of war.

124 Interview with the chief district’s respiratory specialist Marjam Raduyeva (the only one for the whole district) 2002.

125 Information about the situation with health protection of the population in the Chechen Republic: Letter of the Health Minister of the Chechen Republic S.S. Akhmadov, 14 February 2003, No. 121.

1.3 Drug addiction and AIDS

The Chechen population is severely vulnerable becoming addicted to drugs because of the immense suffering they have survived through the wars and the need to escape their daily horrors.¹²⁶ Heroin is reportedly extremely cheap and the sharing of needles leads to a grave danger of becoming infected with the HIV virus. The number of people registered in addiction clinics is about 1600 although it is suspected that many more people are addicted to drugs but do not go to the clinics. The number of people infected with AIDS is growing rapidly in the Republic and, as mentioned below, with fewer and fewer specialists remaining in Chechnya, it is extremely difficult to treat the disease.¹²⁷

2. Environment: Water, Air, Sanitation

The horrendous sanitary conditions and the lack of access to safe drinking water are of serious concern throughout Chechnya and are exacerbating the poor health conditions of the entire population. Such conditions tend to encourage the rapid spread of diseases.

With respect to water, the lack of running water and drinking water has a direct link to disease infection. In 2002 in the village Lermontovo of Achhoi-Martan district there were 47 patients with typhoid – they got the infection through the water in irrigation ditches (aryks).¹²⁸ As mentioned above, drinking water must be paid for and many Chechens, given the high rate of unemployment, struggle to even obtain this basic necessity.¹²⁹

Conditions of sanitation also have a terrible impact on the health of Chechen people. For example, dumps have appeared in areas that are unsuitable for such waste. In the town of Argun, a city dump has been organized in a water protection zone (water pumping of fresh water “The Big Shovdan”). This dump pollutes the water resources of the city.

126 Testimonies collected by OMCT team in Ingushetia in October 2003.

127 The Russian-Chechen Friendship Society, Press Release #349, January 25, 2003.

128 Interview of the Deputy chief doctor of the Central Sanitary Service in Chechnya U.N. Kakayev, “Lam News”, January 2002, “Epidemiological situation in the Chechen Republic.”

129 The Russian-Chechen Friendship Society, *supra* note 127.

Furthermore, there are dumps along the highways that do not meet the minimum sanitary standards. A garbage pit on the highway “Grozny – Argun” is polluting the water at the Starosunzhenskaya water pumping station. The heavy pollution in Chechnya has resulted in the degradation in quality of 80% of the drinking water. There is not a single water source, which can be used without risk for health.¹³⁰

The environment generally is deteriorating and no measures of environmental protection have been instituted. There have been reports that the military have exploded some oil refineries, making the contamination of the surrounding areas even more severe. Furthermore, oil production is continuing, but it is not regulated, thus much oil from these “mini-systems” is drained off into the meadows, pastures and the wells. The mini-systems also release pollutants into the air and they are often located near residential zones, putting the health of many people at risk.

With respect to the degradation of the environment, many trees have been cut down because much of the population does not have gas or electricity. The constant use of the trees in Chechnya for heating bears the serious risk of damaging the environment of the Republic.

3. Access to Health Services

3.1 Physical Access

The major health facilities throughout the country have been destroyed during the two wars. As a result, hospitals are temporarily set up in unsuitable buildings (boarding schools, administrative buildings, kindergartens, etc.), while the building of new facilities is not planned. Where hospitals have been rebuilt, such construction is reportedly conducted by the employees not by the state.¹³¹

Today, there is only one surgical hospital left in Chechnya and, as a result, persons in need of serious operations must journey long distances in order to find the appropriate medical care. While medical

130 Interview of the Deputy chief doctor of the Central Sanitary Service in Chechnya U.N. Kakayev, *supra* note 128.

131 The Russian-Chechen Friendship Society, Press release 459, July 6, 2003.

facilities are scarce throughout the country, the military have occupied some hospitals, reducing the availability of health centers even more.¹³²

This problem is particularly acute in rural areas. In the remote mountain villages, access to medical care is particularly difficult due to the destruction of medical centers and the lack of doctors. As a result, existing medical facilities are often too far away for the population. This is notably the case of the villages of Kharachoi and Vedenov, where bombs have destroyed the medical institutions.

Physical access to hospitals and medical care is also severely restricted by the numerous checkpoints that civilians must pass through as well as by curfews which do not allow civilians to be outside after certain hours. Further restrictions are imposed when the military closes entire villages in order to conduct “cleansing” operations, with no one being allowed to enter or leave the village for any reason during these periods.

3.2 Economic Access

The doctors and other medical staff in Chechnya are reportedly not paid very well (although reports indicate Russian medical staff working in Chechnya receive higher salaries for agreeing to work in a conflict zone). As with many activities in Chechnya, bribes and trade on the black market are institutionalised parts of the medical system. Thus, most prescriptions are only available on the black market (as described further below), and patients have to pay anywhere 10 to 5000 roubles (around 0.35 to 171 USD) for treatments ranging from injections to surgery. For instance, patients will have to pay around 10 roubles for a basic injection (around 0.35 USD), 20-25 roubles for an intravenous injection (around 0.7 to 0.85 USD) and 50 roubles for an I.V. (around 1.7 USD). This reality makes medical treatment economically impossible for many people in Chechnya.

132 Médecins sans Frontières, *Chechnya: The Politics of Terror*, November 2000.

133 Testimonies collected by OMCT team in Ingushetia in October 2003; Médecins du Monde, Response to OMCT questionnaire, September 8, 2003.

4. Quality and Shortage of Supplies and Staff

Besides the question of access to health facilities, staffing and quality of services remain serious concerns. There are not enough personnel in every institution, but particularly with respect to specialist doctors, many of whom have left the Republic because of the horrible working and living conditions.¹³³ “We lack personnel in all departments, especially surgeons and gynecologists.”¹³⁴ Lack of resources is also a serious obstacle to effective treatment of the ill. There are no specialized services, diagnostics and treatment equipment, medicines. Moreover, many of the hospitals have no running water and only periodic electricity.

While many supplies are lacking, the supplies that do exist are often only available at exorbitant costs as they are only obtainable through the black market. This is the case with medications which international NGOs are not permitted to supply by Russian law and which the Russian government does not supply.¹³⁵ Furthermore, it is reported that sometimes medical supplies are confiscated during “cleansing” operations because they “could be used to treat combatants.”¹³⁶

The help of international charity organizations is of great importance. Thus, only the medical supplies from the Red Cross exceed the state supplies but they still are not enough to solve the deficiency problem. A wide immunization of children and newborns (against roseola, hepatitis A and poliomyelitis) was carried out in 2001 with the support of UNICEF, covering 75-80% of the population. The field pediatric hospital of the All-Russian Center of Disasters Medicine “Protection” made a significant input for provision of emergency aid to the patients and wounded people.

134 Interview with the Deputy chief doctor of the Shaly central district hospital. Sozita Usmanovna Dzhambulatovna, March 2003.

135 Médecins du Monde, *supra* note 133.

136 Médecins du Monde, *Report Chechnya*, March 2003.

5. Direct Injuries resulting from Conflict

5.1 *The Problem of Antipersonnel Mines*

The land in Chechnya continues to be covered with anti-personnel mines, which poses a significant danger to the health of the population. Landmines are reportedly planted by both sides of the conflict, but overwhelmingly, the victims are innocent civilians.¹³⁷ *For instance on May 8, 2003, on the edge of the town Achkhoi-Martan, Ibragim Mukayev, a 12 year old stepped on a mine and lost a leg. He had gone to the forest with his father to get some wood.*¹³⁸ This is not an isolated incident and much of the population is in danger of stepping on a landmine because frequent trips to the forest are necessary for wood for electricity, as many people do not have any gas.

Overall, according to the WHO, as many as 100 mines explode on a monthly basis in the Republic and at least 7,000 citizens of Chechnya have lost limbs during the course of the conflict. There is a Prosthetic Centre in Vladikavkaz, Republic of North Ossetia, which provides treatment for persons who have lost extremities. It was established in 1999, and reports that 380 prosthesis have already been provided.¹³⁹ However, given the frequency with which mines are exploding in Chechnya and the number of victims that mines have already claimed, much more needs to be done to treat these injuries.

5.2 *Torture*

Torture in Chechnya is widespread and systematic and this regular practice has a direct effect on the health of the population.¹⁴⁰ Because of the threats faced by doctors working in Chechnya and the shortage of specialists, it is difficult for victims to be treated for the physical and psychological injuries arising from torture. Moreover, obtaining an

137 Physicians for Human Rights, *Endless Brutality: Ongoing Human Rights Violations in Chechnya*, January 2001.

138 The Russian Chechen Friendship Society, Press Release #416, 13 May 2003.

139 World Health Organization, *Health Action – in the North Caucasus*, May-June 2003.

140 UN Committee on Economic, Social and Cultural Rights, General Comment #14, The Right to the Highest Attainable Standard of Health, UN Doc. E/C.12/2000/4.

autopsy report is complicated by the necessity of transporting the body outside the Republic.¹⁴¹

There is an enormous amount of documentation attesting to the widespread nature of torture in Chechnya, but at the same time, many stories have not been heard because the victims of torture are also frequently disappeared. The dead bodies of persons who have been detained frequently show traces of torture. Common forms of torture include severe beatings, extensive use of electro-shock, including electro-shock to the genitals, and mutilation such as cutting off the victim's ear. Victims of torture, like all residents of Chechnya, are afraid to go to the hospital for treatment because of frequent military searches of hospitals.

Access to detention centers, where much torture is suspected to occur, is limited. Many detention centers in Chechnya are "informal," for instances, military bases and abandoned houses have been used as places of detention. There also reportedly exist hidden or secret detention centers.

Observers and victims have described a particular type of detention place called a "zindan" pit. According to reports, the zindans are pits dug in the ground with walls installed and covered by metal grating. Zindan pits are sometimes camouflaged by other materials, such as tents, and their existence has been reported at the Khankala military base in Grozny as well as in the Tangi-Chu area. Some detainees are kept in these pits for months at a time.¹⁴²

Autopsies are an important piece of evidence in showing that an individual had been a victim of torture before dying. However, obtaining an autopsy report is extremely difficult in Chechnya, and it is necessary to transport the body to a neighboring Republic in order to ensure a full autopsy. Chechen tradition plays a role in these difficulties, providing that a body should be buried on the day of death or the next day. This tradition combined with the authorities' tendency to delay the autopsy as long as possible means that the family often buries the body without the report on the cause of death. With respect to exhuming the bodies, families are reportedly very

141 Secours Catholique, *supra* note 26.

142 Moscow Helsinki Group, *Situation of Prisoners in Contemporary Russia*, 2003, p. 260.

uncomfortable with this technique and this allows the authorities to blame the families for the lack of autopsy report and lack of knowledge about the cause of death.¹⁴³

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has visited Chechnya multiple times, most recently in May 2003. These visits have resulted in two public statements, one in July 2001 and one in July 2003, criticizing the Russian government for the “continued resort to torture and other forms of ill treatment by members of the law enforcement agencies and federal forces operating in the Chechen Republic.”¹⁴⁴ Most recently, the CPT expressed concern about allegations of ill treatment in official and unofficial detention centers in Chechnya, abuses arising out of special operations, such as cleansing operations, and the lack of investigation and accountability of perpetrators of such violations.

6. Interference with Medical Work

Accounts of military interference in medical work are frequent and this interference takes different forms such as harassment of health workers at military checkpoints or in medical institutions, arrests of individuals in health facilities, including health personnel, and use of health facilities as military barracks. Such actions by the military constitute a violation of the principle of medical neutrality, provided for in the Fourth Geneva Convention. According to this principle (which arises from numerous articles of the convention), warring parties are required to allow sick and wounded civilians and soldiers to receive care, and to refrain from interfering with medical facilities, transports and personnel.

The military conducts searches of hospitals in a regular fashion in order to identify and arrest combatants. During these sweep operations, patients and doctors are detained. *In October 2000, a federal militia troop took a hospital in Urus-Martan. They checked all wards, seizing all medical personnel lists and patients' lists, especially lists of those who*

143 Secours Catholique, *supra* note 26, pp. 10-11.

144 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Public Statement concerning the Chechen Republic of the Russian Federation (10 July 2003), available at <http://www.cpt.coe.int/documents/rus/2003-33-inf-eng.htm>.

had been wounded.¹⁴⁵ In another hospital, in Argun, military checks are reportedly frequent, almost daily, and arrests of patients are commonplace.¹⁴⁶ Given these dangers that surround hospitals, many people are too afraid to seek treatment when they are sick or injured.¹⁴⁷ In some cases, people with severe injuries will come to the hospital initially, but then leave before having recovered in order to avoid arrest.

With respect to harassment of medical workers, in the hospital of the town Argun in November 2000 two doctors were arrested and kept for 24 hours. Moreover, the doctors and medical personnel have also been detained at checkpoints. Russian troops also demand that doctors report all "suspicious" wounds such as bullet and knife wounds to the authorities, putting their patients at risk of being arrested.

Doctors are particularly at risk when they are suspected of having treated Chechen fighters.

One case involves a doctor who was kidnapped from his home in the middle of the night and who was accused of having treated a Chechen combatant. He was tortured and severely beaten over two days. Then he was forced to sign a statement that he would assist in finding Chechen fighters. When he was finally released, he was told that if he did not flee the village, he would be killed. Now he is in exile with his family. In another case, a doctor was put in a ditch for twelve hours under suspicion of having treated a Chechen combatant. Another report concerns a nurse who was accused of aiding Chechen fighters and as a consequence, she was tortured with electroshock and raped during her 7-day detention.¹⁴⁸

Military forces have also taken over certain hospitals. For example, the tuberculosis hospital and railway departmental hospital in Grozny, the district hospital in Shatoi, and the hospital in Kargalin village, Shelkovskaya district, are occupied by the military.¹⁴⁹

145 Physicians for Human Rights, *supra* note 137.

146 Médecins du Monde, *supra* note 44, p. 25.

147 The Russian-Chechen Friendship Society, *supra* note 127.

148 Médecins du Monde, *supra* note 136.

149 Moscow Helsinki Group, *Human Rights in the Russian Regions*, 2001, p. 345.

Military personnel also reportedly interfere with the issuance of autopsy reports. For example, in one case, *Rustan Kanarkaev* was shot and killed by the police on May 13, 2003. *Daout Doukvaevitch Guekhaev* witnessed the murder and brought the victim to the hospital. The police followed him to the hospital and when the doctor wrote an autopsy report claiming that the victim died of bullet wounds, the police took the report and destroyed it.¹⁵⁰ Additionally, it has been reported that doctors are sometimes hesitant to write medical reports of patients who have been wounded for fear of drawing the attention of the military.¹⁵¹

150 Secours Catholique, *supra* note 26.

151 Médecins sans Frontières, *supra* note 132.

VII. THE RIGHT TO EDUCATION

There is widespread recognition that pre-war Chechnya had a very developed educational system and that the population had a high level of education.¹⁵² The two wars created a massive loss of human and material resources in the educational system, which is now characterised by acute problems of material conditions and infrastructure, access and safety, as well as quality and level of education.

1. Material conditions and infrastructure

In 2001, official sources counted 439 schools in Chechnya: 82 city schools, 12 in settlements, 286 in villages, and 59 in remote villages.

According to an evaluation report mandated by the Federal Ministry of Education in 2002¹⁵³, 38 school buildings are fully destroyed and cannot be reconstructed, 231 schools have to be reconstructed, and 50 schools have to be fully renovated, while the rest (about 1/3) only suffer from minor damages or renovation needs. Due to destruction, many schools are now operating in alternative settings (tents, wagons, private flats).

According to the same source, all schools have problems with water supply. In 2002, the water supply system worked fully only in 82 schools. The heating system worked in 156 schools. From the remaining 283 schools, in 199 cases, the heating system could not be renovated and had to be fully replaced. Only half of the schools had electricity, although the situation is gradually improving in Grozny where electricity repair has been a priority. A school inspection in January 2001 showed that most schools did not provide food for children.

152 *"Pre-war Chechen Ingushetia made a great leap forward in the field of education in the 1960s-1980s, elimination the negative consequences of deportation (...) the level of education of the Chechen population was high (only lagging behind in the percentage of people with high education) and the republic had a well developed system of education."* V. Tishkov, - Ethnology and anthropology institute of the Russian Academy of Science.

153 T.I. Aliyeva et al., *supra* note 63.

Another problem is the occupation of educational institutions by soldiers and policemen. For instance, in the town of Shatoy, Russian troops captured the school building and turned it into barracks for soldiers of the commandant's squad. The children had to study in tents in a park in the central square.

Colleges face similar problems. There are only 12 vocational schools and 7 colleges left in the Chechen Republic, out of the 29 vocational schools and 18 colleges of the early 1990s. Indeed, the majority of the colleges are located in Grozny, where the toughest confrontation and many military actions took place. Many buildings (for teaching and accommodation) were 40-90% destroyed. The material and technical resources of universities were also heavily damaged. The Chechen Republic has three universities – the Chechen State University (CSU), Chechen Pedagogical University (CPU) and Grozny State Oil University. CSU and CPU were partially destroyed. The State Oil University, which used to be a leading institution in the whole Soviet Union, was fully destroyed.

In 2003, several educational buildings were reconstructed. But the process is very slow and costly. The Federal Ministry of Education target for reconstruction of educational institutions includes 23 schools in Grozny. But according to statistics from May 2002, not a single school was reopened after two years of reconstruction. Moreover some half-destroyed buildings were further demolished to gather construction materials.

The budget of the Chechen Ministry of Education for primary and secondary education (higher education budgets are managed from Moscow) has apparently increased enormously over the past two years. This is a very positive trend. This increase is certainly due to the reconstruction programme costs. It is also partly due to a rise in salaries for education personnel all over the Russian Federation. Yet, these salaries remain inadequate and the education budget is still miserable in comparison with that of the Chechnya Ministry of Interior, for instance. Equipment and textbooks are outdated. Parents have to buy textbooks and stationary for their children.¹⁵⁴

154 Testimonies collected by OMCT team in Ingushetia in October 2003.

The situation is very different for IDPs living outside Chechnya. There, many efforts were made by the international community to guarantee adequate conditions of education (yet in tented or wooden schools). Over 15,000 school children were enrolled in IDP schools and kindergartens in Ingushetia in September 2003 after the summer break during which recreational activities had been organised.¹⁵⁵ Yet, IDPs report instances where classes were stopped for various reasons, without follow up from the camp authorities.¹⁵⁶ Moreover, as many IDPs are currently being forced to go back to Chechnya or to flee to informal refugee settlements, it can be feared that their children will not be able to benefit from educational services anymore as they will face anew the difficulties encountered in accessing education in Chechnya.

2. Access and safety

The distance between schools and pupils' homes is another source of concern. It is not safe for children to be on the streets, when military actions continue and when many Russian military units are dangerously roaming the streets. There are several instances where children suffer from fear or humiliations, or where they are accidentally killed by Russian armed forces, while going to school.¹⁵⁷

*On 19th of December 2002 in the town Kurchaloy (a district's center) two boys, who were hurrying for school, crossed the street, when a column of military vehicles was moving along it. Somebody on an armored troop-carrier shot from his grenade cup discharge. The shell hit the neck of one of the boys, 14 years old Muslim Dzhabrailov, and the hit took his head off.*¹⁵⁸

The longer the distance between home and school, the more dangerous it is for the children. In several areas, children live more than 3 km

155 UNICEF, *Humanitarian Assistance in the Northern Caucasus Situation Report N°74*, 1 September 2003.

156 During OMCT visit to Bart refugee camp on 16 October 2003, a family reported that the wooden school located near the camp had been closed down due to a fire that had destroyed part of the building. The children were then out of school for several months.

157 "Human Rights Protection" No.2 (53), p. 11 The chronicle of arbitrariness. Kurchaloi district.

158 Testimonies collected by OMCT team in Ingushetia in October 2003.

away from school: in the suburbs of Grozny, 46.7% of the children going to elementary school live further than 3 km away, in Grozny secondary school of the Oktyabrsky district, 47.5%, in the school for disabled children in Grozny, 51.8%, in the gymnasium in Gudermes, 60%. In other districts up to 20% of the children on average live more than 3 km away from school¹⁵⁹.

As a result of checkpoint delays and searches, teachers and students are often late for classes. The danger of arbitrary detentions on one's way and illegal exactions of money at the checkpoints actually prevent many young people from going to university. A system of special students' buses was established to reduce the acuteness of this problem. Official recommendations were issued for these buses not to be stopped at check points but they are simply not implemented.

Children with special needs (physical or mental disabilities, or serious illness) and children from the most vulnerable groups (internally displaced persons, orphans, children living in dire material conditions) have even more difficulties in accessing any kind of education. The number of such children in the Republic is very large (about one third of the total number of pupils). In some districts such children are the majority—for example, in Sunzha where 85 % of school age children fall in those categories. According to official data, there are 206,610 school age children in Chechnya. Out of them, 1,252 are not studying, including 33 for illness and 850 for material problems. 390 are said to be studying at home. Alternative estimates are much higher.

More generally, pupils and teachers are at risk during classes. There are many instances of military operations—from mortar bombing to clean-up operations—having targeted education institutions and personnel.¹⁶⁰ During the referendum (March 2003) and the presidential elections (October 2003), schools were closed and used as voting posts in Grozny. They were at the heart of military and police attention, with snipers being posted on every school roof. People feared both rebel attacks at voting posts as well as pro-Russian armed forces actions in case of disruptions.

159 T.I. Aliyeva et al., *supra* note 63, p.106.

160 The Russian-Chechen Friendship Society, Press releases #37, (10 January 2001); #70, (26 April 2001); #72 (4 May 2001); #82, (6 June 2001); #209, (16 April 2002); #215, (6 May 2002).

In some areas, schooling was used as a tool for pressure on villagers to vote: *“On 22 September 2003, in the village of Gekhi, in Urus-Martan District, the directors of schools took away school bags of children to make them bring their parents to the school. But the meetings with parents on that day were not devoted to pedagogical issues. The directors declared ‘The children of those who will not vote for Kadyrov at the coming elections will be driven out from school.’ . . . According to the information provided by the teachers of Gekhi schools, the decision to use such an original form of propaganda was passed to the heads of educational institutions from the district department of education during one of its regular meetings.”*¹⁶¹

In higher education, young intellectual Chechens are particularly suspected of political activity. Thus, many students have been disappeared, detained and/or tortured. Now, even outside Chechnya, it is dangerous for Chechens to study since young and healthy people are particularly targeted as potential combatants. Some special operations have taken place in schools and universities in Republics hosting Chechen refugees. In Nalchik, in Kabardino Balkari, in mid September 2003, mass beatings of Chechen students at the Economic and Law College and local schools took place during several days. These operations were carried out by hundreds of individuals, supposed to be militant radical youths, allegedly organised by the police.

Students who have previously been targeted by the authorities face even more discrimination: *“From 1995-1996 and 2001-2002, there was a lot of discrimination in higher education institutions according to political sympathies. Supporters of independence were persecuted. Some months after the beginning of the 1st war (1995), I tried to come back to the philological department of the Chechen State University from which I was pushed out after four years of studies without any serious reason. The former Head of the Faculty of Humanities, Nurdi Bibulatov, refused to accept me back on the grounds that I had spent one month in detention in the Filtration Camp GPAP-1.”*¹⁶²

161 Moscow Helsinki Group, *Chechen presidential elections, bulletin N°2*, 26 September 2003.

162 Testimonies collected by OMCT team in Ingushetia in October 2003.

3. Quality and level of education

Due to the problems described above, the average quality of teaching and the level of education are rapidly decreasing in the whole Republic. Classes are disrupted, either in the course of a day or during several weeks, depending on the nature of the incidents.

Children who have been out of school for some time (for some years, in certain cases) are now refused entry in ordinary classes corresponding to their age group because their level is far too low. They are thus integrated into special schools for retarded children, regardless of their normal intellectual development.¹⁶³

Many qualified teachers and higher education professors have fled the country. Others simply cannot live on their salary or fear access and safety problems at the schools. School directors employ new teachers with little qualification who are willing to perform the job. This is not too detrimental for primary and secondary teaching, but becomes a major problem in higher education. People fear that the Chechen society will soon be deprived of a new generation of intellectuals and qualified professionals, able to hold key administrative, political and technical posts.¹⁶⁴

People are particularly concerned about deficiencies in computer literacy and equipment. In order to remain technologically advanced and competitive, they argue that schools should be provided with more recent equipment and that the State monopoly and control over Internet providers limits possibilities of market development and technological progress in that field.

Chechen language teaching is another very sensitive issue. The Chechen language is taught like any other subject at school, whereas it was recognised in the Constitution as a national language, along with Russian that remains the administrative State language. Textbooks in Chechen are not published anew, although up-dates exist. An author of popular textbooks in Chechen, Prof. Etssaev Umalt was allegedly beat-

163 Echo of War, which reported this fact during the OMCT/Echo of War seminar in October 2003, provides some individual classes for these children to catch up with their normal education.

164 Several written and oral reports were received from teachers, academics, artists and/or NGO representatives participants in the OMCT/Echo of War seminar in October 2003 illustrating these concerns.

en up and his sons were arrested in May 2003, in relation with his academic activities.

Officials themselves conclude: *“The general level of education among the people has lowered. The number of homeless children, orphans and children left without parents increased. A significant part of these children cannot go to school. The psyche of the children, who witnessed the military conflicts, is hurt. The children of the Chechen Republic need a long-term and qualified rehabilitation and help. They are not protected from violation and cruelty. Such living conditions do not contribute to a normal physical, psychological, intellectual and spiritual development.”*¹⁶⁵

Efforts on the part of the Federal and official Chechen administration in the material sphere are acknowledged but they are largely insufficient.¹⁶⁶ Moreover, these material and financial efforts do not solve issues of access, safety, discrimination, content and quality of education. Finally, education is not just schooling or training. Education is also a matter of values and educational models, shared by educational professionals, parents and communities. In their present state of terror and deprivation, most of them are unable to contribute fully to a balanced education for their children. Stability, non-violence and human rights education are desperately needed.

Education is a priority for the population and for the future of Chechnya. But people argue that the restoration of the education system will remain superficial and incomplete as long as the on-going military and political conflict is not solved, since education is a long-term process based on positive future perspectives.

165 T.I. Aliyeva et al., *supra* note 63.

166 *“Russian First Deputy Minister of Public Education Grigory Balykhin is to start on an inspection tour of Chechnya to examine progress in re-establishing republican general education system. There are 454 schools operating in Chechnya today. Around 200,000 children study at general educational schools in the republic. Some buildings suffer poor technical conditions. Restoration works of 20 schools are to be carried out in the upcoming weeks”.* Russian News Agency Itar-Tass, Moscow, 15 July 2003.

VIII. THE IMPACT OF CURFEWS AND CHECKPOINTS ON THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The freedom of movement in Chechnya is severely limited. Restrictions on the freedom of movement through curfews and military checkpoints seriously restrict peoples' access to basic services such as health services, education, work or food. Massive cleaning operations

or "zatchiski," during which villages are completely sealed-off for several days, also have a serious impact on people's ability to access basic services. While the conduct of such operations has diminished since the beginning of 2003—having been replaced by more targeted operations—these still continue to take place, although on a lesser scale.

Checkpoints are under the direct control of the Military Commandant Office in charge of the territory where a given checkpoint is located, as well as under the authority of the Russian Armed Forces and the Ministry of the Interior. In reality, testimonies indicate that soldiers at checkpoints, besides some clear orders, have a large margin of manoeuvre allowing them to set up their own rules.

Checkpoints are located everywhere throughout the Chechen territory. For instance, on the main federal road Moscow-Baku, checkpoints are located every 5 to 6 kilometres. Checkpoints are also found at the entrance and exit of villages, towns and cities. In Grozny, besides the checkpoints located at the entrance and exit, there are checkpoints near all administrative buildings and road crosses. While the number of checkpoints was significantly reduced in 2001 in the northern areas of Chechnya, they continue to jeopardize freedom of movement on the rest of the Chechen territory.

1. Harassment, humiliations and ill-treatments at checkpoints

Arbitrariness, extortion, ill treatments and humiliations are common at checkpoints. Detentions at checkpoints are also common, as are disappearances. Before the Nord-Ost Theatre hostage-taking in Moscow, women and men were treated differently at checkpoints. Women were asked questions in a more polite way and they could often stay in the

car. On the contrary, men had to go out and were often completely checked: they were forced to remove their shirts as soldiers wanted to see whether they had wounds or traces of weapons belts on shoulders. While this practice is still going on, after the Nord-Ost and the launching of operation "Fatima," the situation has worsened for women. They are also searched at checkpoints. As a rule, women soldiers carry out the search, but in small checkpoints there are no women and the work is done by men.

2. Extortion at checkpoints

Overall, the whole checkpoint system is severely corrupted, with soldiers extorting money from Chechens at each passage. Bribes at checkpoints have become an obligatory routine. At every checkpoint, Chechens have to pay the soldiers in order to pass without too much trouble. Around 20 to 30 roubles (about 1 USD) represent the average amount given to the soldiers at each checkpoint. This is the usual sum extorted if all papers are in order. People could not imagine passing a checkpoint without giving money to the soldiers, the risk of being seriously harassed or even worse being too high.¹⁶⁷ What Chechens usually do, therefore, is to put the money in their passports for the soldiers. If a person is not registered, the usual amount reaches 50 roubles (around 1.65 USD). If other problems arise, or if the soldiers just want to obtain more money, the amount can increase even more.

3. Limited access to basic services due to checkpoints, curfews and cleaning/targeted operations

Access to basic services is rendered very difficult by the various checkpoints and curfews. The curfew system makes it almost impossible to get medical assistance at night. During the day, people frequently cannot reach health services because of an emergency situation, a cleaning operation or simply because soldiers at the checkpoints are too drunk, in a bad mood or need extra money.

In 2001, in the Shali District, a pregnant woman had to go to the hospital to give birth. She was accompanied by her husband and a friend.

167 Testimonies collected by OMCT team in Ingushetia in October 2003.

*Their car was escorted by the car of the Military Commandant who helped them to reach the hospital. At the first checkpoint, in the centre of the Shali village, a Russian soldier opened fire on the two cars. One person in the Commandant's car was wounded, the pregnant woman was killed and her friend was also injured. The Russian soldier who fired at the two cars shouted "Oh, my God, I have killed a woman. I want to kill myself" and then added to his colleagues, laughing "How well did I play my role?"*¹⁶⁸ Cases similar to this one are reported to happen frequently throughout the Chechen territory.

Access to work is affected every day by checkpoints and is a widespread phenomenon. As a result, a lot of people cannot reach their workplace or arrive late. Access to educational facilities also remains difficult for the same reasons. While free passage at checkpoints is authorised for school children and students, this order conflicts with the instructions that every man from age 10 to 60 is a potential enemy. As a result, male school children and male students are often stopped at checkpoints.

The system of checkpoints and curfews also seriously affects access to food. Families often only have food provisions for one day, being unable to keep reserves given their financial situation. As a result, if they cannot reach the market the following day, their food is finished and they have nothing to eat.

In addition, cleaning operations that are conducted in villages severely impact peoples' access to food, health services, work and education.

*For instance, on May 21st 2002, the Russian Armed Forces closed the village of Mesker Yurt in the Shali District during 21 days. The village was surrounded by around 3000 to 4000 soldiers (around 10 times more than the village's inhabitants). When the Armed Forces came to the village, they took all the villagers' foodstuff who then had nothing left to eat during 21 days.*¹⁶⁹ Reports indicate that such operations are still going on today in a less frequent way, i.e., Russian authorities are using more hidden methods with one or a few houses being surrounded instead of a whole village.

168 Testimonies collected by OMCT team in Ingushetia in October 2003.

169 *Ibid.*

On November 28, 2002 at 7:00 am, Russian Armed Forces launched a cleaning operation or “zatchiska” in the village of Mesker-Yurt in the Shali District.¹⁷⁰ A great number of troops and armoured vehicles totally sealed-off the village. Tanks and Armed Patrol Cars came into the village and took control of the crossroads. At the beginning of the operation, a few residents managed to drive out of the village.¹⁷¹ A woman of the village explained to representatives of the Russian-Chechen Friendship Society how people tried to flee the village before its closure by the Russian Armed Forces: “I have a daughter who needs systematic medical care. Knowing that during “zatchiska” soldiers often do not let people, even seriously ill, leave, I asked a relative to drive me and my daughter out. When we were leaving, the landing troops had already closed off the southeastern part of the village. Machinery was approaching. Our herder had driven the cattle back. Many residents were afraid for their children, especially the young ones. Those who had cars were leaving by cars. Many went by cattle – everything mixed and we had hardly managed to drive away from the settlement.”¹⁷² Those who succeeded in escaping from Mesker-Yurt said that panic reigned in the village because residents were afraid of new punitive operations. Indeed, the last massive “zatchiska” that took place in Mesker-Yurt lasted from May 21 to June 11 2002 during which at least 25 people were killed and 20 disappeared.¹⁷³

170 The Russian-Chechen Friendship Society, Press release #318, November 28, 2002.

171 The Russian-Chechen Friendship Society, *supra* note 170.

172 The Russian-Chechen Friendship Society, Press release #319, December 2, 2002.

173 The Russian-Chechen Friendship Society, *supra* note 170.

IX. DEFENDING HUMAN RIGHTS IN CHECHNYA

Documenting human rights violations in Chechnya remains a very dangerous and even deadly activity. Human rights defenders working on Chechnya, along with their families, are regularly the object of threats, harassments and arbitrary arrests and detentions. Many of them have also been killed, as a retaliatory measure, for their monitoring and condemnation of exactions committed by Russian servicemen. Relatives of those defending human rights in Chechnya have also been targeted by the Russian authorities. Such harassment can go from false accusations to arbitrary arrests, threats or even assassination. Such patterns highlight a strong and alarming willingness, by the Russian authorities, to suppress any voice criticising their operations in the Chechen territory. Persons documenting human rights abuses throughout the Republic are foreseen and also categorised as enemies of the nation and anti-patriots.¹⁷⁴

The fact that the Chechen territory remains practically closed to NGOs and independent journalists, due to a strict process of accreditation, increases the vulnerability of these human rights defenders within Chechnya who are, on a daily basis, documenting massive abuses. Many of them are working in very difficult conditions, often on an individual basis, have scarce resources and often lack access to international channels of protection. People were increasingly scared to speak out about exactions committed by the Russian authorities because of systematic reprisal and lack of protection.¹⁷⁵

Malika Umazheva, 55 years old, was the victim of such retaliatory measures taken against those who openly condemn the abuses committed by the Russian Armed Forces in Chechnya.¹⁷⁶ On the night of November 29, 2002, at around midnight, in the village of Alkhan-Kala in the Grozny Village District, four Russian soldiers in camouflage clothes, armed with sniper rifles with mufflers broke into Malika Umazheva's

174 See for instance the urgent appeals released by the Observatory for the Protection of Human Rights Defenders (a joint Programme of the FIDH and OMCT) on the situation of human rights defenders in Russia and in particular in Chechnya at www.omct.org or www.fidh.org.

175 Testimonies collected by OMCT team in Ingushetia in October 2003.

176 Testimonies collected by OMCT team in Ingushetia in October 2003; See also *Secours Catholique Français*, *supra* note 26.

house, where she was living with her two nieces (orphans). They ordered everybody to lie on the floor and searched the house. They asked Malika Umazheva to go to a shed to conduct a further search. Having bad apprehensions, her two nieces pleaded with them not to kill Malika Umazheva. The soldiers promised that she would stay alive, but soon after they had taken her out, the two girls heard the shot.

Malika Umazheva was, until September 2002, the former head of the Alkhan-Kala administration, a village located at the periphery of Grozny and which has been the object of repeated cleaning operations. She was removed from her position on September 9, 2002 for “failure to discharge her duties” and she opposed her dismissal in court. Her reinstatement was planned for December 1, 2002. Malika Umazheva used to cooperate closely with independent newspapers and human rights NGOs to document and condemn human rights violations committed by the Russian authorities. Before her execution by Russian Armed Forces, she was in contact with members of the European Committee for the Prevention of Torture (CPT) who visited Chechnya from May 24 to May 29, 2002.¹⁷⁷ According to her relatives, on November 16, 2002, some soldiers came to Malika’s house and asked whether she could identify a few “terrorists” who were detained in Khankala. Malika refused, accusing the soldiers of endangering her life by presenting her as an informer. Later, it became known that nobody had been arrested in the village that day. The soldiers ultimately went away after having searched for weapons in the house. Malika Umazheva told her relatives that she was concerned about the death threats she has been receiving and that a general from Khan-Kala was hunting her.

Such retaliatory measures also led to the execution of Zoura Bitieva and four members of her family during the night of May 21 to May 22 2003.¹⁷⁸ At around 4:00 am, soldiers belonging to unidentified military groups arrived at the house of Zoura Bitieva and killed her with her husband, her youngest son and her brother. They were killed in the rooms where they were sleeping by bullets in their heads. Idriss Idouev, Zoura

177 In a public statement released on July 2003, based on the CPT’s visits of December 2001, January 2002, May 2002 and June 2003, the CPT highlighted the worrying situation with regard to torture and other forms of cruel, inhuman or degrading treatment or punishment prevailing in Chechnya, <http://www.cpt.coe.int/en/states/rus.htm>.

178 Testimonies collected by OMCT team in Ingushetia in October 2003; See also, *Secours Catholique supra* note 26.

Bitieva's son was killed through a pillow. Zoura Bitieva was hit in the head near her ear. Her two hands were also hit by a bullet, as it seems that she tried to protect herself. Her hands were tied with tape and her mouth as also covered with tape. Her grandson, who had just reached his first birthday, was sleeping with Zoura Bitieva. His hands and mouth were also tied with tape. He was found alive next to his grandmother covered with blood. Eldar, Zoura Bitieva's son, was living in the house next door. Early in the morning he was awoken by some noise and saw through the window men in military uniform running to his mother's house. He thought that they came once again to take his mother and decided to hide in order not to complicate the situation. He quickly made his bed and hid himself in the room. At that time, two soldiers came in and inspected the room with a torch. After having looked at the bed they said "it's empty here, there isn't anybody" and left the house, taking with them a videotape. Eldar waited until the departure of the car and ran to his parents' house. He found them dead, his son alive with tied hands and mouth. The neighbours arrived at that time. According to them, there were two "Ouaz" cars of grey colour with 11 men without masks and four men with their faces covered. According to them, the 11 men were Russians and the four others were Chechens. Before going to Zoura Bitieva's house, the men went to the neighbour's house. Taking the woman who was living there out of her bed, they asked for her passport and put tape on her mouth. One of them asked for her family name looking at the passport and her face. She could only pronounce unarticulated sounds as her mouth was covered with tape. They said "it is not her" and went away, taking her passport with them. The passport was found next to the dead body of Zoura Bitieva.

Zoura Bitieva was well known for her participation in anti-war activities during the first and second wars. She also used to hide deserters of the Russian Armed Forces in her house, helping them and putting them in contact with their parents. Zoura Bitieva was arrested on April 25, 2000 and detained for a month in the Tchernokossovo prison, reputed to be a place where detainees are being tortured and ill treated. Zoura Bitieva very openly condemned abuses committed by the Russian authorities in Chechnya and also lodged a complaint within the European Court on Human Rights for her detention in 2000. In February 2003, she was part of a women's group who asked for the opening of graves found in the Kapustino village in the Naur District. She also publicly criticised the referendum held on March 23 2003. Ms. Bitieva's family has also been

the target of harassment by the authorities. For example, in March 2002, the police department of Chervlennaya, in the Naur District, opened a judicial inquiry against Zoura Bitieva's son and brother for illegal possession of drugs. In fact, the police had put the drugs in their belongings and Zoura Bitieva could prove it. However, in April 2003, Zoura Bitieva's son and brother went before the judge who condemned them to a year's suspended sentence. It is very clear that Zoura Bitieva's relatives have been persecuted, and ultimately executed because of her activities.

The list of other human rights defenders being attacked and persecuted for their activities is far longer than the few examples given in this report. These attacks and harassments can go from retaliatory measures taken against those who openly criticise the exactions committed by the Russian authorities to arbitrary arrests and detentions, disappearances, harassments and threats. Relatives of human rights defenders, as highlighted by the case of Zoura Bitieva, are also targeted.

Two members of the Coalition on the Interregional Public Movement for the Defence of Human Rights and Freedoms, based in Grozny, are missing, while one employee has been detained and another one executed.¹⁷⁹ On August 7, 2002, Gusigov Khac-Mohammed disappeared, followed by another colleague, Djabrailov Khampacha on April 10, 2003. The offices of the Coalition were ransacked on January 13, 2003 and documents were taken away. In the operation, Uctalkhanov Kazbek was kidnapped. On February 20, 2003, the coalition paid 500 USD to bring him back. The practice of paying to release a person or to recuperate a dead body has become common throughout Chechnya. Uctalkhanov Kazbek was reportedly subjected to torture and other forms of cruel, inhuman or degrading treatment during his detention. Murstalier Okhazur Khazaevich, another colleague of the organisation, was arrested on November 28, 2002 and found dead on April 3, 2003 with bullet wounds. The last time he was seen before his arrest, he was speaking with Chechen policeman working within Russian bodies at a checkpoint in Grozny.

Imran Ezhiev, the regional coordinator of the Moscow Helsinki Group and the head of the Russian-Chechen Friendship Society's (SRCF) Information Centre in the Northern Caucasus has also been repeatedly

179 Testimonies collected by OMCT team in Ingushetia in October 2003.

submitted to harassments. Since the first conflict, Imran Ezhiev has been arrested 17 times in total and has also been subjected to torture and other forms of cruel, inhuman or degrading treatment or punishment. For instance, he was arrested in 2000 by the Russian Armed Forces without charges. In September 2001, he was again arrested at the border between Ingushetia and Chechnya and taken to the Atchkhoi Martan Headquarters. He was released 2 months later, as a result of international pressure. On March 15th 2003, at around 7:00 pm, Imran Ezhiev was kidnapped on the road between the settlement of Shali and the village of Serzhen-Yurt.¹⁸⁰ He was accompanied by Mr. Zaur Saitovich Kharipov, a correspondent for the SRCF, who reported that two cars forced Imran Ezhiev's car to stop on the side of the road. Unidentified armed masked individuals got out of the cars and asked them to show their identity documents. They then threatened Zaur Saitovich Kharipov with their weapons and forced Imran Ezhiev into one of the cars and drove away to an unknown location.¹⁸¹ On March 19, 2003, Imran Ezhiev was found at around 5:00 am in a field near the village of Berkat Yurt in Chechnya. He was reportedly beaten up during his detention and all of his documents were taken away.¹⁸² This kidnapping was related to Mr. Imran Ezhiev's activities in the Shali district, notably the gathering of information for the annual SRCF report on human rights in Chechnya. Moreover, Imran Ezhiev was also, at that time, conducting research, with the support of OMCT, on violations of ESC rights in Chechnya.¹⁸³ Furthermore, as recently as October 19, 2003, at about 1:20 pm, Russian Armed Forces attempted to detain Imran Ezhiev at the military checkpoint "Caucasus 1" located at the boarder between Chechnya and Ingushetia.¹⁸⁴ Imran Ezhiev was driving in an "Oka" car to Chechnya with one of his colleagues, Khamzat Kuchiev. Soldiers at the checkpoints, who were reportedly drunk, took him out of the car into their office and threatened him with

180 OMCT Press Release, *Human rights activist kidnapped in Chechnya while conducting research for OMCT*, March 17, 2003; OMCT and FIDH, *The Observatory for the Protection of Human Rights Defenders*, Urgent Appeal RUS 001 / 0303 / OBS 012, March 17, 2003.

181 OMCT Press Release, *supra* note 180.

182 OMCT Press Release, *Liberation of Imran Ezhiev*, March 19, 2003; OMCT and FIDH, *The Observatory for the Protection of Human Rights Defenders*, Urgent Appeal RUS 001 / 0303 / OBS 012.1, March 19, 2003.

183 OMCT Press Release, *supra* note 182.

184 The Russian-Chechen Friendship Society, Press release #548, October 20, 2003.

a weapon. They told Imran Ezhiev that they had to detain human rights activists and people working for the Russian-Chechen Friendship Society because their aim is to discredit the army that is “accomplishing complex battle missions”. Imran Ezhiev responded that the soldiers were dishonouring themselves being so drunk on duty. They then seized his hands and brought him to a room by force. When Imran Ezhiev asked the soldier to invite the commandant of the checkpoint, he was insulted. People going through the checkpoint asked for the release of Imran Ezhiev and a spontaneous demonstration started, leading to his release 40 minutes later.

Such pattern of attacking human rights defenders, reducing them to silence and categorising them as anti-patriots or even terrorists is also pursued in the official discourse held by Russian authorities and the pro-Russian Chechen administration before international bodies.

During the October 2003 examination, by the UN Human Rights Committee, of the fifth periodic report presented by the Russian Federation, Akhmad Kadyrov, the official President of Chechnya, who was part of the Russian delegation before the Committee, openly attacked human rights NGOs working on Chechnya.¹⁸⁵ In doing so, he particularly attacked Zainap Gashaeva, director of the Chechen NGO “Echo of War,” who was in attendance at the session. Akhmad Kadyrov directly harangued her and told her that she should work with him instead of coming to Geneva to criticise his government.

While such a public stand serves as yet more proof of the systematic policy that is pursued throughout Chechnya against human rights defenders, it is particularly worrying regarding the security of those who condemn, at the international level, abuses committed in Chechnya. It also runs counter to the whole discourse on the normalisation of the situation in Chechnya, a discourse that was ironically presented that same day to the UN Human Rights Committee.

185 This review took place during the 79th session of the UN Human Rights Committee reviewed (October 20-November 7, 2003), See UN Doc. CCPR/C/SR.2144, 29 October 2003.

X. CONCLUSION AND RECOMMENDATIONS

Normalisation is anything but a proper term to characterise the current situation in Chechnya. The March 2003 referendum and the subsequent presidential elections of October 2003 have been highly criticised for their lack of legitimacy and failure to respect the fundamental principles of free and fair elections.

Throughout the Republic, abuses continue to be committed on a large scale by Russian servicemen and the pro-Russian Chechen administration. Overall, most perpetrators remain unpunished. Today, a well-organised system of impunity prevails in Chechnya where investigations are not carried out, files are being closed and complainants are being harassed and threatened. As a result, people living in Chechnya are being deprived of their rights, along with their access to justice.

While the conflict is ongoing, abuses are no longer limited to the Chechen territory. Testimonies and various reports indicate the deteriorating security situation in Ingushetia, where several “cleaning up” operations, harassments, as well as arbitrary arrests and detentions have been taking place over the past months. IDPs are the first victims of such spillover abuses, and it appears to be another strategy to force them to return to Chechnya. Yet, conditions for their return are not being met, both in terms of security of the person as well as in terms of the lack of adequate housing.

This report indicates that the current situation prevailing throughout Chechnya is not normal and that this lack of “normality” has an effect on the entire Chechen context: political, legal, economic, social and cultural. Today, in Chechnya, individuals not only lack protection regarding their physical and psychological integrity but also find themselves in destitute and very precarious socio-economic conditions. They lack access to basic services and adequate shelter, as well as to any form of redress and compensation for the destruction of their houses and other violations of economic, social and cultural rights. Serious impediments to the enjoyment of the right to health, education and protection of the family also represent common features in the Republic. In this respect, women and children remain particularly vulnerable.

The two wars have played an important role in this situation as the education and health system, along with the housing stock and the entire

socio-economic structure have been destroyed. However, other factors must be taken into account, including arbitrary measures taken by the Russian and pro-Russian Chechen administrations, the absence of the rule of law and rampant corruption in the military and the administration, along with the lack of genuine steps taken to restore the rule of law and guarantee peoples' basic needs.

This report was presented to the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which reviewed in November 2003 the fourth periodical report presented by the Russian Federation. In their constructive dialogue with representatives of the Russian Federation, members of the CESCR discussed the situation prevailing in Chechnya and asked specific questions regarding, notably, the living conditions in Chechnya, the provision of basic services to the Chechen population, including health care and education, the process of compensation for demolished houses in Chechnya and the situation of IDPs in Ingushetia.

In its concluding observations, the CESCR took up an important number of concerns and recommendations expressed by OMCT and its Chechen partners and recommended that the Russian Federation allocate sufficient funds to reinstate basic services, including the health and education infrastructure, in the Republic of Chechnya; guarantee that timely and adequate compensation is duly provided to all persons whose property has been destroyed during the military operations in Chechnya; and abide by its obligation under the Covenant to ensure the provision of adequate temporary housing for those people who have left Chechnya and fear that Chechnya is too insecure for them to return.¹⁸⁶

Keeping in mind the situation and concerns described in this report, OMCT also urges the Russian Federation to implement the following measures:

on the justiciability of economic, social and cultural rights and access to justice

- guarantee effective access to justice in criminal and civil cases;
- put a stop to the existing system of impunity;

¹⁸⁶ UN Doc. E/C.12/1/Add.94, Concluding Observations of the Committee on Economic, Social and Cultural Rights : Russian Federation, 12 December 2003, paras 10, 28, 30.

- guarantee the security of those bringing complaints for human rights violations and put a stop to the repressive measures taken against those persons.

on discrimination against women and violence against women

- guarantee that only women guards conduct strip searches of women prisoners and detainees and that the fundamental human dignity of women prisoners and detainees is respected at all times;
- invite the UN Special Rapporteur on violence against women, its causes and consequences to visit Chechnya and take all efforts to avoid cancellation of her trip;
- investigate, prosecute and punish all instances of violence against women with due diligence, regardless of whether the perpetrators are private or public individuals.

on the protection and assistance for the family

- institute a comprehensive system of social support for all families headed by widows, including those of rebel fighters;
- strictly respect the Convention on the Rights of the Child and other relevant international law regarding provision, participation and protection rights of children on the territory of Chechnya, including international standards on juvenile justice applying to any person under 18 being arrested, detained or imprisoned.

on the right to adequate housing

- provide adequate compensation and reparation to those persons who have been evicted from their houses to accommodate military personnel;
- guarantee that the compensation process for destroyed houses currently in place provides adequate compensation to all persons whose houses have been destroyed or who have been evicted from their houses, following a fair and transparent procedure;
- put an end to the forced evictions and demolitions of houses carried out as a form of collective punishment against the Chechen population;

- condemn and end the stealing and looting of property carried out by Russian servicemen;
- guarantee a rapid reconstruction of the housing stock in Grozny and elsewhere in Chechnya and put a stop to the rampant corruption that distracts the funds allocated to this process;
- halt the policy of forcibly returning IDPs to Chechnya as long as the conditions for their return, both in term of housing and security, are not met.

on the right to the highest attainable standard of health

- protect the neutrality of all hospitals and other medical clinics in the Chechen Republic by prohibiting and punishing any and all military interference with medical work, thereby guaranteeing access for all civilians to hospitals and medical treatment without the risk of putting their physical and psychological integrity in jeopardy;
- ensure that autopsies are performed as quickly as possible after death and that such examinations are transparent and reflective of the true cause of death;
- rebuild the health systems in Chechnya, as many hospitals have been destroyed, and prioritise these re-construction efforts;
- establish free access to safe drinking water and take all efforts to clean the current environment of pollutants which are contributing to the horrendous health conditions of the population;
- develop a de-mining program in Chechnya and ensure that the prohibition on the use of landmines is observed strictly by all parties to the conflict;
- establish a system for the prevention and punishment of torture and ill treatment as well as the provision of rehabilitation services for torture victims;
- strengthen the system of electricity and minimize cuts in the gas provision.

on the right to education

- make primary, secondary as well as higher education a priority in the reconstruction process and drastically increase the status,

salaries, protection and training of educational personnel throughout Chechnya.

on the impact of curfews and checkpoints on access to basic services

- put in place clear guarantees in order that checkpoints, curfews, cleaning operations and targeted operations do not prevent peoples' access to basic services such as health care services, educational facilities, food and work.

on the protection of human rights defenders

- immediately cease the systematic repression and harassment of people who are documenting and denouncing human rights violations committed by Russian servicemen and the pro-Russian Chechen Administration in Chechnya;
- put a stop to the systematic repression and harassment of the families of those documenting and denouncing human rights violations committed by Russian servicemen and the pro-Russian Chechen Administration in Chechnya;
- guarantee the right of freedom of association throughout the Republic.

In addition to these specific concerns, OMCT believes that any return to normalisation should be accompanied by a certain number of measures. Any real and genuine normalisation of the prevailing situation in Chechnya must be accompanied by adequate steps to restore the rule of law, compensate the victims and bring perpetrators of human rights violations to justice. In this respect, OMCT encourages the Russian Federation to:

- allow the return of international observers in Chechnya under the OSCE mandate;
- issue a standing invitation for all Special Procedures of the UN Human Rights Commission to visit Chechnya;
- implement the existing recommendations formulated by international and regional human rights mechanisms on Chechnya;

- publicise the reports issued by the European Committee for the Prevention of Torture;
- conduct thorough and impartial investigations into the human rights violations committed in Chechnya since the first war in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided by law;
- guarantee adequate redress and compensation for the victims.

ANNEX 1



Source:

RightsMaps.com, available at <http://www.rightsmaps.com/html/chechen1.html>

ANNEX 2

Declaration of Chechen NGO participants in the Echo of War/OMCT seminar of 17-19 October 2003

We, democratic public representatives of the Chechen Republic, are concerned about the situation with human rights and basic freedoms that results from military actions of the opposing forces.

Now, four years after the military actions started, there is a continuing and growing trend toward violation of human rights and basic freedoms.

The national liberation struggle that our people has waged against the Russian empire for 4 centuries was repeatedly described in degrading terms – from “savage mountainous tribes that refuse to abide by civilized standards” to the modern labels such as “gunmen”, “international terrorists” and “religious fundamentalists”.

Long before the second campaign the Russian side had been continuously intimidating [Chechens], and is doing it even now, trying to convince the world community that the Chechen people presents a potential threat of systemic violence.

As representatives of Chechen public we believe that the ongoing military and political conflict, as well as incessant gross violation of International Humanitarian Law, can only be stopped as a result of interference by a third party, that is, competent international organisations (United Nations, the Council of Europe, the European Union, OSCE, etc.) and progressive world public.

Unfortunately, due to biased information which comes only from Russian officials, the international community is for the most part misled about, and shows little interest in, the current developments in Chechnya.

We are certain that they would respond appropriately if they had access to objective and true information about the events in and around Chechnya.

In view of the above, for the purpose of establishing peace and stopping the intolerable violation of human rights in Chechnya, we plead that the progressive world public call upon their leaders to exert influence on the opposing forces, so that they sit down at the negotiating table and start a genuine process of political settlement of the Chechen conflict.

We also suggest the following:

1. The UN and the Council of Europe should organise, under their respective aegis, a Centre for analysing and examining information on human rights violations received from Chechnya.
2. In order to eliminate the ultimate cause of the conflict, the UN Secretary General and the Council of Europe should arrange, without delay, an independent, international legal review to check the relevance and legal validity of Russia's claims on the territory of Chechnya; and to establish whether the use of the "right to self-determination" by the Chechen people and the creation of the independent sovereign state (the Chechen Republic of Ichkeria) at the fall of the Soviet Union conformed with international law.
3. Leaders of the UN, Council of Europe and OSCE should re-establish observation missions in Chechnya, and commission other international observers to ensure adequate monitoring of human rights observance on the territory of Chechnya.
4. The UN and the Council of Europe and OSCE should explore possibilities to create an International Tribunal for human rights violations in the Chechen Republic.

Chechnya: No Means to Live

This report addresses issues related to the enjoyment of economic, social and cultural rights (ESC rights) in Chechnya, along with the particular situation faced by internally displaced persons (IDPs) in Ingushetia. This report finds its origins in the review, by the United Nations Committee on Economic, Social and Cultural Rights (CESCR), of the fourth periodic report presented by the Russian Federation.

The decision to focus on Chechnya and on IDPs from Chechnya stems from particular and interrelated concerns. The unique and extremely worrying situation in Chechnya requires, in itself, a specific focus and monitoring. This need is matched by the fact that the Russian Federation failed to address this particular situation in its fourth periodical report to the CESCR.

Yet, issues related to the enjoyment of ESC rights are fully relevant to the Chechen conflict. Not only has the Chechen population been suffering from massive and widespread exactions committed by the Russian authorities, but these circumstances also have a devastating effect on the civilian population through displacement, demolition of houses, deficiency of shelter, lack of water, scarcity of foodstuff, destruction of schools, the quasi-total absence of health services and restricted access to basic services due to military checkpoints, curfews, cleaning operations (“zatchiski”) and targeted operations.

OMCT’s work in the field of torture, summary executions and other forms of cruel, inhuman or degrading treatment or punishment has highlighted that the occurrence of such violations can neither be dissociated from socio-economic factors, nor from the enjoyment of economic, social and cultural rights.