

From Invisible Shackles to Visible Ones

Introduction

As a child everything looks grand, even larger than life. Aisha climbed the steps leading home one ordinary day, imagining herself as an explorer trucking through a steep incline. Every step marked a discovery followed by a dramatic huff and puff. At age eleven, she was beginning to form stout opinions of her own yet still maintained the unwavering innocence of earlier years. As she made it through the door, she was delighted by her triumph, only two steps shy of entering into the living room. As she was reaching to take off her favorite purple sneakers, her whimsy came to an abrupt halt. She heard a deep, deafening stream of profanities as she witnessed her younger sister's head being bashed into the tread of the very marble-like stairs she was about to conquer.

She immediately turned around. An impulse took control and served as fuel for running as fast as she could manage. The asphalt was aggressively kissing her feet but she did not seem to care; she ran faster barefoot anyway. Now at the bottom of the summit, her eyes were able to focus on the growing look of bewilderment on her mother's face. While still running, she snatched her mother's clunky Nokia cell phone and disappeared into the mass of green hills behind the house. She was not leaping into them like she had so many times before, longing to feel blankets of snow against her hands and cheeks. This time, she was compelled by a desperate need for solace. This was a last resort. Pleading with her father to stop beating on her mother on several occasions was only effective, because it diverted his focus to begin on her instead. She began feeling

pangs in her chest; she had never been this far away from home on her own before. However, she could not afford to stop.

She took a good look at the phone in her sweaty palms, clenched it hard, and proceeded to do the inconceivable: Aisha dialed 9-1-1 and told the nice lady everything and how terribly it needed to stop. When she finally found her way home, she stared at the police cars in front of her house. She was nervous and scared about the implications of what she had just done. Through her actions, she hoped that her father would be punished for hurting her sister, so their household could have some semblance of redress. Instead, she went in through the basement door only to find out that her father was let off with a stern warning. Her situation worsened.

Her father explained to her mother, that if she wanted him to financially support the rest of the four children, he better not see Aisha's face again. So for two years, she would return from school only to go straight to her bedroom. Essentially, she was held in her room for five hours a day on weekdays and much longer on weekends. Her physical health and mental health deteriorated. Dinner was brought to her most of the time but there were times her mother would forget. She became plagued with several vitamin deficiencies and spiraled into a state of depression, while she listened to her younger siblings grow up without her, in the living room downstairs. This was her punishment for standing up to the established order in her household.

Aisha's story is just an illustration of what occurs when an individual acts out against order on a small scale. If one expands and identifies individuals who defy a higher order, such as a State, the implications are more severe, atrocious even. Understanding the

power structure of a household with domestic violence serves well in understanding the structure of a sovereign state committing state abuse on its civilians. By drawing a bridge between both models, one can better empathize with victims of state violence to sense the urgency of their predicament and the need for it to cease. This is because most people in the United States are more likely to have personal experience with domestic violence or have loved ones that have, as opposed to being intimate with the threat of State violence.

At the top of both models there is a head with centralized power and control. In Aisha's case, it was her father. In the case of a State it is the regime, head of state, or centralized federal government. At the bottom of both models is a group of individuals on which power and control is exerted. For Aisha, it was her family, consisting of her mother and four siblings, which the father exerts control over. For a State, it is the citizens and general populace. When it is a State with great world power, the reach of control and power, goes beyond its sovereign borders, and it can exert control over other states' populace and citizens.

Power and control structures do not always go unchallenged. A threat or challenge to a power structure can come in many forms. On a smaller scale, like in the case of a household with an aggressor, the threat is Aisha calling the cops to put an end to her father's brute force. On a large scale, threats to regimes and governments can take on many faces. In Syria, individuals challenge the Assad regime by organizing mass protests, blogging against the established order by advocating for free elections and democratization, and providing medical aid to wounded civilians and protestors. Ethnic Ingush and Chechen armed groups fighting for independence from the Russian federation

threaten the Russian government's control in a more obvious way, by having physical clashes with law enforcement authorities and the military. Detainees held at the Guantanamo Bay detention center challenge the United States government by going on hunger strike, to oppose their indefinite detention.

When a threat materializes, a power and control structure reacts by tightening the grip. Aisha's father reacted by locking her up in her room and creating an environment of systematic neglect. A State may tighten the grip by imprisoning individuals responsible for causing a threat to their ability to effectively control its populace or they may arrest individuals to send a message to a greater group or faction working against the power or control center. The individuals imprisoned may be referred to as political prisoners.

Political prisoners around the world are victims of harrowing predicaments, including torture, arbitrary detention, and indefinite detention. Many of them have families that are faced with lack of closure due to their mysterious disappearances. A political prisoner is someone who has been deprived of his or her personal liberty in violation of guarantees protected by the European Convention on Human Rights and its Protocols including: freedom of thought, conscience, and religion; freedom of expression and information; and freedom of assembly and association.¹ Their arbitrary detention and torture violates Articles 7 and 9 of the International Covenant on Civil and Political Rights ("ICCPR").²

Domestic laws are there to protect children like Aisha from abuse. International laws are set in place to prevent State actors from committing atrocities against individuals

¹ *The definition of political prisoner*, Parliamentary Assembly, Sept. 5, 2012, <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=18995&Language=en> (last visited Jan, 3, 2014).

² International Covenant on Civil and Political Rights art. 7, 9, Dec. 16, 1966, 99 U.N.T.S. 171.

at large. The purpose of both legal systems is the same. It is to promote a healthy, safe, progressive, prosperous and peaceful society. They are there to deter actors from tightening the grip, because doing so creates negative implications for our world's future.

On a smaller scale, with cases of child abuse, children like Aisha suffer from posttraumatic stress disorder (“PTSD”), depression, anxiety, oppositional defiant disorder, and failure to thrive in the workforce and the community in general. Adults who suffered from child abuse, with physical abuse and neglect, are more than twice as likely to fall below the federal poverty line and they are more than 2.5 times likely to be unemployed.³ Women like Aisha, are 2.5 times more likely to rely on Medicaid.⁴

State violence traumatizes mass populations for generations and stalls a society's ability to innovate and grow with the times. There are negative economic, social, and political implications for the State and the international community at large. Each case study discussed below addresses State abuse, its implications, and the need for adherence to international laws and the need for accountability when atrocities occur.

Syria

In 1970, Hafez al-Assad led a Ba'athist coup, with an avowedly socialist message, and centralized power over Syria's main initiatives, institutions and security apparatus.⁵ In 2000, Hafez passed leadership on to his son, Bashar al-Assad.⁶ The Assads base

³ Zielinski, David S., *Long-term Socioeconomic Impact of Child Abuse and Neglect: Implications for Policy* 18, FAMILY IMPACT SEMINARS, July 23, 2012, http://familyimpactseminars.org/s_nmfis02c03.pdf.

⁴ *Id.*

⁵ *Profile: Syria's ruling Baath Party*, BBC NEWS, July 9, 2012, <http://www.bbc.co.uk/news/world-middle-east-18582755> (last visited Dec. 29, 2013).

⁶ Wilkinson, Peter, *Bashar al-Assad: A ruler shaped by violence, indecision, say former insiders*, CNN, Aug. 31, 2013, <http://www.cnn.com/2013/08/28/world/meast/syria-assad-profile/> (last visited Dec. 29, 2013).

themselves in the Alawite sect, which accounts for 12 percent of Syria's population.⁷ Syria itself has a Sunni-majority population.⁸ Following upheaval in 2008, due to the public's demand for democratization, 52 political prisoners disappeared from a Syrian jail. Several families were unable to acquire information about their whereabouts.⁹

In 2011, some teenagers painted revolutionary slogans on a school wall, in the southern city of Deraa, Syria, which led to their arrest and torture.¹⁰ As a result, Syria's uprising began in March of 2011.¹¹ A number of pro-democracy protests sparked.¹² Originating in the southern city of Deraa, hundreds of thousands of people gathered in nationwide protests to demand Bashar al-Assad's resignation.¹³ Protests also took place in Damascus and Deraa demanding the release of political prisoners.¹⁴ As the protests spread, the government used military force to quell dissidents.¹⁵ In 2012, the conflict spread to the capital, Damascus, and to the city, Aleppo.¹⁶

⁷ *The 'secretive sect' in charge of Syria*, BBC NEWS, May 17, 2012, <http://www.bbc.co.uk/news/world-middle-east-18084964> (last visited Dec. 22, 2013).

⁸ *Id.*

⁹ Wander, Andrew, *Syrian prisoners 'disappeared'*, AL JAZEERA (July 05, 2010), <http://www.aljazeera.com/news/middleeast/2010/07/20107465823578458.html>.

¹⁰ *Syria: The story of the conflict*, BBC NEWS, Sept. 3, 2013, <http://www.bbc.co.uk/news/world-middle-east-19331551> (last visited Dec. 28, 2013).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Syria: Origins of the uprising*, BBC NEWS, June 8, 2012, <http://www.bbc.co.uk/news/world-asia-17344858> (last visited Dec. 28, 2013).

¹⁵ *Id.*

¹⁶ *Syria: The story of the conflict*, BBC NEWS, *supra* note 10.

Since 2011, Syria has imprisoned activists for voicing pro-democracy opinions on websites, blogs and at protests.¹⁷ The government continues to ban websites that are thought to be offensive to their established order.¹⁸ This shows a systematic crackdown on dissidents and Bashar al-Assad's blatant disregard for human rights and the democratization process for fair and free elections.

However, the tightening of the grip on medical professionals, by way of detainment and prisoner abuse, has particularly gruesome implications for Syria's future. Human Rights Watch ("HRW") has reported on evidence revealing found torture devices that were used on detainees held in government prisons, in the northern city of Raqqa.¹⁹ HRW's researchers found flat boards that the political prisoners were tied to, which guards used to stretch and pull their limbs.²⁰ They sometimes folded the board in half to make their faces to touch their legs.²¹ The organization also found documents detailing that political prisoners were being held for demonstrating or helping the injured.²²

Forusa updates its website with information on Syrian political prisoners held for providing medical services to protesters.²³ It states that on November 2, 2011, Dr.

¹⁷ *Syrian jailed for spreading web material*, AL JAZEERA (June 20, 2004), <http://www.aljazeera.com/archive/2004/06/200849153953163287.html>.

¹⁸ *Id.*

¹⁹ Surk, Barbara, *Syria Conflict: Torture Evidence Found In Government Prisons In Raqqa, Report Says*, HUFFINGTON POST, (May 17, 2013) http://www.huffingtonpost.com/2013/05/17/syria-torture_n_3291612.html.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Dr. Muhammad Bashir Arab*, FORUSA, <http://forusa.org/content/dr-muhammad-bashir-arab-ldktwr-mhmd-bshyr-lrby> (last visited Dec. 29, 2013).

Muhammad Bashir Arab, a pathologist, was arbitrarily detained for providing first aid to injured demonstrators and activists.²⁴ He has not been afforded a trial and has been held illegally by Syrian security.²⁵ It was reported by released prisoners that Dr. Arab was tortured and beaten severely to the point of permanent damage to his limbs.²⁶ On July 6, 2012, he was taken to the hospital after starting a hunger strike five days before the hospital visit.²⁷

The Syrian regime's actions toward political prisoners like Dr. Arab is a clear violation of Article 7 of the ICCPR, which provides that no one shall be subjected to torture or to inhuman treatment.²⁸ Article 1 of The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as any intentional act where severe physical pain or suffering is inflicted on a person.²⁹ Syria's treatment of political prisoners clearly violates international standards, especially in regards to the research HRW provides. Arbitrary detention is illegal under Article 9 of the International Covenant on Civil and Political Rights, signed by Syria in 1969 and 1976.³⁰ Dr. Arab's arrest is a clear violation of Article 9 of the ICCPR because the Syrian regime does not have a colorable claim for holding him.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 99 U.N.T.S. 171.

²⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, June 26, 1987, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

³⁰ *Terminology used with Syria's political prisoners*, FORUSA, <http://forusa.org/content/terminology-used-syrias-political-prisoners> (last visited Dec. 30, 2013); International Covenant on Civil and Political Rights art. 9, Dec. 16, 1966, 99 U.N.T.S. 171.

Bashar al Assad's authorization of torture tactics and indefinite detention are so brutally enforced because he wants to prevent the organic process of democratic change that is occurring in Syria, which is a direct challenge to his political power. The detainment of medical aid givers and doctors who give aid to protesters is a clear indication that Assad's regime wants to crush any movement vicariously supporting the move towards a more democratic Syria. However, this strategic move comes at much too high a cost. International laws matter because they are supposed to serve as a check on States, to deter them from carrying out acts, such as imprisoning medical professionals, because it stalls the progress, health and growth of their populace. There are severe public health implications that result from the Syrian regime violating Articles 7 and 9 of the ICCPR.

Syria's healthcare system is at its breaking point because medical professionals are being imprisoned or are fleeing the country. "469 health workers are currently imprisoned and about 15,000 doctors have fled the country. In Syria's largest city, Aleppo, there are just 36 physicians, compared to 5,000 before the civil war began."³¹ The population is now vulnerable to outbreaks of hepatitis, typhoid, cholera, and dysentery.³² Moreover, there has been a significant increase in cases of acute diarrhea.³³ In some areas, children born since the conflict started have not been vaccinated.³⁴ Due to the fact that many medical professionals are either locked up or fled the country, patients with chronic illnesses like

³¹ Siddique, Haroon, *Doctors to warn that Syria's healthcare system is at 'breaking point'*, THE GUARDIAN, (Sept. 16, 2013) <http://www.theguardian.com/world/2013/sep/16/doctors-warn-syria-healthcare-breaking-point>.

³² *Open letter: let us treat patients in Syria*, THE LANCET, (Sept. 16, 2013) [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)61938-8/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)61938-8/fulltext).

³³ *Id.*

³⁴ *Id.*

cancer, diabetes, hypertension and heart disease, that require long-term medical assistance, have nowhere to turn for medical care.³⁵

The effect of locking up medical professionals is not only having a negative effect on the resistance, but it is adversely impacting the general population. Assad informed its parliament back in the summer of 2012, "When a surgeon cuts a wound, the wound bleeds. Do we say to him: 'Your hands are covered in blood?' Or do we thank him for saving the patient?"³⁶ Assad justified his actions by saying he is doing what is best for his people. However, his comments have less legitimacy when his regime is conducting acts that are directly adverse to the public health of the entire country. The implications for Syria's future is frightening because the Assad regime has effectively crippled a good percentage of its general population. When the conflict settles it will be very difficult to begin a process of economic, infrastructural and social reconstruction because Syria will lack a healthy population to work towards that goal.

Russia: Ingushetia

In 1944, Soviet dictator Joseph Stalin deported the entire Chechen population to Siberia and Central Asia, for allegedly collaborating with Nazi Germany.³⁷ Thousands died in the process.³⁸ In 1992, Chechnya adopted a constitution defining itself as an

³⁵ *Id.*

³⁶ Hamilton, Douglas, *Bashar Assad, Syrian President, Outlasts Other Arab Autocrats*, (July 18, 2012) http://www.huffingtonpost.com/2012/07/18/bashar-assad-syrian-president-outlasts-arab-autocrats_n_1682381.html?ncid=edlinkusaolp00000003&utm_hp_ref=fb&src=sp&comm_ref=false.

³⁷ *Finding a solution to Chechnya's desire for independence*, Caracas Model United Nations 3 (2007), <http://www.secmyl.com/uploads/TerritorialDisputesCommission.pdf>.

³⁸ *Id.*

independent, secular state governed by a president and parliament.³⁹ However, by December 1994, Russian troops entered Chechnya to quash the independence movement.⁴⁰ Approximately 100,000 people were killed in the 20-month war that followed.⁴¹

In August 1999, Chechen fighters crossed into the neighboring Russian Republic of Dagestan to support an Islamic body based there in its declaration of an independent Islamic state in parts of Dagestan and Chechnya.⁴² At the time, Vladimir Putin was the Russian prime minister and Moscow was fast and firm in its reaction.⁴³ Within a couple of weeks the rebellion was crushed. In March 2003, a controversial referendum approved a new constitution, giving Chechnya more autonomy, but stipulating that it remain a part of Russia.⁴⁴

Like the Chechens, the Ingush, despite their history of relative loyalty to Moscow, were also deported to Central Asia towards the end of World War II.⁴⁵ They were also accused of collaborating with the Nazis.⁴⁶ Like the Chechens, the Ingush are predominantly Sunni Muslim.⁴⁷ In 1957, they were finally allowed to return.⁴⁸ In 1991, when Dzhokhar Dudayev came to power as Chechen leader and declared Chechen

³⁹ *Id.* at 9.

⁴⁰ *Id.* at 10.

⁴¹ *Id.*

⁴² *Finding a solution to Chechnya's desire for independence, supra* note 37, at 11.

⁴³ *Id.*

⁴⁴ *Id.* at 12.

⁴⁵ *Id.* at 3.

⁴⁶ *Id.*

⁴⁷ *Finding a solution to Chechnya's desire for independence, supra* note 37, at 3.

⁴⁸ *Ingushetia profile*, BBC NEWS, Oct. 17, 2013, <http://www.bbc.co.uk/news/world-europe-20615790> (last visited Dec. 30, 2013).

sovereignty, the Ingush resisted this move.⁴⁹ A brief conflict ensued, and the Ingush subsequently utilized referendum, voting to move to form a separate republic within the Russia Federation.⁵⁰

In 1999, Ingushetia was faced with another refugee crisis when thousands of Chechens fled there after Russian troops infiltrated Chechnya.⁵¹ Since then, a radical Muslim insurgency has spread from Chechnya across the entire North Caucasus region, and militant attacks have become numerous in Ingushetia.⁵² There were a host of attacks in 2009, including a suicide bombing at a police station that killed at least 25 people and an attempt on the life of President Yunus-Bek Yevkurov.⁵³ Moscow reacted by announcing another overhaul of security in the republic, and in June the following year, security forces announced the arrest of a leading militant linked to the assassination attempt, and several other attacks.⁵⁴ However, Moscow also retaliated by arresting and carrying out the enforced disappearance of several Ingush individuals.⁵⁵

The disappearance of prisoners and regular use of torture in Russia implicates a disparity in achieving justice in its legal system. Allegations of unlawful detention, torture and enforced disappearances are particularly prevalent in the Northern Caucasus.⁵⁶

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, AMNESTY INTERNATIONAL 10 (2012), <http://www.amnesty.org/en/library/asset/EUR46/012/2012/en/15aa2dcf-0b39-43f0-a8b8-658668806212/eur460122012en.pdf>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

However, if prisoners speak out against their human rights violations carried out by law enforcement officers, they often face further harassment.⁵⁷

Ingushetia, a republic within the Russian Federation, located in the Northern Caucasus, which consists of an overwhelmingly Muslim majority population, face many human rights violations.⁵⁸ Political prisoners in Ingushetia have long been subject to enforced disappearances and torture with the impossibility of utilizing courts for redress.⁵⁹ In 2011, 19 people were victims of enforced disappearances or abduction by Russian authorities.⁶⁰ The implications for the disappearance of prisoners is that there will be no lasting stability in the North Caucasus, because its population lives in perpetual fear of being picked up by Russian authorities.⁶¹ The secrecy within Russia's security operations certainly promotes denial of enforced disappearances. Arrests are justified with the charge that the prisoner joined an armed group.⁶² However, after the arrest and enforced disappearance, prisoners have no access to courts to plead against their charge.⁶³

On the early morning of July 10, 2009, several armed men came into Batyr Albakov's flat and arrested him without presenting any identification cards.⁶⁴ They simply stated they were taking Batyr Albakov to the Nazran District Police Station.⁶⁵ Batyr's family approached several law enforcement agencies the following day to no avail because

⁵⁷ *Id.*

⁵⁸ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, *supra* note 53, at 19.

⁵⁹ *Id.*

⁶⁰ *Id.* at 16.

⁶¹ *Id.* at 16-18

⁶² *Id.*

⁶³ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, *supra* note 53, at 16-18.

⁶⁴ *Id.* at 20.

⁶⁵ *Id.*

they denied having Batyr in their custody.⁶⁶ A criminal case was not started and an investigation did not take place.⁶⁷ The Ministry of the Interior stated that he was on the “wanted” list as a suspected member of an illegal armed group, even though there is no clear evidence of this.⁶⁸

Until his enforced disappearance, Batyr lived openly in his home in Ingushetia and worked as an engineer at Magas airport, located in Ingushetia’s capital, Magas.⁶⁹ On July 22, 2009, his body was handed over to his family.⁷⁰ Several photos were taken of his body before he was buried, indicating signs of torture from bullet wounds on his body.⁷¹ His family requested a criminal case to be opened to investigate the basis of Batyr’s enforced disappearance and extrajudicial killing, however, the investigator concluded he was killed in a security operation and could not have been in official custody.⁷² In March 2010, his family tried to appeal to a district court but the case was turned down.⁷³

Under the Standard Minimum Rule for the Treatment of Prisoners, adopted by the UN, every prisoner shall have the right to inform his or her family of imprisonment or his transfer to another facility.⁷⁴ Under the same standard, the prisoner must also be provided with all reasonable facilities to communicate with friends and family.⁷⁵ Under the

⁶⁶ *Id.* at 21.

⁶⁷ *Id.*

⁶⁸ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, *supra* note 53, at 21.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, *supra* note 53, at 21.

⁷⁴ Standard Minimum Rules for the Treatment of Prisoners art. 44 (3), May 13, 1977, http://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf.

⁷⁵ *Id.*

Declaration on the Protection of All Persons from Enforced Disappearance, enforced disappearances are completely prohibited.⁷⁶

Whether or not prisoners were politically motivated does not matter. The established order in Russia wants to send a message indicating that threats and attacks against the Russian Federation are not tolerated. Three arrests of protesters were made during a demonstration in the city of Nazran, where families and loved ones gathered to demand answers to Ilez Gorchkhanov's enforced disappearance on March 21, 2011, when he was arrested by law enforcement officers.⁷⁷ On April 19, 2011, his body was found washed ashore by the river Assa, located near the village Nesterovskaya, in Sunzhensky District, with signs of strangulation on his neck.⁷⁸

After these arrests were made, Russia's administration campaigned to make these political prisoners seem like they deserved their predicaments. The campaigns made these prisoners seem invaluable, thereby being undeserving of the Russian government's safeguarding of their human rights and liberties. They are often painted as evil criminals despite the fact that they have not gone through proper judicial processes to determine whether their charges should stand. This has grim implications for Russia's future. International human rights laws are easily violated when political prisoners are painted as the other, as the exception to the adherence to values of humanity and mercy. They become faceless because they are out of sight and therefore, out of mind.

⁷⁶ Declaration on the Protection of All Persons from Enforced Disappearance art. 1, Dec. 18, 1992, <http://www.un.org/documents/ga/res/47/a47r133.htm>.

⁷⁷ *The Circle of Injustice: Security Operations and Human Rights Violations in Ingushetia*, *supra* note 53, at 29.

⁷⁸ *Id.*

The implications of these acts are grave because they cripple a country and a society's ability to evolve and grow with the needs of its people. For Ingushetia, that means a free and democratic state for its people, with access to a legal system that can provide justice for its victims. Victims of these violations and their families find a closed door everywhere they turn because security forces deny any entanglements in human rights violations. Official investigators do not identify the perpetrators and the court system offers no redress.

In order to foster a stable region, the Russian government must review all legislation and policies protecting law enforcement officials and must ensure these policies do not protect them when they are accountable for human rights violations. Strict requirements must be enforced to ensure that arresting law enforcement officers wear and provide a form of identification so families, loved ones and other witnesses can be informed of what agency they belong to.⁷⁹ This will ensure that victims and families can be able to begin a process of seeking redress. The Russian authorities must distinguish between innocent civilians and armed groups posing a threat to life and security in the territory, if there is to be stability in the future.⁸⁰ Their inability to do so will create resentment in the minds of the Ingush population that could manifest into hostility, creating greater violence, conflict and threats to peace and security.

A healthy society is not promoted when activists and those unable to gain access to a fair trial are locked away. Wiping their tangible bodies from the free world as we know it does not mean their plight, trials and tribulations are not occupying space in another

⁷⁹ *Id.* at 71.

⁸⁰ *Id.* at 72.

capacity. “A strong sense of collective injustice, due to actual or perceived exclusion based on social or cultural identity, can increase a group’s feelings of alienation from the wider society. This may lead to animosity and resentment. Over time, such tensions can foster group mobilisation and fuel violent conflict.”⁸¹ Thus, a society filled with angst and fear can never be a healthy and productive one.

The United States: Guantánamo Bay Detention Center

In January 2009, President Obama described the Guantánamo detentions as “a misguided experiment” and said “the costs of keeping it open far exceed the complications involved in closing it.”⁸² It is now 2013 and the prison is still open. However, time stands still for the detainees held there. On May 23, 2013, with 100 detainees on hunger strike, in protest of their indefinite detention, President Obama reiterated that the Guantánamo Bay detention camp should be closed.⁸³ To this day there has not been an increase of detainees that have been transferred or released.⁸⁴ In January 2002, 779 men, some of whom were teenagers at the time of their arrest, were brought to Guantánamo, without access to a

⁸¹ *Chapter 1 - Understanding violent conflict*, GSDRC APPLIED KNOWLEDGE SERVICES, <http://www.gsdrc.org/index.cfm?objectid=4A0C23DB-14C2-620A-27D1F2B5EF89AA1A> (last visited Dec. 29, 2013).

⁸² *Political Scene Transcript: Obama and Guantánamo*, THE NEW YORKER, (Mar. 11, 2011) <http://www.newyorker.com/online/blogs/newsdesk/2011/03/transcript-political-scene-guantanamo.html>.

⁸³ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, AMNESTY INTERNATIONAL 1 (2013), <http://www.amnestyusa.org/sites/default/files/amr510512013en.pdf>.

⁸⁴ *Id.*

counsel or court.⁸⁵ Today, 166 men remain in Guantánamo, most of them in indefinite detention, without a charge or criminal trial.⁸⁶

Obaidullah, one of the detainees, is an Afghan national who was about 19 years old when he was arrested in his home in eastern Afghanistan.⁸⁷ He was taken in the middle of the night, by U.S. Special forces.⁸⁸ The U.S. Special Forces were acting on a tip from an unknown source claiming that Obaidullah was an al-Qa'ida member.⁸⁹ At the time of the raid, U.S. Forces found a notebook containing notes and diagrams of explosive devices on his person.⁹⁰ They also found 23 anti-tank landmines buried on his family's property.⁹¹

However, the investigator working on his case in Afghanistan found local witnesses who confirmed Obaidullah's explanation for the landmines.⁹² During the 1980s, a communist official named Ali Jan used the land as garrison headquarters while his family was seeking refuge in Pakistan at the time.⁹³ The investigator also found local non-family witnesses who stated that the drawings of explosives in Obaidullah's notebook were notes taken from classes he was forced to attend by the Taliban, which he ran away from after a few days.⁹⁴ Despite all of this, he has not had a trial to this date to address the evidence procured by the investigator.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 1.

⁸⁹ *Id.* at 5.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 15.

⁹⁴ *Id.*

He accounted that after he was taken to the military base, soldiers told him to put his arm up right in front of himself and placed heavy sandbags on them and forced him to walk back and forth with them all night.⁹⁵ When he taken into a new room the following day for interrogation, he fell onto the ground after one of the officers struck him, because he said he did not know the answers to their questions.⁹⁶ Official U.S. Documents also detail that Obaidullah suffered a rifle-butt strike to the head while at Chapman Airfield and a sergeant with the U.S. Special Forces Group stated in a sworn statement in 2010, Obaidullah was struck by a member of 82nd Airborne and as a result required stitching.⁹⁷ A former NCIS intelligence officer also said that Obaidullah was subjected to sleep deprivation and physical abuse at Chapman.⁹⁸

It is well documented that detainees at Bagram airbase were subject to torture and mistreatment, especially during 2002 to 2005.⁹⁹ For example, interrogators forced nudity on detainees and called the technique “ego down.”¹⁰⁰ The Bush administration also admitted to its authorization of the “waterboarding” interrogation technique, which involves interrupted drowning of detainees.¹⁰¹ Other detainees held at Bagram, in 2002, have been subjected to forced kneeling and denial of water for prayer and ablution.¹⁰²

⁹⁵ *Id.* at 5.

⁹⁶ *Id.*

⁹⁷ *Id.* at 6.

⁹⁸ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 6.

⁹⁹ *Id.* at 7.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 25.

¹⁰² *Id.* at 7.

When Obaidullah arrived at Bagram, he was kept in solitary confinement for the first two weeks and the cell he was kept in had no toilet.¹⁰³ There was no guard who would take him to a toilet and he was forced to defecate in his cell.¹⁰⁴ He accounted that he called for someone to take him to the toilet and a soldier told him to stop yelling and slammed his head on the ground, causing his nose to break.¹⁰⁵ He did not receive medical treatment for this incident.¹⁰⁶ He accounted that they interrogated him under very hot lights, while making him put his hand on his head and kneel for hours.¹⁰⁷ He said that he was often interrogated: with a hood on his head; with a rope tied around his neck; that they sometimes pulled the rope so that it choked him; and that other times they would slap him and spit in his mouth.¹⁰⁸

In February 2013, Obaidullah went on a hunger strike to protest dehumanizing cell searches, where US soldiers would take his blankets, sheets, towel, family photos, mail from his attorneys and Qur'an.¹⁰⁹ In response to the hunger strike, he was moved to solitary confinement. He was not allowed to have any soap, toothpaste or toothbrush.¹¹⁰ Deprivation of personal hygiene materials is a breach of international prison standards and the application of solitary confinement could constitute torture and mistreatment, especially if it is used as a punitive measure.¹¹¹

¹⁰³ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 7.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 7.

¹⁰⁹ *Id.* at 10.

¹¹⁰ *Id.* at 11.

¹¹¹ *Id.*

After the punitive measure of solitary confinement and deprivation of hygiene materials was put in place, between July 10 and 20, 2013, the number of detainees on hunger strike dropped considerably, from 106 to 70.¹¹² The Guantánamo authorities promised detainees that if they stopped their right to peacefully protest, they could return to communal detention.¹¹³ Despite this change, the Obama administration has continued to oppose lawsuits seeking remedy for human rights violations that are considered criminal under international laws of torture and enforced disappearance.

Under the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment: detainees are entitled to the assistance of a legal counsel; they shall be informed of this right promptly after arrest; and shall be provided with reasonable facilities to exercise this right.¹¹⁴ Until mid 2004, Obaidullah was detained for two years without access to a lawyer.¹¹⁵ Administrative reviews proceedings in a Combatant Status Review Tribunal (“CSRT”) and the Administrative Review Boards (“ARB”) took place from 2005 to 2007, to determine whether Obaidullah is an enemy combatant.¹¹⁶ However, Obaidullah was not given access to a lawyer for that process.¹¹⁷ These types of proceedings deny detainees an impartial review and are condemned by international human rights bodies, because it is the military that is carrying out these proceedings and not a separate, impartial court system.¹¹⁸

¹¹² *Id.*

¹¹³ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 11.

¹¹⁴ *Id.* at 16.

¹¹⁵ *Id.* at 13.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 13.

In June 2008, the U.S. Supreme Court ruled that the Guantánamo detainees had the constitutional right to habeas corpus to challenge the lawfulness of their detention.¹¹⁹ However, on June 24, 2013, the U.S. Supreme Court refused to take Obaidullah's appeal against the DC Circuit Court's ruling that Obaidullah was lawfully held.¹²⁰ Obaidullah alleged that two personal enemies had turned him in falsely.¹²¹ In support of these allegations, a Navy intelligence officer investigating his case said in a sworn statement in 2011, individuals who lived in Obaidullah's village identified two men who were known for selling false information to Americans.¹²²

In order to ensure its commitment to international law standards, the U.S. must carry out a detailed review of the inhumane policies implemented in response to the hunger strike, like force-feeding and solitary confinement and provide detainees with access to full legal representation and medical professionals.¹²³ The U.S. Authorities had approved dozens of Guantánamo detainees for transfer many years ago.¹²⁴ Congress should make it a priority to bring about lawful and safe detainee transfers.¹²⁵ Detainees should be immediately released if they are not charged and tried in federal civilian courts.¹²⁶ International law requires that if detainees have been subjected to torture and other human rights violations, they must have genuine access to meaningful redress.¹²⁷

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* at 14.

¹²² *Id.*

¹²³ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 31-32.

¹²⁴ *Id.* at 32.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.* at 32.

Obaidullah's daughter, born two days after he was taken into custody, is now 11 years old.¹²⁸ He has never touched or held her and only made contact with her last year, using a videophone from the Guantánamo Bay detention facility.¹²⁹ At 30 years old, Obaidullah has suffered immeasurable pain and continues to.¹³⁰ The Guantánamo detentions are subject to human rights law and the ICCPR, which provides that indefinite detention is not permitted under international law and is a violation of Article 9 of the ICCPR. Obaidullah went on hunger strike, between February and July 2013, to protest the harrowing conditions of his detention. Obaidullah's predicament is a blatant representation of the United States' hypocritical policies and shows a definite violation of Article 9. His predicament illustrates the multiple human rights violations committed by a country that claims to respect and promote international human rights principles.

However, the treatment of detainees at Guantánamo Bay, does not further the United States' goal for control, power and stability. If anything, the mistreatment of these detainees is a direct threat to the United States' national security. Domestically, the effects torture has on the United States is also not without consequence. The individuals who carried out the atrocities at Guantánamo will have trouble assimilating into everyday life, post army efforts.

Psychologists who have evaluated survivors of torture at Guantánamo reported severe psychological and physical outcomes like PTSD and other somatic symptoms. However, there are adverse psychological effects on the individuals carrying out the torture

¹²⁸ *I Am Fallen Into Darkness: The Case of Obaidullah, Guantánamo Detainee now in his 12th Year Without Trial*, *supra* note 83, at 2.

¹²⁹ *Id.*

¹³⁰ *Id.*

as well.

While inside an ‘atrocious-producing’ environment, a perpetrator of torture can believe that his or her behavior is normal, even desirable, behavior required or valued by peers and supervisors. It may be only later, outside of that specific environment, that the torturer may question his or her behavior, and begin to experience psychological damage resulting from involvement in torture and trauma. In these cases, the resulting psychological symptoms are very similar to those of victims, including anxiety, intrusive traumatic memories, and impaired cognitive and social functioning.¹³¹

On an international level the effects are likewise negative. Shortly after the Abu Ghraib photos were released in 2003, a reporter asked a young Iraqi man why there was a rise in violence against U.S. soldiers. He said, “It is a shame for foreigners to put a bag over their heads, to make a man lie on the ground with your shoe on his neck . . . This is a great shame for the whole tribe. It is the duty of that man, and of our tribe, to get revenge on that soldier—to kill that man.”¹³² Counterterrorism discourse has cited to Metin Basoglu, a leading scholar on mass trauma, mental health and human rights, where he stated that torture “ . . . generates intense hatred and desire for vengeance against the perpetrators, radicalizing even ordinary people with no strong political views.”¹³³

Although, the United States must engage in efforts to prevent another 9/11 from happening, it should do so while aligning its actions with international human rights laws so that its efforts are not futile. Violating international legal norms and laws will only create further animosity and violence from individuals who were never enemy combatants

¹³¹ Mark A. Costanzo & Ellen Gerrity, *Social Issues and Policy Review*, Vol. 3, No. 1, 2009, 179--210 *The Effects and Effectiveness of Using Torture as an Interrogation Device: Using Research to Inform the Policy Debate*, 3 *SOCIAL POLICY & POLICY REV.* 1, 193-94 (2009), available at http://www.cgu.edu/pdf/files/sbos/costanzo_effects_of_interrogation.pdf.

¹³² *Id.* at 202.

¹³³ *Id.*

to begin with.

The use of torture damages the reputation of the United States and creates hostility towards troops abroad. It places the United States in the company of regimes it speaks out against. Syria, for example, similarly uses torture techniques on its political prisoners and thus, the United States' credibility is also undermined when it argues for international human rights or any moral imperative calling to eradicate the use of brute force in Syria. The use of torture hinders the goal for a more peaceful and progressive world. The use of torture is not conducive to a safer world or a safer America.¹³⁴

Conclusion

The story explicated at the beginning of this piece is not to bring about a mere catharsis nor is it shared to garner sympathy for Aisha alone. Aisha's story is shared in an effort to conceptualize and empathize with atrocities occurring on all scales. The basic structure that allows for the facilitation of atrocities remains the same. That being the established order, followed by individuals who are being oppressed, and individuals who eventually challenge the order. The power and control structure reacts by tightening its grip and negative implications inevitably follow suit. The case studies discussed above show that human rights violations are not a problem designated to a particular corner of the world. If an established order abuses its authority and power, activists will respond by seeking redress and they will voice their objections to the respective violations. These activists turn into political prisoners and the atrocities that are subsequently carried out against them foster negative consequences for the future. These individuals go from

¹³⁴ *Id.*

wearing invisible shackles to visible ones, further drawing attention to their plight and struggle.

Much like Aisha's story, the higher authority, being the police, or in the case studies, the international community, being the United Nations, provided little redress. The enforcement of international laws and basic human rights are thwarted on a daily basis. However, although there is no effective authority to provide accountability for every wrong action committed by a power and control structure: in a household; at a state level; or at an international level, this does not mean that there is no reason to adhere to the rule of law. The implications for violating laws protecting human rights are severe. These violations stunt progress and growth and leave no room for humanity to foster a safe and peaceful environment.