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Home > Russian Federation, Chechnya, Operation Samashki

Part 1 to 5

[Source: Memorial Human Rights Center, *By All Available Means: the Russian Federation Ministry of Internal Affairs Operation in the Village of Samashki: April 7-8, 1995*, Moscow, 1996; footnotes omitted.]

N.B. As per the disclaimer ^[1], neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

1. Preface

This report is devoted to the events connected with an operation by Russian Federation [RF] Ministry of Internal Affairs divisions in the village of Samashki on April 7-8. [1995] According to Anatoly Aleksandrovich Antonov, Deputy Commander of MVD [Ministry of

Internal Affairs (*Ministerstvo Vnutrennykh Del*)] forces in Chechnya, it was “the first completely independent military operation by MVD troops”. The operation and its consequences received wide attention in Russia and abroad.

On December 9, 1994, the President of the Russian Federation issued the Decree on Measures to Stop the Operation of Illegal Armed Formations in the Territory of the Chechen Republic and in the Ossetian-Ingush Conflict Zone. The decree instructed the RF government to “use all means available to guarantee state security, lawfulness, rights and freedoms of citizens, the guarding of public order, the fight against crime, the disarming of all illegal armed formations”.

On December 11, 1994, Ministry of Defence and MVD units began to enter the territory of Chechnya. Chechen armed formations resisted federal forces, and an undeclared war was under way in the Northern Caucasus.

The authors of this report consider the wide-scale military activities that followed this decree a non-international armed conflict, whose victims must be protected by strict observance of Article 3 common to the Geneva Conventions of August 12, 1949 and Protocol II additional to them. In accordance with these instruments, parties to the conflict are obliged to respect these and other laws and customary law on the conduct of war. [...]

OM [Observer Mission] members visited Samashki in May and August and received additional testimony necessary for the preparation of this report. [...]

2. Brief notes on the geography and demography of Samashki

[...]

When the Chechen-Ingush Autonomous Soviet Socialist Republic was split in 1992, the

village of Sernovodsk, located 9.5 kilometers to the west of Samashki, went to Ingushetia and Samashki became a border village within the Chechen Republic. [...]

The pre-war population of Samashki counted about 14,600 people. With the commencement of military activities, Samashki began to receive displaced people from Grozny and villages that either became conflict zones or were shelled and bombed. In addition, beginning in February 1995, some refugees left Samashki. The village's elders estimated that toward the beginning of April approximately 4,500-5,000 people remained in the village; according to the village administration, this figure was between 5,000-6,000. [...]

3. The situation in Samashki from december 1994 to april 1995

While Russian troops were sent to Chechnya with the proclaimed goal of “restoring constitutional order and disarming illegal formations” in the republic, Russian military planning concentrated first and foremost on controlling Grozny, the capital of Chechnya. To this end, the command tried not to divert great force on bringing “constitutional order” to other parts of the republic, and troop deployments along the borders created “neither peace nor war” zones.

For a certain period, one such zone was western Chechnya (Achkoi-Martan, the district center, and the villages of Samashki, Assinovskaya, Melkhi-Yurt, Novyi Sharoi, and Zakan-Yurt along the border with Ingushetia, where tens of thousands of refugees from Grozny had amassed. [...]

On December 12, columns of federal troops were shelled in the village of Assinovskaya, and in the village of Novyi Sharoi a crowd of residents from nearby villages blocked the road. Further troop movements would inevitably have led first, to firing on unarmed residents, which at the time soldiers and officers were not prepared to do, and second, to

skirmishes with partisan fighter units, which every village had. These units were armed with automatics, machine guns and grenade launchers. Self-defense units based in the area south of the village of Bamut had armored vehicles.

Federal forces were consequently reinforced along this conditional border area near the villages of Samashki, Davydenko, Novyi Sharoi, Achkoi-Martan, and Bamut. On December 17, federal forces had Samashki semi-surrounded, but the divisions left the village soon thereafter. An MVD checkpoint (Post No. 13) was established about four to five kilometers from Samashki, on the road to Sernovodsk. [...]

[...] By maintaining a humanitarian corridor connecting a number of villages in Chechnya with the outside world, the command of federal forces in Chechnya was, of course, complying with humanitarian law. But in numerous incidents, the MVD also detained Chechen men for one reason or another at Post No. 13, subjected them to mistreatment, beatings, and torture before sending them off to the filtration camp at Mozdok. [...]

On January 18, an astoundingly senseless incident took place. According to a report by G. Zhavoronkov, a correspondent for *Obshchaya Gazeta*, and P. Marchenko, his partner, they travelled left with a column of Ingush Republic EMERCOM [Ministry for Emergency Situations] cars transporting food to Grozny. Both sides to the conflict would allow columns of this sort, travelling under white flags, to pass through checkpoints unimpeded. About 11:30 a.m. the column went through the MVD checkpoint between Sernovodsk and Samashki.

As the column was entering Samashki, however, a Russian APC caught up with it, drove up its middle, and rode along with it to the edge of the village under EMERCOM cover. Shooting began immediately. Fortunately, no one in the EMERCOM vehicles was injured, as some of the cars in the column were able to speed away from the battle, and others took

cover in ditches along the road. [...]

On January 30, a column of Russian armored vehicles and trucks attempted to drive through Samashki. Different sources described this incident in different ways. Newspapers reported:

“The elders went out on the road and asked them not to drive the column through the village in order to avoid provoking a clash with villagers. The column nonetheless moved forward, and began to shoot villagers. Chechens returned fire, which resulted in the deaths of at least three Russian servicemen, and took several APCs and military vehicles out of action seventeen people were injured. The military then led the column away from the village”.

“On Monday evening [*January 30*] in the village of Samashki, located on the border with Ingushetiya, Dudayev forces attacked a column of armored vehicles carrying marines from the Pacific Fleet. At least three people were killed and nine wounded”.

According to one of Samashki’s village elders, on January 30 Chechen armed groups attacked military vehicles that had got lost and entered the northern end of the village. Three soldiers were killed, and the wounded were taken prisoner and then taken to a hospital. The elders reported that the wounded were drunk. According to much testimony, during the clash fighters seized a vehicle that had satellite equipment. [...]

On February 2, a mine exploded [...] during a funeral, killing Samashki residents. [...] *Moskovsky Komsomolets* reporter A. Kolpakov was a witness to this incident. The reporter described the consequences of the shelling.

“There was an unexpected, silent strike one hundred meters from us and a minute later a

human cry cut through the air. We ran toward the cry. A square yard. On the ground – three people killed, smeared in blood; a wounded man sits near the wall, his head thrown back; on his forehead, swollen beyond belief, blood. Nearby there were women and children, crying, wiping their tears across their faces. It seemed as though the mine fell directly on the funeral: that morning the same kind of mine killed a woman and a fourteen-year-old girl. Our side clearly has one target ...” [...]

From the end of February to the beginning of March, when Dudayev forces were driven from Grozny, Russian forces in the western part of Chechnya began more actively to disarm villages, driving out rebels. Checkpoints were set up along roads between villages, and villages were shelled, involving, for the most part, MVD forces. At the same time, negotiations were held with the elders on the withdrawal of rebel fighter units from the villages [...]

On February 24, a group of Samashki residents and the head of the village administration went to the checkpoint, where they drafted an agreement with Russian Col. Nikolai Nikolaevich, which was given to villagers for discussion. Women and young people wavered. [...]

Meanwhile, the NTV news program Segodnya (“Today”) reported on March 11 that fighters had not left the village and that “up to 400 Dudayev fighters remained in Samashki. They are threatening the leaders of the local government with physical revenge for having favored a peaceful resolution of the conflict”. The next day the same television program reported, citing the Russian military, that there were 200 armed Dudayev supporters in the village. [...]

Samashki residents were in a difficult position. On the one hand, the Russian military, as a consequence of negotiations held on March 23-25, got the military train through Samashki.

Had that not occurred, another Russian general participating in negotiations threatened to use force and bloodshed. On the other hand, Dudayev fighters who turned up through the forest demanded villagers not to allow the train to pass through Samashki. Pro-Dudayev snipers wounded two soldiers, and previously, in mid-March, two railroad bridges were blown up on the railway lines between Sernovodsk and Samashki. [...]

Participants in the “March for Peace” who passed through Samashki on March 26 saw helicopters shooting from rocket launchers in the area [...] above the village. When the marchers reached the entry to the village, local residents asked them whether there were any surgeons among them, as two hours earlier the village had undergone an air strike, seriously injuring four people and damaging four homes. Several marchers examined the houses that had been damaged in the air attack. Many armed people were indeed in the village (armed with automatics, and sniper rifles), some dressed in civilian clothes, others in camouflage. In a conversation with D.A. Salokhina, one of the marchers, the people said they were local residents.

According to L. Abdulkhajiev, head of the village administration, the colonel who commanded the Russian checkpoint near the village of Samashki demanded village representative to turn in their firearms. Notably, the agreement reached earlier did not require residents to turn in firearms. [...]

4. The ultimatum of april 6 – negotiations – MVD divisions operations up to the arrival entry of troops

[...]

In a telephone conversation with OM monitors, Ingush Vice-President Boris Nikolaevich Agapov said that according to reports he had received, MVD command intended to detain the male population of Samashki for “filtration”. Agapov promised to maintain contact with

the command in Mozdok in order to facilitate the departure of women, children and the elderly from Samashki. [...]

According to village leaders, the final deadline for the ultimatum – 4:00 p.m., left them too little time to notify the entire village population or to allow them to gather their things and leave the village. Until that time, many people did not believe threats that troops would in fact enter the village and hence did not want to leave their homes. [...]

Mine shelling of the village began about fifteen to twenty-five minutes before the end of the ultimatum deadline, resulting in casualties among residents leaving the village. (See below, “The Death of Samashki Residents”).

When the shelling began, a bus filled with residents from nearby homes on Ulitsa Sharipova did not have enough time to leave the loading point.

5. Shooting at village elders and alleged firing by Dudayev fighters on Samashki’s civilians

On the evening of April 7, both Channel One news and Segodnya, the NTV news program, reported, citing Interfax, that Dudayev fighters in Samashki shot the village elders, who had called on the rebels to leave the village and who wanted to allow Russian troops to pass through. Interfax in turn cited “well-informed sources in the Russian military in Mozdok”. NTV also reported that “according to Interfax sources, surviving elders requested the federal forces leadership to help them evacuate civilians from the Samashki area”. [...]

Interviews with a number of refugees from Samashki, including members of the village elders, led OM monitors to conclude that reports about the shooting of the village elders were false. Indeed, according to reports by village elders and the Samashki village mullah, on April 7, when a group of elders, together with the mullah (eight people in all), returned

to the village after negotiations with the Russian command, the two cars they were riding in were shot at by small arms fire. While there were bullet holes in the cars, fortunately no one was injured, with the exception of elder Ajalil Salikhov, whose finger was slightly wounded. The shots were fired from Russian troop positions.

According to L. Abdulkhajiev, head of the village administration, and his deputy, M. Borshigov, both had seen firing from Russian positions located in the Sunzha hills on the cars transporting the elders to Samashki from the checkpoint.

When M. Borshigov returned to the checkpoint the next day he asked the general who was there (who did not give his name), “What did you shoot at the elders for? The answer he received was, “what do you expect? There’s a war going on!”

On April 11, Samashki village leaders signed a statement in Sernovodsk denying the false reports about having been shot by rebel fighters. The elders’ side of the story and their statement were presented at a Memorial Human Rights Center press conference on April 13 on the events in Samashki. After this, there were no further statements or comments by leaders of Russian forces concerning the alleged shooting of village elders.

During the parliamentary commission hearings on May 29, it was acknowledge that such reports were untrue. However the commission did not find it necessary to investigate how these reports began and were circulated, despite a request by Sergei Kovalev to this effect. Hence, the command of federal troops in Chechnya quite clearly and intentionally lied. Why was this done?

The authors of this report lack the information necessary to judge whether the shooting at the vehicle transporting the village elders was an accident or an intentional provocation. However, there can be no doubt that disinformation about how Dudayev fighters shot the elders was spread intentionally in order to justify to the public those actions taken by MVD

divisions at that time in the village. [...]

Part 8 to 15

8. The “mop-up” operation

The “mop-up” operation in Samashki was part of a pattern federal forces used more widely in Chechnya. It was during the mop-up operation that the majority of villagers were killed and homes destroyed. [...]

In the remaining parts of the village, soldiers also went into homes again in the evening and late at night on April 7 and checked for rebel fighters. According to witnesses, however, the main part of the “mop-up” in Samashki began between 8:00 and 10:00 a.m. on April 8. [...]

For the most part, soldiers ran house-to-house checks at night. Once they were assured that there were no fighters in a given home, soldiers did not harm civilians. However by that time some people had already been detained and some civilians had been murdered. [...]

Abdurakhman Chindigaev, forty-three years of age (a resident of 46 Ulitsa Sharipova) and Salavdi Umanov, an elderly man (a resident of 41 Ulitsa Sharipova), both reported that they spent the evening of April 7 at 45 Ulitsa Sharipova. Also with them were seventy-one-year-old Musaid Isaev, and forty- seven-year-old Nasruddin Bazuev. They chose to stay there because the house had strong concrete walls and a drop-ceiling, and was thus capable of withstanding artillery fire. As federal troops approached their area, all four men hid in the pantry on the first floor of the house. When soldiers entered the courtyard, they threw a grenade into a space that adjoined the pantry. Mr. Umakhanov described the events that followed.

“A minute later, maybe even earlier they open the door. “Anyone here alive?” There are, we go out [*into the courtyard*]. There were four of them. “Lie down, you bastards! Lie down, you bastards!” We lie down. They rifle through our cloths [*sic*]. Then one of them starts screaming from behind, and someone says to me, “Anyone left here?” I say, “No”. The guy screaming from behind shouts, “Take hostages”. Then they take me back there. There’s no one there. We go outside. “In the ditch, bastards! In the ditch bastards! They chase us down there [*to the ditch in the garage for auto repair*]. The car is there, like it always was. Nasruddin crawled in first. Right there he was standing, face to the wall. Yeah, yeah, the far wall. The both of us are standing here. I say “They’re going to make them kill us here”. So I started to pray. Those soldiers were standing around. Musa says, “Guys, don’t shoot. Someone has to feed the cows... Don’t shoot”. Isaev went down the third step. Two soldiers had their automatics to his back and pushed him. He didn’t even get to the bottom of the steps. In a flash they fired a round at him. We just got to the bottom, and just bent down, and then another round”.

Afterwards the soldiers left the yard, leaving Isaev dead and Bazuev and Umakhanov wounded (Bazuev died the following day). Red Cross doctors treated Umakhanov’s wounds in Samashki. [...]

It is not entirely clear who carried out the “mop-up” operation on April 8. The majority of villagers claimed that for the most part they were not the conscripts (men of about eighteen to twenty) who had entered the village first, but rather soldiers who were from about twenty-five to thirty-five years old, and who appeared to be “kontraktniki”, or soldiers hired on contract. Some victims, however, testified that their homes were burned on the morning of April 8 by the same men who had entered the village on April 7. For example, Magomed Labazanov, an elderly man who lived at 117 Ulitsa Kooperativnaya, told Memorial that on the night of April 7, Russian troops entered the basement of his house, where he had been hiding along with other elderly people and women and children. They

threw a preemptory grenade into the courtyard, but when they heard people screaming, they did not throw grenades into the basement. The commander of the group, a captain, allowed them to stay in the basement, and the soldiers spent the night in the yard. In the morning the same soldiers – who were conscripts, judging by their age – started to set the house on fire. The house where Mr. Labazanov’s son, Aslambek, lived – 111 Kooperativnaya – was also burned. But when a soldier approached Mr. Labazanov’s house (where Mr Labazanov himself was hiding in the cellar), holding a gasoline can, another soldier would not let him proceed, saying, “There are old people and women in the cellar there. Get back”.

The hearings held on May 29 by the Parliamentary Commission on Investigating the Causes and Circumstances of the Emergence of the Crisis in the Chechen Republic became an important source of information for this report. It was only at the hearings that the report’s authors were able to hear the accounts of those who had directly participated in the operation in Samashki, since hostility toward the OM on the part of the command of federal troops made it impossible to meet with them.

Soldiers and OMON [Special Task Militia Units (*Otryad Militsii Osobogo Naznacheniya*)] troops described their actions on April 8 as simply leaving a village that was almost entirely intact. They claimed that no homes were burned and no civilians killed. Moreover, they claimed that they had seen practically no civilians and had nothing to do with them. [...]

If the Samashki events were to be recreated according only to these testimonies (and indeed the Parliamentary Commission accepted such a version), then the military operations there were extraordinarily bizarre. After fighting to capture the village, in the morning the troops inexplicably left the village under fire. The majority of destruction done to the village somehow occurred later.

One Internal Troops soldier claimed that they did not enter homes, but this contradicts an

answer to a question provided by a Moscow region OMON:

Question to Moscow region OMON: “You searched houses in order to guarantee a safe retreat ? Did you enter any houses?”

Answer: “Yes”

Question: “And who went into the homes? Did OMON take care of security or did conscripts?”

Answer: We did it together. By morning everyone understood that we were leaving, it seemed pretty quiet, calm, but that sleepless night and all the tension took its toll on us”.

No one from the Parliamentary Commission bothered to ask how the troops managed to run a check on houses without having anything to do with civilians, an obvious question.

It should not be ruled out that the majority of those soldiers who had been involved in the operation in Samashki and who spoke at the Commission hearings did not actually carry out the “mop-up” operation, and simply did not know all the facts concerning what happened in the village. [...]

S. Yusupov also told of how he saw the bodies of six people who had been killed, the corpses lying on the street, including two elderly men and one woman. (See below, “The Death of Samashki Villagers”). When OM representatives visited Mr. Yusupov’s home, they saw a house that had been destroyed by fire; only the brick walls remained intact. No marks from fighting could be found on the walls and fences of this house or on houses nearby. There were traces of a grenade (“limonchik”) explosion in the cellar.

Interviews with Samashki residents suggest that soldiers threw grenades into residential areas during the “mop-up” operation without a second thought. Keypa Mamaeva, who lives at 52 Ulitsa Zavodskaya (near the intersection with Ulitsa Kooperativnaya) reported that at 7:30 a.m. on April 8, she and her relatives (husband, son and father-in-law) looked out the window and saw servicemen looting the house next door, taking away cows, a television, and other items. They loaded the stolen property onto a KAMAZ truck and an APC. One of the soldiers apparently saw Mrs. Mamaeva’s face in the window, and then ran towards the window and threw a grenade at it. Mrs. Mamaeva and her relatives managed immediately to get out of the room and no one was hurt. The authors of this report examined the area where these events took place, and thus believe Mrs Mamedova’s story to be reliable.

Many villagers believe that soldiers who committed a number of crimes were under the influence of narcotics. To prove this, they showed journalists, Duma deputies, and OM members who were visiting Samashki disposable needles that were lying around in large numbers on the village streets after federal forces left. [...]

In attempting to judge whether soldiers were abusing promedol, it is worth noting first, the extremely low level of discipline among many federal force units in Chechnya, and second, widespread drunkenness among soldiers. In April, OM members, A. Blinushov and A. Guryanov, personally overheard MVD staff at Post No. 13 talking about how after their shift they would “shoot up some promedol”. [...]

9. The death of Samashki’s villagers

9.2 An analysis of Information Gathered on the Deaths of Villagers

9.2.1. Statistical Data

The list of names of people who were killed as a result of the MVD operation in Samashki on April 7-8 includes 13 women and 90 men.

The deceased break down by age as follows:

Eighteen years and younger – six boys and one girl;

Nineteen to forty-five years – forty-five men and six women;

Forty-six to sixty years – nineteen men and four women;

Sixty-one years and older – twenty men and two women. [...]

9.2.2. Circumstances Surrounding the Death of Samashki Villagers

[...]

What is clear is that all individuals on the list either were killed during the course of the April 7-8 events, or died later from the wounds they received those two days.

The overwhelming majority of witnesses emphasized that their loved ones, relatives or fellow villagers who died were neither rebel fighters nor self-defense fighters, nor did they offer resistance to Russian troops. In addition, we learned that four villagers died in battle, which may also explain the deaths of ten other people.

Deaths resulting from artillery and mine shelling

Those who died first were victims of mine-launcher and artillery shelling on April 7, which began at 3:40 or 3:45 p.m., about fifteen to twenty minutes before the end of the cease-fire that the military had declared in order to allow civilians to leave the village. [...]

[...] And Taus Ibishev (No. 40) died several days later in the Slepsovsk hospital, and was

again wounded on April 10 during evacuation, when a tractor transporting wounded people out of the village was hit from Russian military had finally granted permission to take out the wounded, who had spent three days in Samashki without necessary medical care.

Deaths from strafing of streets from APCs

APCs and tanks that drove through Samashki and sprayed machine-gun and automatic rifle fire caused yet more deaths. [...]

Firearms shot from tanks and APCs were thus responsible for the deaths of five Samashki residents.

Sniper-related deaths

Witnesses reported seven sniper-related deaths among Samashki residents; six were killed or fatally wounded on the second day of the operation (April 8) while in their yards or on the streets near their homes. [...]

Execution-style shootings in homes and yards

The most common cause of death among men was execution-style shooting when they were taken into custody, as a rule immediately after troops would enter a house or yard, but also after they were first beaten. In all, thirty men were killed in this manner. [...]

Deaths caused by grenades that were exploded in cellars, yards, and other inhabited areas

According to reports of many witnesses, Russian troops intentionally threw grenades into cellars and courtyards, knowing or at least supposing that people were inside. In the

majority of such cases, people reportedly were wounded. [...]

Additional casualties that occurred on the eve of the operation

Our list includes three such cases. Earlier we described the death of Nasruddin Bazuev, which occurred in his niece's home. The evening before, on April 7, troops forced him along with three other men (two of whom were elderly) to leave the house where they were hiding from the shooting (45 Ulitsa Sharipova), forced them to crawl into a space in the garage for automobile repair, and opened fire on them. Bazuev received a few bullet wounds during the incident. After troops left the house, his wife, daughter and niece took the wounded man first to his home, and then to his niece's home. The next day troops came to the house, ignored the daughters plea to spare the wounded man, and killed them both. [...]

The burning of corpses

We received many reports from witnesses that Russian troops intentionally burned the bodies of the deceased, either by throwing the bodies into burning houses or by pouring gasoline on them and setting them on fire. In one instance, flame launchers were reportedly used to burn corpses. [...]

The following individuals were unable to escape from a burning house, and apparently were burned alive: Yuki Gaitukaeva (No. 30), Madu Rasuev and Kesirt Rasueva; Doga Tsatishaev's body was burned in a house as well. In this case, troops had poured gasoline around the house and set it on fire. When Abi Akhmetov (No. 16) and Vladimir Belov (No. 23) came out of a house – with their hands up – troops shot them immediately. [...]

9.3 The Official Version of Villagers' Deaths

By April 8, ITAR-TASS had already reported that “during the battle” [*in Samashki*] more than 130 pro-Dudayev fighters were killed. The mass media repeated this information the next day, citing Russian command. On April 11, an MVD representative who had been on the government’s commission on Chechnya, told NTV reporters that according to official information, 120 pro-Dudayev fighters were killed in the village, and that civilians had left the village before the storming began. The next day, the MVD public relations department reported that 130 pro-Dudayev fighters were killed in Samashki.

The MVD top brass thus recognized that more than one hundred Chechens were killed, but wrote them all off as fighters.

Moreover, according to information privy to the Parliamentary Commission, an entry in the log of military activities kept by combined MVD units reports that losses among pro-Dudayev fighters totalled about sixty.

In contrast to what we outlined above, on May 12, Gen. Kulikov, in response to a question by T. V. Slotnikova (a Duma Deputy) reported that “no one made a list of dead fighters in illegal armed formations” in Samashki.

MVD Internal Troops and OMON who participated in the operation and spoke at the parliamentary commission hearings stated with certainty that no one serving in their divisions killed any civilians. Moreover, they all, with the exception of one conscript [...], claimed that they saw no civilians at all, and denied that there had been any “mop-up” operation in the village.

At the end of July 1995, a part of the members of the Parliamentary Commission prepared their conclusions on the part of the entire Commission, which included a small section on Samashki. The report considered the estimate of ninety-six deaths among villagers doubtful

and unjustifiably high (This was the number on Memorial's preliminary list at the time); no serious arguments were made to support this conclusion. For their part, the Commission members did not conduct any evaluation of the number of civilians killed in Samashki. Moreover, the Conclusion's authors wrote "Moreover, one must exclude all men from the list. People holding automatics or grenade launchers cannot be considered civilians". The same deputies intentionally wrote off the entire male population of Samashki as combatants. [...]

ICRC representatives evaluated the general number of deaths in the village and the large proportion of civilians among them. The ICRC gave a series of interviews on the topic in which they protested violations of common laws of warfare by MVD soldiers, i.e. "indiscriminate attacks" during military operations. [...]

10. The ICRC, other humanitarian organizations, and doctors denied access to Samashki

Over the course of several days the ICRC (which was based in Nazran) attempted to drive to the village, but Russian troops did not allow them to pass. The military required written permission to visit the village, signed by Gen. Kulikov. Yet the ICRC has the right freely to choose any location it wishes to visit, and the Russian military's refusal, which referred to the unsafe conditions for the ICRC's visit, is unfounded. On April 10, after a series of appeals to Russian authorities, the ICRC mission in Ingushetia informed the public that their representatives were not allowed to visit Samashki.

The same day ITAR-TASS reported that an EMERCOM convoy from Ingushetia with volunteer doctors was stopped at the checkpoint near Samashki and not allowed to pass through to the village.

Médecins Sans Frontières representatives were also not allowed through during that time.

[...]

On April 10, at 1:00 p.m., ICRC representatives brought a letter of permission from Gen. Kulikov, but the military still denied them entry to Samashki, claiming they had different orders from Mozdok.

ICRC cars were allowed to enter Samashki only after 4:00 p.m. that day, but the military continued to impede doctors and ICRC representatives from visiting the village. [...]

11. Injuries among villagers

Samashki villagers were wounded as a result of the April 7-8 operation. However, since the village was blockaded, they were unable to receive timely, qualified medical treatment.

There were no surgeons in the village, and one female therapist tried to help as many wounded as possible.

[...]

13. Looting of Samashki villagers

Among the 221 appeals sent to Commission Chairman S. Govoruhkin, sixty contain reports that soldiers looted homes and frequently set the remaining property on fire. At the open hearings on May 29, every soldier and OMON who testified vigorously denied that such incidents could possibly have taken place. [...]

14. The detention and “filtering” of Samashki residents

[...]

According to the testimony of those who were brought to Mozdok, men from Samashki

were forced to run a gauntlet in which they were hit with night sticks and rifle butts. Cells were overcrowded. There was inadequate food and water. The men were given water only one to one and a half days after their arrival at the filtration camp. They were beaten during interrogations, and were demanded either to confess to being fighters or name those who were. They were asked, “Who started shooting first?”

From April 11-13, ICRC representatives visited the filtration camp. Military personnel threatened the men before the visit, warning them not to complain: “They’ll leave, but you’ll be staying here”. [...]

Some of those detained in Samashki were taken from the “camp” to a temporary detention point near Assinovskaya.

It was here that, according to victims testimony, beatings and torture were widely practiced (including electric shock). [...]

The majority of Samashki villagers who were taken to the filtration point in Assinovskaya were not sent to further filtration points, but were driven to the Sunzha hills, where they were released. When these people were released they were given nothing to certify that they were detained. Hence all detentions that took place in “filtration” were not counted in official statistics on detentions. [...]

15. Investigation of the Samashki events by Russian Government Agencies

A number of members of the Temporary Observer Commission for Citizens’ Constitutional Rights and Freedoms, under the chairmanship of Minister of Justice Valentin Kovalyev, were in Samashki throughout April. A Commission session held on April 27 examined the material they gathered. The results of the session were reported to the press and public: “People who took part in the hearings came to the conclusion that reports concerning the

use of air strikes and heavy artillery during the operation to take the village were inaccurate. In addition, the Commission is in possession of a large number of written statements, testimony, and complaints about arson, pillage and deaths. These acts were carried out by people in black masks or with black bands tied around the head, and were dressed in non-standard uniforms. Materials on these incidents have been sent to the office of the General Procurator in order to open a criminal investigation”. [...]

Discussion

1.
 - a. Should the conflict be qualified as a non-international armed conflict because it takes place in the Russian Federation? What criteria need to be met for the conflict to be qualified as non-international? Is Art. 3 common to the Conventions the only one to apply? Has the threshold of applicability of Protocol II been reached in the Republic of Chechnya?
 - b. Presuming Protocol II applies, which obligations must both parties fulfil regarding the conduct of hostilities? (P II ^[2], Preamble ^[3]) Regarding the civilian population? (P II ^[2], Part IV)
2. If the IHL of international armed conflicts applies, do the rebel forces in Chechnya fall within the definition of Art. 44 of Protocol I (and thus enjoy combatant status)?
3.
 - a. Which provisions of IHL did the federal troops apply when they maintained “a humanitarian corridor connecting a number of villages”? (Section 3)
 - b. Were there any violations of IHL during the “senseless incident of January 18”? (Section 3) During the event of 30 January? Of 2 February? Of 26 March?
 - c. Concerning the “filtration operation of April 6”, if the IHL of international armed conflicts is applied, can a belligerent in a village where civilians and combatants are intermingled separate out all the men and ask all other civilians to leave? Can the village be attacked after the deadline for civilians to leave has expired?
4. The federal troops are alleged to have carried out “mop-up” operations during which

civilians were systematically ill-treated or killed. Do such operations contravene the provisions of IHL regarding humane treatment and protection of the civilian population? (P II, Arts 4 ^[4], 5 ^[5], 7 ^[6], 8 ^[7], 13 ^[8] and 17 ^[9])

5.

- a. Could the federal troops justify such an operation on the grounds that rebel fighters were among the civilian population? Which of the categories of death listed in Section 9.2.2. were clearly results of violations of IHL? Which were not? For which categories would you need additional information to answer this question?
- b. Furthermore, the report states that villagers were detained in a “filtration camp” and subjected to physical beatings and torture. If true, does this behaviour on the part of the federal troops violate IHL and, more specifically, Protocol II? (P II ^[10], Art. 5 ^[11])

6. In the light of what happened in Samashki, the ICRC took the initiative to visit the village. Does the ICRC have the right to take such an initiative? Does it have the right to enter the village? Were the ICRC’s public statements about the fact that it was denied access to Samashki compatible with its policy of confidentiality? (GC I-IV, Art. 3 ^[12])

7. What do you think were the main reasons for violations of IHL in Operation Samashki? What could the belligerents have done to avoid those violations?

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[12]

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