

Russia's and America's Wars

Author: Marwan Dalal, Executive Director
Research assistant: Emma Johanson
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Printed in Israel. ISBN: 978-965-92336-5-6
E-mail: grotiuscenter@gmail.com
22 August 2016



Grotius – Center for International Law and Human Rights

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"Putin in front of me and the FSB behind me",
Ben Wallace, United Kingdom's Secretary of State for Defence, 30
September 2019.

"The end came quickly for one of the costliest covert action programs in
the history of the C.I.A.

During a White House briefing early last month, the C.I.A. director, Mike
Pompeo, recommended to President Trump that he shut down a four-
year-old effort to arm and train Syrian rebels. The president swiftly ended
the program."

Mark Mazetti et al, "Behind the Sudden Death of a 1\$ Billion Secret
C.I.A. War on Syria", *New York Times*, 2 August 2017.

"Indeed, few aspects of U.S. Foreign Policy since 1945 have been more
controversial than the activities of the CIA, which at one time or another
has shaped events in almost every Middle Eastern country...During the
six decades after the second cold war, the CIA waged what amounted to
undeclared political warfare abroad, working to prevent Soviet
subversion and promote American interests while always making sure
that the ensuing rigged elections or military coup d'etat was plausibly
deniable and never traceable directly to the United States."

Douglas Little, "'Mission Impossible: The CIA and the Cult of Covert
Action in the Middle East", 28(5) *Diplomatic History*, pp.663-701
(2004).

"At the intersection of the State Department, the Pentagon, and the CIA.
The three agencies you would need to conduct a covert war.

...

Congressman: What is the CIA strategy?

CIA officer: Strictly speaking we don't have one."

Charlie Wilson's War, film, 2007.

"It's a CIA facility", Saturday Night Live, parody of Homeland TV
Series, 2013.

Introduction

This report focuses on five of Russia's military engagements and their qualifications under international law: Ukraine (since February 2014), Georgia (August 2008), Syria (since September 2015) and Chechnya (1994 – 1996 and 1999 – 2009). All parties to these conflicts have violated international law. But there is a systematic character to the violations inflicted by Russian forces and their severe lack of respect for basic rules of international law and human rights. The Russian authorities' national authoritarian performance also explored in the report could inform the country's military actions nationally and internationally.

Former KGB operative and current Russian President Vladimir Putin had been head of state during most of the conflicts covered in this report, and as such commander of the Russian armed forces and other influential security organs, most notably the KGB's successor the Federal Security Service (FSB).

The Russian authorities have failed to conduct genuine investigations into the alleged violations of international humanitarian law and international human rights law. They have disregarded rulings of the European Court for Human Rights in this regard who emphasized their lack of respect for the rule of law.

The Russian government, particularly under the rule of Putin, stifled debate and opinions that opposed it. Russian human rights activists and journalists who reported about Russia's human rights record and Putin's authoritarian rule have been either murdered or intimidated.¹ Since Putin became President 40 journalists had been killed.² It is estimated that a total of 80 journalists had been killed since the dismantling of the Soviet Union.³ Putin has signed laws against undesirable NGOs and empowered the Russian Constitutional Court to overturn rulings of the European Court of Human Rights.⁴

Laws of War and International Human Rights Law

Conduct of Hostilities

International Armed Conflict

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)(GCIV) enhanced the principles established prior to the second world war concerning the protection of civilians in a time of war. The contracting parties shall respect the Convention "in all circumstances". The Convention regulates the obligations of states parties during an armed conflict. It also applies in the case of partial or total occupation of a high contracting party. When an internal armed conflict – civil war -, erupts the basic principles articulated by common article 3 of the Geneva Conventions are applicable.

¹ See Michael Schwartz & Ellen Barry, "Chechen Rights Campaigner Is Killed", *New York Times*, 15 July 2009; Miriam Elder, "Russian rights activist Natalya Estemirova murdered", *The Telegraph*, 15 July 2009; The Editorial Board, "Who Ordered Politkovskaya's Murder?", *New York Times*, 10 June 2014; Howard Amos & Tom Praffitt, "Kremlin critics killed during Vladimir Putin's leadership", *The Telegraph*, 28 February 2015.

² Peter Preston, "Putin's win is a hollow victory for a Russian free press", *The Guardian*, 11 March 2012.

³ Committee to Protect Journalists, available at: <https://cpj.org/killed/europe/russia/>

⁴ See Thomas Grove, "Russia's Putin Signs New Law Against 'Undesirable' NGOs", *Wall Street Journal*, 25 May 2015; Darren Boyle, "Putin signs new law allowing Russia to ignore international human rights court", *MailOnline*, 15 December 2015.

The temporal scope of the Convention's applicability is from the outset of armed hostilities until their cessation. In the case of a military occupation, the Convention will cease to apply one year after termination of the occupation. Should the occupying power maintain governing functions in the occupied territory, provisions guaranteeing basic rights of the civilian populations would apply.⁵ The provisions of the GCIV are supplementary to the Hague Conventions respecting the Laws of War on Land "whether that of July 29, 1899, or that of October 18, 1907".⁶

Additional Protocol I (API, 1977) to the four Geneva Conventions of 1949 complemented the rules of hostilities and protections guaranteed for civilians and civilian objects stipulated by GCIV to armed conflicts in which:

[P]eoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.⁷

According to GCIV civilians are entitled to respect of their dignity and they "shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof." However, the presence of a civilian in a certain location "may not be used to render certain points or areas immune from military operations."⁸ Civilians cannot be subjected to physical or moral coercion "in particular to obtain information from them or from third parties."⁹ Exercising physical suffering or extermination against civilians, including torture is prohibited, whether applied by civilian or military agents.¹⁰ Collective punishment as well as reprisals against civilians and property are also barred,¹¹ as is the taking of hostages.¹²

Combatants are members of armed forces. If they are captured by the adversary, they enjoy the status of prisoners of war. Mercenaries do not have the right to be combatants or prisoners of war (foreign fighters or Afghan Arabs can be considered as mercenaries; the same applies to Hizbollah fighters in Syria).¹³

Parties to an armed conflict shall direct their attacks against military objectives, and shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives.¹⁴

A civilian is a person who is not combatant / member of armed forces. The presence of individual combatants within a civilian population does not deprive it from its civilian character.¹⁵ The civilian population as well as individual civilians shall not be

⁵ GCIV, articles 1, 2, 3, 6. See also Jean-Marie Henckaerts et, Customary International Humanitarian Law – Volume I: Rules, (Cambridge University Press, 2006); The United States Army Judge Advocate General's Legal Center and School, Law of Armed Conflict Desk-book (International & Operational Law Department, 2012).

⁶ GCIV, article 154.

⁷ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977 (API), article 4.

⁸ GCIV, articles 27, 28.

⁹ GCIV, article 31.

¹⁰ GCIV, article 32.

¹¹ GCIV, article 33.

¹² GCIV, article 34.

¹³ API, articles 43, 44, 45, 47.

¹⁴ API, article 48.

¹⁵ API, article 50.

the subject of an armed attack. No indiscriminate attack can be directed at civilians. If a civilian directly participates in hostilities he or she loses this status and the protections it affords “for such time as they take direct part in hostilities.”¹⁶

Civilian objects are immune from military attack or reprisal:

Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.¹⁷

Precaution in conducting an attack is mandatory. This includes the obligation to carefully select the target for an attack, the means for executing it and:

[R]efrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.

When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.¹⁸

Internal Armed Conflict

Additional Protocol II (APII, 1977) to the Geneva Conventions related to internal armed conflicts, that is armed hostilities within a sovereign state. It elaborates on the principles of common article 3 of the Geneva Conventions which “constitute the foundation of respect for the human person in cases of armed conflict not of an international character.”¹⁹

This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of

¹⁶ API, article 51.

¹⁷ API, article 52(2) and (3). See also articles 53 to 56 regarding protections to objects of a specific type.

¹⁸ API, article 57. Article 58 stipulates additional precautionary measures, including avoiding “locating military objectives within or near densely populated areas.

¹⁹ APII, preamble.

applications, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.²⁰

All persons who did not take direct part in hostilities or ceased from doing so are entitled for humane treatment. “It is prohibited to order that there shall be no survivors”.²¹ Specifically:

Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

collective punishments;

taking of hostages;

acts of terrorism;

outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

slavery and the slave trade in all their forms;

pillage;

threats to commit any of the foregoing acts.²²

Detained individuals shall be treated with care and humanly.²³ Civilians cannot be targeted in a non-international armed conflict, unless they directly participate in hostilities where they lose their immunity from attack for this period.²⁴ The warring parties are prohibited from attacking objects indispensable to the survival of the civilian populations such as “foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.”²⁵ The civilian population cannot be displaced:

The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

²⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977 (APII), article 1.

²¹ APII, article 4(1).

²² APII, article 4(2).

²³ APII, article 5.

²⁴ APII, article 13.

²⁵ APII, article 14.

Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.²⁶

Initiating the Use of Force and Supporting Paramilitary Groups

Article 4(2) of the United Nations Charter prohibits the use of force in international relations and obligates the respect for the independence and territorial integrity of states:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Article 42 of this Charter empowers the U.N. Security Council to decide on using force in order to maintain international peace and security. Article 51 of the Charter underscores states' right to use force in self-defense, which is an inherent right. It is not a violation of international peace and security discussed in Chapter VII of the Charter.²⁷ Article 8bis of the International Criminal Court's Statute inserted on 11 June 2010 defines aggression as a crime within the Court's jurisdiction. The U.N. General Assembly reaffirmed these rules in its 1970 Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations stating:

Every state has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state.

Two judgments delivered by the International Court of Justice (ICJ) considered backing paramilitary groups and their activity in a foreign country. In *Nicaragua v. United States* (1986) the ICJ ruled that America's support for the Contra's military and paramilitary activity against the government of Nicaragua in and around that country violated international law and rejected its claim that it was acting in legitimate defense of neighboring El-Salvador:

A prohibited intervention must accordingly be one bearing on matters in which each State is permitted, by the principle of State sovereignty to decide freely. One of these is the choice of a political, economic, social and cultural system, and the formulation of foreign policy. Intervention is wrongful when it uses methods of coercion in regard to such choices, which must remain free ones. The element of coercion, which defines, and indeed forms the very essence of, prohibited intervention, is particularly obvious in the case of an intervention which uses force, either in the direct form of military action, or in the indirect form of support for subversive or terrorist armed activities within another State...General Assembly resolution 2625 (XXV) equates assistance of this kind with the use of force by the assisting State when the acts committed in another State "involve a threat or use of force". These forms of action are

²⁶ APII, article 17.

²⁷ See Yoram Dinstein, *War, Aggression and Self-Defence* (4th ed.)(Cambridge University Press, 2005); Christine Gray, *International Law and the Use of Force* (3rd ed.)(Oxford University Press, 2008); George P. Fletcher & Jens David Ohlin, *Defending Humanity – When Force is Justified and Why* (Oxford University Press, 2008); Marc Weller, *Iraq and the Use of Force in International Law* (Oxford University Press, 2010). See also Michael Wood, "The UN Security Council and International Law", Hersch Lauterpacht Memorial Lecture Series, Cambridge University, 7 – 9 November 2006.

therefore wrongful in the light of both the principle of non-use of force, and that of non-intervention.

In view of the nature of Nicaragua's complaints against the United States, and those expressed by the United States in regard to Nicaragua's conduct towards El Salvador, it is primarily acts of intervention of this kind with which the Court is concerned in the present case.

...

The Court therefore finds that no such general right of intervention, in support of an opposition within another State, exists in contemporary international law.²⁸

In *The Democratic Republic of the Congo v. Uganda* (2005) the ICJ deliberated Uganda's military activities in the territory of the DRC. It reiterated the principles of the Nicaragua case and concluded that Uganda's military activities in the DRC do not qualify as legitimate self-defense under article 51 of the U.N. Charter, particularly given the distance between the alleged military threat emanating from the DRC and Uganda's actual military activity. Similarly, it found that although Uganda may have not had control over a paramilitary group that was active in the civil war in the DRC, its training and backing for this group violated international law:

It is further to be noted that, while Uganda claimed to have acted in self-defence, it did not ever claim that it had been subjected to an armed attack by the armed forces of the DRC. The "armed attacks" to has found above (paragraphs 131-135) that there is no satisfactory proof of the involvement in these attacks, direct or indirect, of the Government of the DRC. The attacks did not emanate from armed bands or irregulars sent by the DRC or on behalf of the DRC, within the sense of Article 3 (g) of General Assembly resolution 3314 (XXIX) on the definition of aggression, adopted on 14 December 1974. The Court is of the view that, on the evidence before it, even if this series of deplorable attacks could be regarded as cumulative in character, they still remained non-attributable to the DRC.

For all these reasons, the Court finds that the legal and factual circumstances for the exercise of a right of self-defence by Uganda against the DRC were not present.

...

The Court concludes that there is no credible evidence to suggest that Uganda created the MLC. Uganda has acknowledged giving training and military support and there is evidence to that effect. The Court has not received probative evidence that Uganda controlled, or could control, the manner in which Mr. Bemba put such assistance to use. In the view of the Court, the conduct of the MLC was not that of "an organ" of Uganda (Article 4, International Law Commission Draft Articles on Responsibility of States for internationally wrongful acts, 2001), nor that of an entity exercising elements of governmental authority on its behalf (Art. 5). The Court has considered whether the MLC's conduct was "on the instructions of, or under the direction or control of" Uganda (Art. 8) and finds that there is no probative evidence by reference to which it has been persuaded that this was the case.

...

²⁸ *Nicaragua v. United States*, Judgment, ICJ Reports 1986, paras.205, 209.

The Court would comment, however, that, even if the evidence does not suggest that the MLC's conduct is attributable to Uganda, the training and military support given by Uganda to the ALC, the military wing of the MLC, violates certain obligations of international law.

...

The Court considers that the obligations arising under the principles of non-use of force and non-intervention were violated by Uganda even if the objectives of Uganda were not to overthrow President Kabila, and were directed to securing towns and airports for reason of its perceived security needs, and in support of the parallel activity of those engaged in civil war.

In relation to the first of the DRC's final submissions, the Court accordingly concludes that Uganda has violated the sovereignty and also the territorial integrity of the DRC. Uganda's actions equally constituted an interference in the internal affairs of the DRC and in the civil war there raging. The unlawful military intervention by Uganda was of such a magnitude and duration that the Court considers it to be a grave violation of the prohibition on the use of force expressed in Article 2, paragraph 4, of the Charter.²⁹

Based on these principles of international law, it is clear that Russia had violated international law by occupying Crimea, a Ukrainian territory, in February - March 2014. Its support and backing of paramilitary groups in Eastern Ukraine and Georgia lack sound legal basis. The same applies to Iran's support of Hezbollah's fighters in the Syrian civil war (and in Lebanon). The Saudi and Qatari financial intervention in the Syrian military affairs at the outset of the civil war (instigating defections and arming new army) could also be considered as a violation of the principles of non-intervention in the affairs of foreign countries. The subsequent American backing of Syrian armed opposition suffers from the same legal deficiency, although it could have been generated by a different motive. The armed activities of American led coalition against the Islamic State in Syria and Iraq is grounded in U.N. Security Council resolution 2170 adopted under Chapter VII of the U.N. Charter which reaffirmed:

[T]he need to combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights, refugee and humanitarian law, threats to international peace and security caused by terrorist acts...

The legal basis for Russia's intervention in the Syrian civil war in support of the government is not clear. Intervening in a military conflict of a foreign country by an invitation is not established under international law.³⁰ Russia's claim that it is also combating the Islamic State in Syria had been undermined by its bombardment of armed groups opposing the Syrian government that are not the Islamic State, in addition to causing substantial illegitimate civilian deaths as a result of its military activity.

Individual Criminal Responsibility

²⁹ *Democratic Republic of the Congo v. Uganda*, Judgment, ICJ Reports 2005, paras.146-147, 160-161, 163, 165.

³⁰ Christine Gray, *International Law and the Use of Force* (3rd ed.)(Oxford University Press, 2008), 80-81.

Parties to the GCIV are under an obligation to enact legislation necessary to “provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention” and:

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches.³¹

Grave Breaches of the fourth Geneva Convention are acts committed against persons or property protected by the Convention:

[W]illful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.³²

The Statute of the International Criminal Court (ICC) establishes its jurisdiction over genocide, crimes against humanity, and war crimes.³³ A suspect before the ICC may incur criminal responsibility as a perpetrator or co- perpetrator and as a commander or by holding other superior position.³⁴ Russia is not a state party to the Rome Statute which formed the International Criminal Court.

On 27 January 2016 a Pre-Trial Chamber granted the Prosecution’s request from 13 October 2015 to investigate crimes within the ICC’s jurisdiction committed in and around South Ossetia, Georgia from 1 July 2008 to 10 August 2008.³⁵ Unlike Russia, Georgia is a state party to the Rome Statute. However, the proceedings before the ICC was the Prosecution’s initiative pursuant to its authority under article 15(3) of the Court’s Statute. Like Russia, Ukraine is not a state party to the Rome Statute. Nevertheless, the Prosecution initiated preliminary investigation into alleged crimes

³¹ GCIV, article 146.

³² GCIV, article 147. See also articles 85 – 91 of API.

³³ ICC Statute, articles 6, 7, 8. The International Criminal Court was formed in 1998 and commenced functioning in 2002. It is considered part of international criminal law’s development in the 1990s following the creation of the ad hoc tribunals for Rwanda and the former Yugoslavia. See “Crisis in the Balkans; Prosecutor’s Statement: ‘Sufficient Evidence’”, New York Times, 28 May 1999; Louise Arbour, “Progress and Challenges in International Criminal Justice”, 21(2) *Fordham International Law Journal*, 531 (1997); William A. Schabas, *An Introduction to the International Criminal Court* (4th ed.)(Cambridge University Press, 2014).

³⁴ ICC Statute, articles 25 and 28.

³⁵ See Case No. ICC-01/05 Situation in Georgia, Decision on the Prosecutor’s request for authorization of an investigation, 27 January 2016; Case No. ICC-01/05 Situation in Georgia, Request for authorization of an investigation pursuant to article 15, 13 October 2015.

relating to the conflict with Russia since 21 November 2013 pursuant to Ukraine's acceptance of the Court's jurisdiction based on article 12(3) of the ICC Statute.³⁶

International Human Rights Law

International human rights law is comprised from international and regional treaties that are supposed to obligate states to respect basic rights and freedoms. Internationally, the most important are the 1948 Universal Declaration of Human Rights adopted by the U.N General Assembly and the 1966 International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights. Regionally, there are the European Convention on Human Rights – 1950 (entered into force in 1953), the American Convention on Human Rights – 1969 (entered into force in 1978), the African Charter on Human and Peoples' Rights – 1981 (entered into force in 1986), the Asian Human Rights Charter – 1998 (which is a declaration that called for the adoption of a Convention), and the Arab Charter on Human Rights – 2004 (entered into force in 2008).³⁷

During armed conflicts human rights do not cease to apply, but their content is determined by the specific body of law that governs the conduct of hostilities which is international humanitarian law:

The Court observes that the protection of the International Covenant of Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency. Respect for the right to life is not, however, such a provision. In principle, the right not arbitrarily to be deprived of one's life applies also in hostilities. The test of what is an arbitrary deprivation of life, however, then falls to be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict which is designed to regulate the conduct of hostilities. Thus whether a particular loss of life, through the use of a certain weapon in warfare, is to be considered an arbitrary deprivation of life contrary to Article 6 of the Covenant, can only be decided by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself.³⁸

Chemical Weapons

The 1992 Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and their Destruction, which was signed in Paris a year later, prohibits the production and use of chemical weapons. 192 states are party to the Convention, and 165 have also signed it. It entered into force on 29 April 1997. Article 1 of the Convention provides that:

Each State Party to this Convention undertakes never under any circumstances:
To develop, produce, otherwise acquire, stockpile or retain chemical weapons,
or transfer, directly or indirectly, chemical weapons to anyone;

³⁶ See ICC Prosecutor extends preliminary examination of the situation in Ukraine following second article 12(3) declaration, 29 September 2015, <https://www.icc-cpi.int/Pages/item.aspx?name=pr1156>.

³⁷ See, generally, Philip Alston & Ryan Goodman, *International Human Rights* (2nd ed.)(Oxford University Press, 2012); Ryan Goodman & Derek Jinks, *Socializing States – Promoting Human Rights Through International Law* (Oxford University Press, 2013).

³⁸ Advisory Opinion on Legality of the Threat or Use of Nuclear Weapons, ICJ Reports 1996, para.25.

To use chemical weapons;

To engage in any military preparations to use chemical weapons;

To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.

Each State Party undertakes to destroy chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.

Each State Party undertakes to destroy all chemical weapons it abandoned on the territory of another State Party, in accordance with the provisions of this Convention.

Each State Party undertakes to destroy any chemical weapons production facilities it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.

Each State Party undertakes not to use riot control agents as a method of warfare.

The Syrian government acceded the Convention without signing it on 14 September 2013, after its major use of chemical weapons a month earlier in eastern Damascus killing more than 1,400 people, and two days before the publication of a U.N. investigation report demonstrating its culpability.³⁹ The Syrian Government's declaration upon its accession was as follows:

Shall comply with the stipulations contained [in the Convention] and observe them faithfully and sincerely, applying the Convention provisionally pending its entry into force for the Syrian Arab Republic. [The Government of the Syrian Arab Republic] also affirms the following:

The accession of the Syrian Arab Republic to the Convention shall not in any sense imply recognition of Israel, and shall not entail entering into any relations with Israel in the matters governed by the provisions thereof.⁴⁰

Refugees and Internally Displaced Persons

The 1951 Convention Relating to the Status of Refugees and its 1967 protocol regulate the rights and obligations of refugees and the hosting state.⁴¹ Article 1(A)(2) of the Convention defines the term refugee as a person who:

[O]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

³⁹ See UN News Center, "'Clear and Convincing' evidence of chemical weapons use in Syria, UN team reports", 16 September 2013, <http://www.un.org/apps/news/story.asp?NewsID=45856#.V6dm0zYkrIV>.

⁴⁰ See: <http://disarmament.un.org/treaties/a/cwc/syrianarabrepublic/acc/un>.

⁴¹ See Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd ed.)(Oxford University Press, 2007).

An internally displaced person is distinguished from a refugee by the fact of not having crossed an internationally recognized border:

For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.⁴²

The Russian Military and FSB

The President of Russia is the Supreme Commander-in-Chief of the Armed Forces of the Russian Federation. Although the Russian army had been attempting to renew its armament and capacities since the fall of the Soviet Union, going through a series of military campaigns since then,⁴³ it has not managed to realize this wish.⁴⁴ Nevertheless, “fifteen years after Vladimir Putin first walked into the Kremlin, Russia’s army is bigger, stronger, and better equipped than at any time since the end of the Cold War.”⁴⁵ Russia’s military spending has doubled since 2007 and in 2010 it launched a ten-year weapons-modernization program at a cost of \$720 billion.⁴⁶ Putin has further tightened his grip over the Russian internal security apparatus.⁴⁷

Russia’s military involvement in Syria maintained its cynical conduct internationally, which is a reflection of the country’s national politics. Its military has not contributed to end the Syrian civil war, rather the contrary is correct:

What it really does is highlight, once again, the duplicity of President Vladimir Putin of Russia, in Syria and elsewhere. Mr. Assad remains in power largely because of Russian military assistance. It is hard to believe that Mr. Putin, who fancies himself a man who can get what he wants, could not persuade Mr. Assad to let aid get through to the cities if he chose to try.

While promising Secretary of State John Kerry that he would work with America to end the war that has reportedly killed up to 470,000 people, Mr. Putin has been unable or unwilling to stop Mr. Assad from shelling civilians and, according to reports, is continuing Russian airstrikes as well. A temporary cease-fire that raised hopes for a more durable peace has now largely collapsed, talks between the Assad government and opposition forces have broken down and plans to begin a negotiated political transition to a more inclusive government by Aug. 1 seem ever more remote.⁴⁸

A significantly strong security service in Russia is the KGB’s successor the FSB (Federal Security Service). The head of the FSB is appointed by the President of

⁴² OCHA, Guiding Principles on International Displacement, (2nd ed.)(September 2004), Introduction, para.2. See also Brid Ni Ghraíne, “Internally Displaced Person (IDPs), (Max Planck Encyclopedia of Public International Law, February 2015), <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e833>.

⁴³ See Mark Galeotti, Russian Security and Paramilitary Forces since 1991 (Elite), (Osprey Publishing, 2013); Mark Galeotti, Spetsnaz: Russia’s Special Forces (Osprey Publishing, 2015).

⁴⁴ See C. J. Chivers, “In Crimea, Russia Showcases a Rebooted Army”, *New York Times*, 2 April 2014.

⁴⁵ Roland Oliphant, “How Vladimir Putin’s military firepower compares to the West”, *The Telegraph*, May 2015.

⁴⁶ “Putin’s new model army”, *The Economist*, 24 May 2014.

⁴⁷ Kathrin Hille, “Putin unveils security reshuffle”, *Financial Times*, 1 May 2016.

⁴⁸ The Editorial Board, “Vladimir Putin’s Dangerous Obsession”, *New York Times*, 19 May 2016. See also “The withdrawal that wasn’t”, *The Economist*, 14 May 2016.

Russia. The organization is known for its extreme authoritarian powers and practices as well as corruption.⁴⁹ With the help of the FSB former KGB agent and Russian president Putin reincarnated the practices of the old era.⁵⁰ According to one Russian human rights activist:

I don't know whether the F.S.B. (the new KGB) actually intends to lock up human rights activists as traitors. But I am absolutely certain they mean to send a signal across the country that we should all re-grow our forgotten Soviet instincts of fear and wariness of foreigners — and that includes “foreign” ideas about freedom and democracy — and that officials should feel free to use the threat of criminal charges to keep their critics in line.

The Kremlin is in a bullying mood these days. Just about every day there's a new screed against the opposition, against the protest movement, new ugly labels for civil society. The government is using television — and now Twitter and social media and proxies — to recreate Soviet-era rhetoric and anti-foreigner hysteria. People are also bombarded with official exclamations about how undemocratic and hypocritical the West is.⁵¹

Ukraine

The conflict between Ukraine and Russia in south and south east of the country which commenced in 2014 and is still going on as of writing this report has resulted in the death of thousands of civilians, the injury of many more,⁵² and mass displacement both within and outside Ukraine, leaving many in dire need for humanitarian assistance.⁵³

In March 2014 Russia annexed the southern region of Ukraine, Crimea instigating international condemnation for violating the sovereignty and geographical integrity of a neighboring country.⁵⁴ Two months later, in May 2014 the south eastern provinces of Ukraine Donetsk and Luhansk inhabited by a majority of Russian speaking citizens declare independence from Ukraine after unrecognized referendum and elected separatist leaders in November 2014.⁵⁵

Crimea

In late 2013 mass demonstrations in Kiev, Ukraine protested the government's decision not to sign an association agreement with Europe and favoring closer ties with Russia. In November 2013 100,000 people demonstrated against the government, followed by a bigger demonstration in early December encompassing 800,000

⁴⁹ Shuan Walker, “FSB: Vladimir Putin's immensely powerful modern-day KGB”, *The Guardian*, 6 October 2013; Joshua Yaffa, “The Double Sting”, *The New Yorker*, 27 July 2015.

⁵⁰ “The making of a neo-KGB state”, *The Economist*, 23 April 2007; “Prelude to a purge”, *The Economist*, 2 July 2016.

⁵¹ Lyudmila Alexeyeva, “Backtracking in Russia”, *New York Times*, 16 December 2012.

⁵² UN News Center, “Death toll in Ukraine conflict exceeds 5,000, may be ‘considered higher’”, 23 January 2015; Roland Oliphant, “Two years after war broke out in Ukraine, the death toll continues to mount”, *The Telegraph*, 3 May 2016.

⁵³ See U.N. Security Council Meeting 7683, 28 April 2016.

⁵⁴ See U.N. General Assembly resolution 262, 27 March 2014; Somini Sengupta, “Vote by U.N. General Assembly Isolates Russia”, *New York Times*, 27 March 2014.

⁵⁵ See Shaun Walker & Oksana Grytsenko, “Ukraine Crisis: Donetsk region asks to join Russia”, *The Guardian*, 12 May 2014; Andrew E. Kramer, “Rebel-Backed Elections to Cement Status Quo in Ukraine”, *New York Times*, 2 November 2014; Lizzie Dearden, “Ukraine Crisis: separatist leaders elected in Donetsk and Luhansk in ‘sham’ vote”, *The Independent*, 4 November 2014; Roland Oliphant, “Ukraine crisis deepens after rebel vote in the east”, *The Telegraph*, 4 November 2014.

attendees. On 17 December 2013 Ukrainian president Victor Yanukovich and Russian president Vladimir Putin signed a deal according to which Russia would buy \$15bn of Ukrainian debt and reduce the price of Russian gas by a third, which subsequently was subjected to difficulties and amendments.⁵⁶

On 18 February 2014 protests against the Ukrainian government took place with no clear reason leaving 18 dead as a result of police shooting. 20 February 2014 was Kiev's worst day of violence in 70 years. 88 people were killed in two days because of police shooting who used snipers as well.

On 21 February 2014 President Yanukovich signed a failed compromise deal with the opposition. The following day his rival Yulia Tymoshenko was released from jail prompting the president's appearance on television to denounce a coup against him. Parliament voted to remove the president from office. Yanukovich disappeared from the country only to resurface in Russia.⁵⁷

Between 23 and 26 February 2014 the elite Berkut police unit, blamed for deaths of Ukrainian protesters, was disbanded. In addition, parliament voted to ban Russian as the second official language, causing a wave of anger in Russian-speaking regions, although the vote was later overturned.

On 27 and 28 February 2014 pro-Russian gunmen seized key buildings in the Crimean capital, Simferopol. Unidentified gunmen in combat uniforms appeared outside Crimea's main airports. Of the 2.28 million inhabiting Crimea, about 67% are Russian speaking, 16% Ukrainians, and 10.5% Crimean Tatars.

In late February Russian forces entered Crimea capturing airports there in a smooth and bloodless invasion.⁵⁸ On 1 March 2014 Russia's parliament approved President Vladimir Putin's request to use force in Ukraine to protect Russian interests. Two weeks later the organizers of Crimea's secession referendum on joining Russia claimed it was backed by overwhelming majority, but vote condemned as a sham.⁵⁹ On 18 March 2014 President Putin signed a bill to absorb Crimea into the Russian Federation generating international criticism.⁶⁰

⁵⁶ See Shaun Walker, "Ousted Ukrainian leader Viktor Yanukovich reported to be in Russia", *The Guardian*, 27 February 2014; "Putin: Russia helped Yanukovich to flee Ukraine", BBC, 24 October 2014; Bonnie Malkin & Raziye Akkoc, "Vladimir Putin saved my life, says ousted Ukrainian president Viktor Yanukovich", *The Telegraph*, 22 June 2015.

⁵⁷ See Harriet Salem & Shaun Walker, "Russian armored vehicles on the move in Crimea", *The Guardian*, 28 February 2014; David M. Herszenhorn, Mark Landler, & Alison Smale, "With Military Moves Seen in Ukraine, Obama Warns Russia", *New York Times*, 28 February 2014; Shaun Walker, Harriet Salem, Ewen MacAskill, "Russian 'invasion' of Crimea fuels fear of Ukraine conflict", *The Guardian*, 1 March 2014; John Simpson, "Russia's Crimea plan detailed, secret and successful", *BBC*, 19 March 2014.

⁵⁸ See Kim Singupta, "Crimea crisis: Foreign leaders condemn 'Russia's destabilizing actions' as 93% vote in referendum for succession", *The Independent*, 17 March 2014; Luke Harding & Shaun Walker, "Crimea votes to secede from Ukraine in 'illegal' poll", *The Guardian*, 16 March 2014. See also "Ukraine crisis: 'Illegal' Crimean referendum condemned", *BBC*, 6 March 2014.

⁵⁹ See Shaun Walker, "Ukraine and Crimea", *The Guardian*, 23 March 2014; Claire Phipps & Ben Quinn, "Ukraine pulls forces out of Crimea as Russia takes over military basis", *The Guardian*, 24 March 2014; Ian Traynor, "Barack Obama: no cold war over Crimea", *The Guardian*, 26 March 2014; Tom Watkin & Laura Smith-Spark, "White House: Putin, Obama discuss possible 'diplomatic solution' in Ukraine", *CNN*, 29 March 2014.

⁶⁰ Human Rights Watch, *Rights in Retreat*, 2014, p.1. See also Amnesty International, *One Year On – Violations of the Rights to Freedom of Expression, Assembly, and Association in Crimea*, 2015;

Since the incorporation of Crimea into Russia the authorities in that region exercised severe violations of human rights against the local population, particularly the small minority of Crimean Tatar which comprises 10.5% of the local population. According to a Human Rights Watch report:

The de facto authorities in Crimea have limited free expression, restricted peaceful assembly, and intimidated and harassed those who have opposed Russia's actions in Crimea. In particular, the authorities have targeted the Crimean Tatar community, a Muslim ethnic minority that is native to the Crimean peninsula and that has openly opposed Russia's occupation. At the same time the authorities have failed to rein in or effectively investigate abuses by paramilitary groups implicated in enforced disappearances and unlawful detention and ill-treatment of Crimean Tatars, activists, journalists, and other individuals who are or perceived to be pro-Ukrainian. By bestowing Russian citizenship on Crimea residents through a coercive process, the authorities have also engaged in discrimination against Ukrainian citizens in Crimea, laid the groundwork for the potential expulsion of some Ukrainian citizens, and violated their obligations as an occupying power under international humanitarian law in relation to protecting civilians' rights.⁶¹

South East Ukraine

Following the withdrawal of the Ukrainian army from Crimea, it was reported that many Russian soldiers had gathered in border areas adjacent to the eastern Ukrainian regions of Donetsk and Luhansk. On 7 April 2014 pro Russian protesters occupied government buildings in the eastern cities of Donetsk, Luhansk and Kharkiv, although the latter was retrieved the following day. Control of government buildings spread to other cities and pro-Russian leaders announced the intention to hold referendum on granting enhanced autonomy in the Eastern parts of Ukraine.⁶²

On 15 April 2014 Ukraine launched an anti-terrorists military operation targeting pro-Russian separatists. Russian president Putin stated during a phone conversation with German Chancellor Merkel that the escalation of the conflict had put Ukraine "on the verge of civil war".⁶³

Few days after Russia, Ukraine, the US and the EU had agreed in Geneva to de-escalate the conflict in East Ukraine, the Ukrainian government announced on 22 April 2014 the re-launching of military operations against pro-Russian militants.⁶⁴ The

OHCHR, Report on the Human Rights Situation in Ukraine, 15 May 2014, pp.26-31; OHCHR, Report on the Human Rights Situation in Ukraine, 15 May 2015, pp.33-36; Report of the U.N. Special Rapporteur on Minority Issues on her Mission to Ukraine (7 – 14 April 2014).

⁶¹ Human Rights Watch, *Rights in Retreat*, 2014, p.1. See also Amnesty International, *One Year On – Violations of the Rights to Freedom of Expression, Assembly, and Association in Crimea*, 2015;

OHCHR, Report on the Human Rights Situation in Ukraine, 15 May 2014, pp.26-31; OHCHR, Report on the Human Rights Situation in Ukraine, 15 May 2015, pp.33-36; Report of the U.N. Special Rapporteur on Minority Issues on her Mission to Ukraine (7 – 14 April 2014).

⁶² See "Ukraine crisis: What is happening where?", *BBC*, 15 April 2015; "Ukraine crisis in maps", *BBC*, 18 February 2015.

⁶³ "Ukraine says Donetsk 'anti-terror operation' under way", *BBC*, 16 April 2014.

⁶⁴ "Ukraine crisis: Deal to 'de-escalate' agreed in Geneva", *BBC*, 17 April 2014; Alec Luhn, "Putin says Geneva agreement no longer viable after Ukrainian military action", *The Guardian*, 2 May 2014.

pretext for Ukraine's move was the kidnapping and killing of a pro Kiev politician by masked pro-Russian gunmen.⁶⁵

On 11 May 2014 pro-Russians announced the creation of 'people's republics' in Donetsk and Luhansk, amid mounting Ukrainian military operations in the region.⁶⁶ Both sides have systematically violated subsequent declarations of cease fire. Russia's involvement in the conflict has been overwhelming and decisive. A report by the Atlantic Council found that:

Satellite images confirm the movement of Russian troops and camp build-ups along the Ukrainian border. Russian training camps stationed along the Ukrainian border are the launching points of Russia's war in Ukraine. These camps are the staging ground for Russian military equipment transported into Ukraine, soon to join the separatist arsenal, and for Russian soldiers mobilized across Russia to cross into Ukraine.

Commanders order Russian soldiers to conceal the identifying features of military vehicles, remove insignia from uniforms, and travel across the border to join separatist forces in eastern Ukraine.

A variety of Russian manufactured arms and munitions not used by the Ukrainian military have appeared in the hands of separatists, including shoulder launched surface-to-air missiles (MANPADS), various types of rocket launchers, anti-tank guided missiles, landmines, and various small arms.

During key offensives, Russian forces in Ukraine have received cover from Russian territory. A combination of satellite data, crater analysis, and open source materials confirms that many attacks originated in Russia, not in the separatist controlled areas of Ukraine.⁶⁷

Vladimir Putin has repeatedly denied intervening militarily in the Eastern Ukrainian dispute.⁶⁸

The ongoing fighting between Ukrainian forces and Russian backed rebels-separatists has led to the collapse of rule of law in the South East of Ukraine and extensive number of casualties.⁶⁹ Both sides have engaged in extra-judicial killings during the conflict violating the applicable laws of war.⁷⁰ Human Rights watch reported that:

⁶⁵ See Luke Harding & Oksana Gryse, "Kidnapping of Ukrainian patriots has Russia's full support, says Kiev", *The Guardian*, 23 April 2014.

⁶⁶ Shaun Walker, Oksana Grytsenko & Howard Amos, "Ukraine: pro-Russian separatists set for victory in eastern region referendum", *The Guardian*, 12 May 2014.

⁶⁷ See Maksymilian Czuperski, John Herbst, Eliot Higgins, Alina Polyakova, and Damon Wilson, *Hiding in Plain Sight – Putin's War in Ukraine* (Atlantic Council, 2015), p.3. See also Alina Polyakova,

"Russian weapons in Ukraine exposed", *Politico*, 28 May 2015; Amnesty International, "Ukraine: Mounting Evidence of War Crimes and Russian Involvement", 7 September 2014.

⁶⁸ See "Panorama: Putin's Gamble", BBC One, 8 September 2014; Vladimir Putin's interview with Charlie Rose, 60 Minutes - CBS, 27 September 2015; German newspaper Bild interview with Vladimir Putin, 11 and 12 January 2016. Putin's Chief Spokesperson Dmitry Peskov has also denied such intervention during an interview with BBC's John Simpson, 19 November 2014, <http://www.bbc.com/news/world-europe-30113821>.

⁶⁹ On 17 July 2014 Malaysia Airline flight MH17 from Amsterdam was shot down near the village of Grabove in rebel-held territory, with the loss of 298 lives. See U.N. Security Council resolution 2166 of 21 July 2014; "MH17 crash: Passengers on Malaysia Airlines plane in Ukraine", *BBC*, 20 July 2014.

⁷⁰ Amnesty International, "Summary Killings During the Conflict in Eastern Ukraine", 2014.

Intense fighting led to the complete collapse of law and order in rebel-controlled areas. Militants attacked, beat, and threatened anyone that they suspected of supporting the Ukrainian government, including journalists, local officials, and political and religious activists, and

carried out several summary executions. They also subjected detainees to forced labor and kidnapped civilians for ransom, using them as hostages.

Between April 2014 and November 2015, mortar, rocket, and artillery attacks killed over 9,000 people—including civilians, Ukrainian government forces, and rebel fighters—in the Donetsk and Luhansk regions and injured at least 20,000. Both armed insurgents and government forces violated the laws of war by using weaponry indiscriminately, including unguided rockets in civilian areas. Both sides fired salvos of Grad rockets into heavily populated civilian areas. Both sides have used cluster munition rockets, banned by 116 countries for the danger they pose to civilians.⁷¹

The U.N. High Commissioner for Refugees estimated in April 2016 that as a result of the conflict in east Ukraine 1,363,833 people became refugees. The majority of them left to Russia (1,092,212) and Belarus (130,021).⁷² At least additional 900,000 became internally displaced persons, that is refugees inside Ukraine who did not cross the border to a foreign country.⁷⁶

Georgia

The exact circumstances regarding how this conflict commenced, which coincided with the first day of the 2008 Olympic games in Beijing, China and terminated are not necessarily clear. The narrative of the European Union Independent Fact-Finding Mission on the Conflict in Georgia is as follows:

On the night of 7 to 8 August 2008, a sustained Georgian artillery attack struck the town of Tskhinvali. Other movements of the Georgian armed forces targeting Tskhinvali and the surrounding areas were under way, and soon the fighting involved Russian, South Ossetian and Abkhaz military units and armed elements. It did not take long, however, before the Georgian advance into South Ossetia was stopped. In a counter-movement, Russian armed forces, covered by air strikes and by elements of its Black Sea fleet, penetrated deep into Georgia, cutting across the country's main east-west road, reaching the port of Poti and stopping short of Georgia's capital city, Tbilisi. The confrontation developed into a combined inter-state and intra-state conflict, opposing Georgian and Russian forces at one level of confrontation as well as South Ossetians together with Abkhaz fighters and the

⁷¹ Human Rights Watch, *Studying Under Fire – Attacks on Schools Military Use of Schools during the Armed Conflict in Eastern Ukraine*, 2016, pp.27-28. See also Human Rights Watch, *Ukraine: More Civilians Killed in Cluster Munition Attacks – Both Sides Have Used Widely Banned Weapon*, 19 March 2015; Human Rights Watch, *Ukraine: Widespread Use of Cluster Munitions – Government Responsible for Cluster Attacks on Donetsk*, 20 October 2014; Report of the U.N. High Commissioner for Human Rights on the Human Rights Situation in Ukraine, 19 September 2014, paras.9-12; Report of the U.N. High Commissioner for Human Rights on the Human Rights Situation in Ukraine, 3 June 2016, para.3.

⁷² UNHCR Operational Update, 22 April 2016, p.2. See also Shaun Walker, "The Ukrainians starting a new life – in Russia", *The Guardian*, 5 January 2016; OCHA, *Humanitarian Response Plan*, January – December 2016, January 2016.

Georgians at another. Such a combination of conflicts going on at different levels is particularly prone to violations of International Humanitarian Law and Human Rights Law. This is indeed what happened, and many of these instances were due to the action of irregular armed groups on the South Ossetian side that would not or could not be adequately controlled by regular Russian armed forces.⁷³

The Mission's report attributes the cessation of hostilities between the parties to the French President Nicolas Sarkozy, acting on behalf the European Union, noting his exceptional diplomatic effort compared to the failure of the international community and the U.N. Security Council to resolve this conflict successfully:

After five days of fighting, a ceasefire agreement was negotiated on 12 August 2008 between Russian President Dmitry Medvedev, Georgian President Mikheil Saakashvili and French President Nicolas Sarkozy, the latter acting on behalf of the European Union. An implementation agreement followed on 8 September 2008, again largely due to the persistent efforts of the French President. This successful political action stood in contrast to the failure of the international community, including the UN Security Council, to act swiftly and resolutely enough in order to control the ever-mounting tensions prior the outbreak of armed conflict.⁷⁴

A report by the British House of Lords, a special BBC documentary about this war, the memoirs of U.S. President George W. Bush and Secretary of State Ms. Condoleezza Rice, and a commentary by Ronald Asmus and Richard Holbrooke in the Washington Post might undermine the confident story telling of the European Union's Mission regarding the conflict's inception and cessation.⁷⁵

The European Mission summarized the conflict's human losses as follows:

Human losses were substantial. At the end, the Georgian side claimed losses of 170 servicemen, 14 policemen and 228 civilians killed and 1,747 persons wounded. The Russian side claimed losses of 67 servicemen killed and 283 wounded. The South Ossetians spoke of 365 persons killed, which probably included both servicemen and civilians. Altogether about 850 persons lost their lives, not to mention those who were wounded, who went missing or the far more than 100 000 civilians who fled their homes. Around 35000 still have not been able to return to their homes.⁷⁶

From a legal point of view, however, it is not relevant who initiated the armed conflict for the purpose of identifying serious violations of international humanitarian law, international human rights law and individual criminal responsibility. Each participant in an armed conflict could commit such violations and its commanders and their

⁷³ UNHCR, Ukraine Situation – Emergency Response, 2015, p.7. See also Report of the U.N. Special Rapporteur on the Human Rights of Internally Displaced Persons in Ukraine, 2 April 2015.

⁷⁴ Report of the European Union Independent Fact Finding Mission on the Conflict in Georgia, September 2009, p.11.

⁷⁵ See House of Lords, European Union Committee, After Georgia – The EU and Russia: Follow Up-Report, 12 February 2009, para.8; “What really happened in South Ossetia?”, *BBC Two – News night*, 12 November 2008; George W. Bush, *Decision Points* (Crown, 2010), 433-435; Condoleezza Rice, *No Higher Honour – A Memoir of my Years in Washington* (Simon & Schuster, 2011), 681 – 693; Ronald Asmus & Richard Holbrooke, “Black Sea Watershed”, *Washington Post*, 11 August 2008. See also Adrian Blomfield, “Georgia: French President Nicolas Sarkozy ‘threatened to walk out’ of Russia talks”, *The Telegraph*, 9 September 2008.

⁷⁶ Report of the European Union Independent Fact Finding Mission on the Conflict in Georgia, September 2009, p.5.

subordinates could incur individual criminal responsibility. All parties to this conflict have allegedly engaged in such violations: The Georgian army, the Russian army, and Russian backed South Ossetian and Abkhazian armed groups.⁷⁷

On 1 April 2011 The International Court of Justice based in The Hague, the Netherlands, found that it has no jurisdiction to rule on Georgia's allegations filed towards the end of the conflict on 12 August 2008 that Russia had violated the International Convention on the Elimination of All Forms of Racial Discrimination prior and during the armed hostilities against ethnic Georgians in South Ossetia and Abkhazia by Russian authorities or separatists under Russian control. The Georgian application detailed the history of the tense relations with Russia.⁷⁸

On 11 August 2008 the Georgian government filed a similar application against Russia before the European Court of Human Rights alleging violations of the European Convention on Human Rights by Russian forces and separatists in South Ossetia and Abkhazia. In 2011 the Court held that the case is admissible before it and it is still pending.⁷⁹

The Georgian forces have allegedly violated the laws of war in their initial attack against Ossetian villages and during the subsequent ground operation:

On the night of August 7-8, Georgian forces subjected the city of Tskhinvali and several nearby Ossetian villages, including Nizhnii Gudjabauri and Khetagurovo, to heavy shelling. That night other villages were also shelled, though less heavily, including Tbeti, Novyi Tbeti, Sarabuki, Dmenisi, and Muguti. Tskhinvali was heavily shelled during daytime hours on August 8. Shelling resumed at a smaller scale on August 9, when Georgian forces were targeting Russian troops who by then had moved into Tskhinvali and other areas of South Ossetia....Georgian forces' indiscriminate use of force, using Grad and other weapons, led to civilian deaths and injuries.

...

Numerous witnesses interviewed by Human Rights Watch, including members of South Ossetian militias, indicated that South Ossetian forces were not only present in Tskhinvali and neighboring villages, but also actively participating in the fighting, including by launching artillery attacks against Georgian forces. The witnesses also made it clear that South Ossetian forces set up defensive positions or headquarters in civilian infrastructure, thus turning them into legitimate military targets... However, it is questionable whether the large-scale shelling carried out by Georgian forces against Tskhinvali and outlying villages could be considered a proportionate attack against Ossetian forces, including volunteer militias present in these areas. In some cases, as mentioned above, the very choice of indiscriminate weapons or weapons that cannot be targeted with precision (such as Grad launchers) would make attacks unlawful in populated areas. Even though the presence of the Ossetian forces may have made the area a *prima facie* legitimate target, the Georgian forces

⁷⁷ See Amnesty International, *Civilians in the Line of Fire: The Georgia – Russia Conflict*, 18 November 2008; Thomas Hammarberg, Council of Europe Commissioner for Human Rights, *Human Rights Affected by the South Ossetia Conflict*, Council of Europe, 8 September 2008 (reporting about a visit to the region between 22 and 29 August 2008).

⁷⁸ Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Georgia v. Russian Federation*), Preliminary Objections, Judgment, I.C.J. Reports 2011, p. 70.

⁷⁹ See ECHR Case No. 38263/08 *Georgia v. Russia*.

were still obliged to calculate whether the risk of harming civilians with the Grad rockets was too high to justify the military advantage sought.⁸⁰

The Georgian ground operation in South Ossetia did not follow basic rules of international humanitarian law:

Even when the presence of Ossetian militias meant that apartment buildings could be legitimate targets, it was not apparent from the evidence of the aftermath of the attack that the Georgian military had taken all feasible precautions to minimize the harm to civilians. It is clear, however, that the military tactics they used caused civilian casualties and significant damage to civilian property.⁸¹

The Russian army violated international humanitarian law by conducting indiscriminate attacks in South Ossetia and other sovereign Georgian territory by using aerial, artillery, and tank fire strikes some of which could amount to war crimes. It also intentionally targeted civilians. Ossetian armed group pillaged and destroyed property owned by Georgians under the patronage and protection of the Russian military.⁸²

According to Amnesty International the dynamic of the Russian – Georgia military engagement took the following nature:

As with the Georgian bombardment of Tskhinvali and the surrounding Ossetian villages, the Russian bombardment of populated areas could not be described as blanket bombing. Most of the bombing would appear to have targeted Georgian military positions outside built up areas. However, villages and towns were hit, even if the damage would appear to be limited to stretches of streets and isolated houses here and there in the villages affected.

Unlike the Georgian assault on Tskhinvali, the Russian bombing took the form of isolated attacks on a range of targets, over a wide area and over a period of several days, as the military situation on the ground evolved.

Eyewitness accounts of many of these attacks clearly point to the presence of military targets in the vicinity. However, Amnesty International delegates also heard a number of accounts in which civilians and civilian objects were struck by aerial and missile attacks in the apparent absence of nearby military targets. Amnesty International is consequently concerned that civilians and civilian objects may have been directly attacked in violation of Article 51(3) of Protocol 1 to the Geneva Conventions, or that they were hit in the course of indiscriminate attacks in violation of Article 51(4).⁸³

The Ossetian armed groups backed by the Russian military carried out an exceptionally brutal campaign against ethnic Georgians:

⁸⁰ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, January 2009, pp.41, 46, 50, 51.

⁸¹ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, January 2009, p.59.

⁸² Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, January 2009, pp. 87-126.

⁸³ Amnesty International, *Civilians in the Line of Fire: The Georgia – Russia Conflict*, 18 November 2008, p.29.

As tensions mounted in the first week of August 2008, some inhabitants of ethnic Georgian villages that had Tbilisi-backed administrations fled to undisputed Georgian territory. Most of the others fled on the first day of the hostilities. Ethnic Georgians who remained did so either because they were infirm, because they wanted to protect their homes, or simply because they could not bring themselves to leave their homes. Beginning August 10, after Russian ground forces had begun to fully occupy South Ossetia and were moving onward into undisputed Georgian territory, Ossetian forces followed closely behind them and entered the ethnic Georgian villages. Upon entering these villages, Ossetian forces immediately began going into houses, searching for Georgian military personnel, looting property, and burning homes. They also physically attacked many of the remaining residents of these villages, and detained dozens of them. Human Rights Watch received uncorroborated reports of at least two extrajudicial killings of ethnic Georgians in South Ossetia that took place amidst the pillaging. In most cases, Russian forces had moved through the Georgian villages by the time South Ossetian forces arrived. In other cases, Russian forces appeared to give cover to South Ossetian forces while they were committing these offenses. By August 11, the attacks intensified and became widespread. Looting and torching of most of these villages continued intermittently through September, and in some through October and November.⁸⁴

The August 2008 conflict in Georgia resulted in the displacement of 134,000 people, 102,800 of whom managed to return by November the same year.⁸⁵ The systematic destruction of property contributed significantly to this displacement.⁸⁶

Syria

The Syrian Tragedy in Figures

The human catastrophe of the Syrian conflict has been staggering. Since the beginning of the conflict in Syria in 2011 it is estimated that more than 192,000 people lost their lives. From mid- 2014 the United Nations stopped proclaiming the number of dead in the Syrian conflict because of inherent evaluation difficulties, which include the daunting task of assessing the victim's status as a combatant or non-combatant.⁸⁷ In February 2016 The Syrian Center for Policy Analysis operating from Damascus found that the armed conflict "badly harmed human development in Syria where the fatalities in 2015 reached about 470,000 deaths..."⁸⁸

⁸⁴ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, January 2009, p.130.

⁸⁵ UNHCR Global Report, Georgia, 2008, p.34.

⁸⁶ See OCHA, *Humanitarian Assessment Mission to South Ossetia, 16 – 20 September 2008*; Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, 14 January 2009.

⁸⁷ See Megan Price, Anita Ghodes, Patrick Ball, *Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic* commissioned by the UNHCHR (Human Rights Data Analysis Group, August 2014), <https://hrdag.org/2014/08/22/updated-casualty-count-for-syria/>

⁸⁸ Syrian Center for Policy Research, *Confronting Fragmentation! – Impact of Syrian Crisis Report 2015*, p.61, February 2016. The report was released at the American University in Beirut, Lebanon: <http://scpr-syria.org/events/launching-workshop-of-the-confronting-fragmentation-report/> (Arabic). See also Ian Black, "Report on Syria conflict finds 11.5% of population killed or injured", *The Guardian*, 11 February 2016; Anne Barnard, "Death Toll from War in Syria Now 470,000, Group Finds", *New York Times*, 11 February 2016; Adam Taylor, "The Syrian war's death toll is absolutely staggering. But no one can agree on the number.", *Washington Post*, 15 March 2016.

According to the United Nations Refugee Agency as of July 2016 the Syrian civil war produced 4,835,930 refugees.⁸⁹ The receiving countries of Syrian refugees have been Turkey (2,733,850), Lebanon (1,048,275), Jordan (657,433), Iraq (249,395), Egypt (117,702) and North Africa (29,275). In addition, 6.5 million have been internally displaced in Syria as a result of the conflict.⁹⁰ The humanitarian condition of Syrians is devastating. In 2016 the United Nations Office for Humanitarian Affairs summarized the humanitarian needs in Syria as follows:

In 2016, an estimated 13.5 million people, including 6 million children, are in need of humanitarian assistance. Of these 5.47 million people are in hard-to-reach areas, including close to 600,000 people in 18 besieged areas.

According to current figures, 11.5 million Syrians require health care, 13.5 million need protection support and 12.1 million require water and sanitation, while 5.7 million children need education support, including 2.7 million who are out of school in Syria and across the region. About 2.48 million people are food insecure, while more than 1.5 million need shelter and household goods.

Syria's development situation has regressed almost by four decades. Four out of five Syrians now live in poverty. Since the crisis began in 2011, life expectancy among Syrians has dropped by more than 20 years, while school attendance has dropped over 50 per cent, with more than 2 million children now out of school. Syria has also seen reversals in all 12 Millennium Development Goal indicators. The Syrian economy has contracted by an estimated 40 per cent since 2011, leading to the majority of Syrians losing their livelihoods.

Humanitarian access to people in need in Syria remains constrained by ongoing conflict, shifting frontlines, administrative and bureaucratic hurdles, violence along access routes and general safety and security concerns in contravention of international law, international humanitarian law and human rights law.⁹¹

From Protest to Civil War

The Syrian conflict began in March 2011 as a non-violent protest against the Syrian regime. Some observers linked this revolt to the regional demonstrations that were taking place in the Arab world dubbed as 'the Arab Spring'. The rule of the Syrian Baath party can be traced at least to 1970 when Assad the father staged a coup seizing power in the country. Following the death of Hafez Assad from heart attack in 2000⁹² his 34 years old son Bashar became president after receiving 97% of a referendum vote in which he was the sole nominee.⁹³

The Soviet inspired Syrian military maintained authoritarian presence in Lebanon from the mid-1970s and was part of the civil war in the country (1975 – 1990). It withdrew from Lebanon in April 2005 as a result of national and international pressure

⁸⁹ See <http://data.unhcr.org/syrianrefugees/regional.php>.

⁹⁰ <http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>. See also Report of the U.N. Special Rapporteur on the human rights of internally displaced persons, Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic, 15 July 2013; Report of the U.N. Special Rapporteur on the human rights of internally displaced persons, Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic, 5 April 2016.

⁹¹ <http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>. See also Jonathan Littell, "What Happened in Homs", *NYR Daily*, 18 March 2015.

⁹² See "Obituary: Hafez al-Assad", *The Telegraph*, 12 June 2000.

⁹³ See "Syrian President Bashar al-Assad: Facing down rebellion", *BBC*, 21 October 2015.

in the wake of the assassination of former Lebanese Prime Minister Rafiq Hariri in Beirut two months earlier.⁹⁴ This murder has been the subject of a combined domestic and international investigation as well as prosecution by the Special Tribunal for Lebanon located in The Hague, the Netherlands. There have been indications and evidence about Egyptian – Saudi meddling in Lebanese affairs through the Syrian – Lebanese security apparatus. Long time Syria's ally Iran maintained significant influence in Lebanon through the Lebanese Shia community and the armed groups that it generated: Amal and Hizbollah. Most, and probably all, of these political actors are present in the current Syrian civil war.

In March 2011 protest demanding democracy in Syria was triggered by the torture of teenagers from the southern city of Deraa who painted slogans on a school wall. The shooting and killing of demonstrators by Syrian forces instigated more protest which escalated to a nationwide demonstrations demanding the resignation of President Bashar Assad. The government used excessive force to confront the protests. By July 2011 hundreds of thousands were protesting against the Syrian regime.⁹⁵ In September 2011 there were clear indications that the opposition to the Syrian government was becoming armed as well. Defections from the Syrian army became common and arming was significant from the north eastern city of Homs (which is north west of Lebanon). Armed clashes occurred in several locations. According to a U.S. official quoted by the New York Times in September 2011:

An American administration official, speaking on condition of anonymity, said armed insurgents were still operating in Idlib, in the northwest, and diplomats believe sporadic clashes have also erupted in Dara'a, the southern town where the uprising began; Deir al-Zour, an eastern region knit by extended clans; Rastan, between Homs and Hama; and the outskirts of Damascus, which remain some of Syria's most restive locales. Residents of Homs, in particular, are believed to be arming... We're already seeing the beginning of it, and the longer it goes on, the worse it's going to be,' the official, in Washington, said. 'It's a very concerning development.'⁹⁶

Throughout 2012 Saudi Arabia and Qatar provided financial support and armament to the Free Syria Army and encouraged defections from the Syrian forces through monetary incentives. This backing took place in Turkey in which the Free Syria Army established a headquarter. According to the Guardian:

Turkey, Saudi Arabia and Qatar were all allies of Syrian leader Bashar al-Assad until several months into the uprising, which now poses a serious threat to his family's 42-year rule over the country.

All three states have become increasingly hostile as the revolt has continued, with Saudi Arabia in February describing the suggestion to arm rebel groups as an "excellent idea" and Qatar having offered exile to Assad and his family.⁹⁷

Former Saudi ambassador to the United States and at the beginning of the Syrian conflict Chief of Saudi Intelligence (HRH) Bandar bin Sultan led the effort to finance

⁹⁴ "Ceremony marks departure of last Syrian troops", *The Guardian*, 26 April 2005.

⁹⁵ See "Syria: The story of the conflict", *BBC*, 11 March 2016.

⁹⁶ Anthony Shadid, "Syria's Protesters, Long Mostly Peaceful, Starting to Resort to Violence", *New York Times*, 16 September 2011.

⁹⁷ Martin Chulov & Ewen MacAskill, "Saudi Arabia plans to fund Syria rebel army", *The Guardian*, June 2012.

as well as arm Syrian military opposition, and instigated defections from the Syrian army:

Bandar took over the Syria "file" from the king's son Abdelaziz, a deputy foreign minister. The move also followed rumors of inefficiency at the intelligence agency. Bandar organized the visit of Manaf Tlass, the Sunni general and Assad associate who defected from Syria in July. Shortly after his appointment it was rumored – evidently falsely – that he had been killed in an explosion in Riyadh. Iranian and pro-Assad media suggested it was retaliation for the assassination of four of Assad's senior security chiefs in a bomb attack in Damascus a few days earlier.

...

In a rare public glimpse of his movements, Bandar was reported to be in the Qatari capital Doha on Wednesday, holding talks with the Emir, Sheikh Hamad. It would be surprising if the Syrian crisis was not on their agenda. "We need to wait and see what Bandar will do with the Syria file," said one Saudi source. "People will be watching carefully."⁹⁸

The Islamic State in Iraq and the Levant formed in April 2013 has been operating in Syria and has managed to control significant amount of territory in the country. Its leaders come from the former Iraqi military and it managed to gain substantial wealth from control of oil fields, extortion and Saudi and Qatari funding.⁹⁹ Its methodology is inherently criminal lacking any attempt to adhere to basic norms of international law and civilized society. The presence of this group and other radical Islamist organizations in Syria such as Al-Nusra Front and what is known as 'foreign fighters' (Islamists from the entire globe who travel to fight for a peculiar cause) further escalated the civil war in Syria.¹⁰⁰ In August 2013 the Syrian government used chemical weapons against its population near Damascus causing extensive death and suffering.¹⁰¹

In December 2012 the U.S. government decided to grant the Syrian opposition political recognition, and subsequently it provided arms and training to Syrian rebels realizing the inherent difficulties to successfully organize them.¹⁰²

On 10 September 2014, the President of the United States Barack Obama announced the formation of a broad international coalition to defeat The Islamic State of Iraq and the Levant (ISIL) emphasizing, "Our objective is clear: We will degrade, and ultimately destroy, ISIL through a comprehensive and sustained counter-terrorism strategy."¹⁰³ The U.S. Department of State's website refers to U.N. Security Council

⁹⁸ Ian Black, "Prince Bandar bin Sultan – profile", *The Guardian*, 10 October 2012.

⁹⁹ "How ISIS Works", *New York Times*, 16 September 2014; David Blair & Richard Spencer, "How Qatar is funding the rise of Islamist extremists", *The Telegraph*, 20 September 2014.

¹⁰⁰ See U.N. Security Council resolutions 2170 of 15 August 2014; 2178 of 24 September 2014; 2199 of 12 February 2015; and 2249 of 20 November 2015; Ashley Kirk, "Iraq and Syria: How many foreign fighters are fighting for Isil?", *The Telegraph*, 24 March 2016; The Soufan Group, Foreign Fighters – An Updated Assessment of the Flow of Foreign Fighters into Syria and Iraq, (The Soufan Group, December 2015); Richard Barrett, Foreign Fighters in Syria, (The Soufan Group, June 2014).

¹⁰¹ See U.N. Security Council resolution 2118 of 27 September 2013.

¹⁰² See Eric Schmitt, "C.I.A. Said to Aid in Steering Arms to Syrian Opposition", *New York Times*, June 2012; Mark Landler et al, "U.S. Will Grant Recognition to Syrian Rebels, Obama Says", *New York Times*, 11 December 2012; Tara McKelvey, "Arming Syrian rebels: Where the US went wrong", *BBC*, 10 October 2015; Liz Sly, "The last remaining Pentagon-trained rebel group in Syria is now in jeopardy", *The Washington Post*, 27 May 2016; Anne Barnard, "Syrian Opposition Groups Sense U.S. Support Fading", *New York Times*, 9 February 2016; Ewen MacAskill, "Who are these 70,000 Syrian fighters David Cameron is relying on?", *The Guardian*, 30 November 2015.

¹⁰³ See <http://www.state.gov/s/seci/index.htm>

resolution 2170 of 15 August 2014 in the context of establishing the coalition which its main concern is national measures to be taken by states to combat terrorism, prohibit its finance, and prevent the travel of ‘foreign fighters’ to Syria.¹⁰⁴ Adopted under Chapter VII of the U.N. Charter the resolution reaffirmed the need:

[T]o combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights, refugee and humanitarian law, threats to international peace and security caused by terrorist acts...

U.S. led coalition airstrikes in Syria commenced on 22 September 2014 pursuant to this legal framework.¹⁰⁵

The Syrian civil war situation became comprised of several rivalries. The U.S. led coalition supported non radical Islamist rebel groups and Kurds that opposed Assad’s regime and fought against ISIL and other similar Islamist groups. The latter are supposedly the enemies of the Syrian government as well. The Lebanese armed group Hezbollah joined the Syrian conflict in May 2013 in support of the government backed by its patron Iran.¹⁰⁶ Although Saudi Arabia was officially part of the US led coalition, it continued to provide financial support to chaotic Islamists.¹⁰⁷ In September 2015 Russia entered the Syrian conflict in support of the Assad regime alleging its desire to assist in combating ISIL and its affiliates.¹⁰⁸

Significant Violations of the Laws of War and Human Rights

The Syrian Government’s Excessive Use of Force against its Opposition

In November 2011 the U.N. Independent International Commission of Inquiry on the Syrian Arab Republic (UNCOI) found that the conflict in Syria had deteriorated to an internal armed conflict, and that the Syrian government perpetrated crimes against humanity against its population in different parts of the country:

The scale of these attacks against civilians in cities and villages across the country, their repetitive nature, the levels of excessive force used consistently by units of the armed forces and diverse security forces, the coordinated nature of these attacks and the evidence that many attacks were conducted on the orders of high-ranking military officers all lead the commission to conclude that the attacks were apparently conducted pursuant to a policy of the State.

¹⁰⁴ See U.N. Security Council resolution 2170 of 15 August 2015.

¹⁰⁵ Claudette Roulo, “U.S. Begins Airstrikes Against ISIL in Syria”, DoD News, <http://www.defense.gov/News-Article-View/Article/603300/us-begins-airstrikes-against-isil-in-syria>

¹⁰⁶ Sergia Pecanha, Sarah Almukhtar and K.K. Rebecca Lai, “Untangling the Overlapping Conflicts in the Syrian War”, *New York Times*, 18 October 2015; Anne Barnard, “Hezbollah Commits to an All-Out Fight to Save Assad”, *New York Times*, 25 May 2013. According to the website of the U.S. Department of Defense as of 12 July 2016 the U.S. led coalition conducted 4,530 strikes over Syria, 4,283 by the U.S. and the rest by other members of the coalition (Australia, Bahrain, Canada, France, Jordan, The Netherlands, Saudi Arabia, Turkey, UAE, and UK). See: http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve. See also Michael S. Schmidt & Mark Mazetti, “A Top ISIS Leader Is Killed in an Airstrike, the Pentagon Says”, *New York Times*, 25 March 2016.

¹⁰⁷ Kim Sengupta, “Turkey and Saudi Arabia alarm the West by backing Islamist extremists the Americans had bombed in Syria”, *The Independent*, 12 May 2015; King Salman visits White House at last”, *The Economist*, 5 September 2015; Michael Shear & Ben Hubbard, “Obama and King Salman of Saudi Arabia Meet, but Deep Rifts Remain”, *New York Times*, 20 April 2016; “Barak Obama makes a swift trip to Riyadh”, *The Economist*, 21 April 2016; Joh Hudson, “After U.S. Arrival, Saudi Prince Remains Off White House Schedule”, *New York Times*, 14 June 2016.

¹⁰⁸ Ben Quinn, “Russia’s military action in Syria – timeline”, *The Guardian*, 14 March 2016.

...

The commission is thus gravely concerned that crimes against humanity of murder, torture, rape or other forms of sexual violence of comparable gravity, imprisonment or other severe deprivation of liberty, enforced disappearances of persons and other inhumane acts of a similar character have occurred in different locations in the country since March 2011, including, but not limited to, Damascus, Dar'a, Duma, Hama, Homs, Idlib and along the borders.¹⁰⁹

The UNCOI further found that the Shabbiha, which is a non-official group affiliated with the Syrian government committed serious violations of the laws of war and international human rights, including unlawful killings, torture, destruction of property and pillage. With regards to unlawful killings the UNCOI documented the following systematic violations:

Many forms of unlawful killing took place in the context of attacks against anti Government armed group strongholds. The most prominent pattern began with a blockade, then shelling, use of snipers, and an assault by ground forces including Shabbiha followed by house searches. Defectors, activists or fighting aged men were systematically sought out during these operations. Wounded or captured Anti-Government fighters (i.e. hors de combat) were executed. In some cases, family members of fighters, defectors and activists as well as others who appeared to be randomly selected, were also executed.¹¹⁰

The Syrian government's pervasive violations of human rights and international law together with its affiliated forces, particularly the Shabbiha, continued throughout the conflict which persists to this day.¹¹¹ It tortured on a massive scale throughout this conflict.¹¹²

The Syrian government used cluster munition against its opponents.¹¹³ This type of weapon poses an immediate threat to civilians during conflict by randomly scattering sub-munitions or bomblets over a wide area. They continue to pose a threat subsequent to the conflict by leaving remnants, including sub-munitions that fail to explode upon impact becoming de facto landmines. The 2008 Convention on Cluster

¹⁰⁹ UNCOI report, 23 November 2011, paras.102, 108. See also Human Rights Watch, "We've Never Seen Such Horror" – Crimes Against Humanity by Syrian Security Forces, June 2011; Human Rights Watch, "We Live as in War" – Crackdown on Protesters in the Governance of Homs, November 2011; Human Rights Watch, "By All Means Necessary!" – Individual and Command Responsibility for Crimes against Humanity in Syria, December 2011; Human Rights Watch, In Cold Blood – Summary Executions by Syrian Security Forces and Pro-Government Militias, April 2012; Human Rights Watch, "They Burned my Heart" – War Crimes in Northern Idlib during Peace Plan Negotiations, May 2012; Human Rights Watch, Torture Archipelago – Arbitrary Arrests, Torture and Enforced Disappearances in Syria's Underground Prisons since March 2011, July 2012; Human Rights Watch, Death from the Skies – Deliberate and Indiscriminate Air Strikes on Civilians, April 2013; Human Rights Watch, Safe No More – Students and Schools under Attack in Syria, June 2013; Human Rights Watch, "No One Left" – Summary Executions by Syrian Forces in al-Bayda and Baniyas, September 2013; Human Rights Watch, Razed to the Ground - Syria's Unlawful Neighbourhood Demolitions in 2012 – 2013, January 2014.

¹¹⁰ UNCOI report, 16 August 2012, p.69. See also p.86, 100 (for torture, property destruction and pillaging).

¹¹¹ UNCOI report, 11 February 2016.

¹¹² Human Rights Watch, If the Dead Could Speak – Mass Deaths and Torture in Syria's Detention Facilities, 2015; Amnesty International, 'It Breaks the Human' - Torture, Disease, and Death in Syria's Prisons, 18 August 2016.

¹¹³ See Human Rights Watch, Technical Briefing Note – Use of Cluster Munitions in Syria, 4 April 2014, https://www.hrw.org/sites/default/files/supporting_resources/syria_briefingnotecm_4apr2014.pdf

Munitions which Syria has not joined prohibits the use, production, transfer, and stockpiling of cluster munitions.¹¹⁴

The Use of Chemical Weapons by the Syrian Government

On 21 August 2013 the Syrian government used chemical weapons in the Damascus suburbs against alleged opposition to the regime, killing more than 1,400 people, including at least 426 children. A White House report issued 9 days after the chemical attack based on multiplicity of sources including spatial intelligence information, refuted the Syrian regime's claim that the chemical attack was carried out by opposition groups:

We assess with high confidence that the Syrian government carried out the chemical weapons attack against opposition elements in the Damascus suburbs on August 21. We assess that the scenario in which the opposition executed the attack on August 21 is highly unlikely. The body of information used to make this assessment includes intelligence pertaining to the regime's preparations for this attack and its means of delivery, multiple streams of intelligence about the attack itself and its effect, our post-attack observations, and the differences between the capabilities of the regime and the opposition. Our high confidence assessment is the strongest position that the U.S. Intelligence Community can take short of confirmation.

...

The Syrian regime has initiated an effort to rid the Damascus suburbs of opposition forces using the area as a base to stage attacks against regime targets in the capital. The regime has failed to clear dozens of Damascus neighbourhoods of opposition elements, including neighbourhoods targeted on August 21, despite employing nearly all of its conventional weapons systems. We assess that the regime's frustration with its inability to secure large portions of Damascus may have contributed to its decision to use chemical weapons on August 21.¹¹⁵

The assessment of the British Joint Intelligence Committee was similar to the American evaluation.¹¹⁶ There have been indication of additional use of chemical weapons by the Syrian government, although not at the same scale of the August 2013 attack.¹¹⁷ This attack is reminiscent of Saddam Hussein's use of chemical weapons against his people, including in the city of Halabja in March 1988 during the Iraq - Iran war (1980 - 1988) which killed approximately 70,000.¹¹⁸

¹¹⁴ For a systematic attempt to gather evidence about the Syrian regime's crimes see Julian Borger, "Syria's truth smugglers", *The Guardian*, 12 May 2015; Ben Taub, "The Assad Files – Capturing the top-secret documents that tie the Syrian regime to mass torture and killings", *The New Yorker*, 18 April 2016.

¹¹⁵ U.S. Government Assessment of the Syrian Government's Use of Chemical Weapons on August 21, 2013, <https://www.whitehouse.gov/the-press-office/2013/08/30/government-assessment-syrian-government-s-use-chemical-weapons-august-21>

¹¹⁶ See Letter from the Chairman of the Joint Intelligence Committee regarding Syria: Reported Chemical Use, 29 August 2013; Nicholas Watt et al, "Syria: UK intelligence blames Assad regime for chemical attacks", *The Guardian*, 29 August 2013; *Syria chemical attack: What we know*, BBC, 24 September 2013.

¹¹⁷ See Editorial Board, "Obama gives Syria's Assad another pass on chemical weapons", *Washington Post*, 23 October 2014; David Blair, "Assad's forces have 'used sarin nerve gas' for the first time since Syria's notorious 2013 massacre", *The Telegraph*, 17 May 2016; UNSC resolutions 2209 of 6 March 2015 and 2235 of 7 August 2015.

¹¹⁸ See John Simpson, "Halabja chemical weapons: A chance to find the men who armed Saddam", BBC, 3 December 2012.

A United Nations investigating mission appointed by the U.N. Secretary General confirmed the use of chemical weapons by the Syrian government on 21 August 2013. The investigating mission was appointed on 26 March 2013 based on U.N. General Assembly resolution 42/37C and U.N. Security Council resolution 620 (1988). The members of the investigating mission arrived in Damascus on 18 August 2013, three days before the major chemical attack, to inquire about earlier possible use of chemical weapons by the Syrian government. According to the mission's report:

Having arrived in the Syrian Arab Republic on 18 August 2013, we were in Damascus on the 21 August preparing to conduct on-site inspections in connection with our investigation into the allegations concerning the use of chemical weapons in Khan al-Asal and in Sheikh Maqsood and Saraqeb. Based on several reports of allegations on the use of chemical weapons in the Ghouta area of Damascus on 21 August 2013, you instructed us to focus our investigation efforts on the Ghouta allegations. We, therefore, proceeded to conduct on-site inspections in Moadamiyah in West Ghouta and Ein Tarma and Zamalka in East Ghouta.¹¹⁹

The investigating mission concluded that the Syrian government used chemical weapons against civilians and children:

On the basis of the evidence obtained during our investigation of the Ghouta incident, the conclusion is that, on 21 August 2013, chemical weapons have been used in the ongoing conflict between the parties in the Syrian Arab Republic, also against civilians, including children, on a relatively large scale.

In particular, the environmental, chemical and medical samples we have collected provide clear and convincing evidence that surface-to-surface rockets containing the nerve agent Sarin were used in Ein Tarma, Moadamiyah and Zamalka in the Ghouta area of Damascus.¹²⁰

The Syrian government had denied using chemical weapons, and the Russian government questioned allegations against the Syrian government in this regard.¹²¹

In addition, Syrian forces have been suspected of using chemical weapons in the town of Saraqeb south of Aleppo twice: on 29 April 2013 and on 2 August 2016 causing sickness and injuries to many people.¹²² According to a report by United Nations specialists, other locations in Syria have been targeted by chemical weapons, including attacks directed against Syrian soldiers, although the findings in this regard have been extremely vague.¹²³

Violations by Rebel and Radical Islamist Groups

¹¹⁹ U.N. Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013, September 2013, para.15.

¹²⁰ U.N. Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013, 16 September 2013, para.27. See also Human Rights Watch, Attacks on Ghouta – Analysis of Alleged Use of Chemical Weapons in Syria, September 2013.

¹²¹ David Jolly, "Russia Urges Syria to Cooperate in Chemical Weapons Inquiry", *New York Times*, August 2013.

¹²² See "Syria crisis: 'Strong evidence' of chemical attacks, in Saraqeb", *BBC*, 16 May 2013; "Syrian conflict: Saraqeb 'attacked with chlorine gas'", *BBC*, 2 August 2016.

¹²³ David Jolly, "Russia Urges Syria to Cooperate in Chemical Weapons Inquiry", *New York Times*, August 2013.

Anti-Government groups engaged in unlawful killing, torture and ill treatment, usually of captured adversaries. These acts constitute war crimes:

The commission considered corroborated evidence of killing hors de combat soldiers and Shabbiha. In Al Qusayr, Bab Amr, Qaldiya and elsewhere, the commission noted that persons captured by anti-Government armed groups on occasion faced a quasi-judicial process prior to their execution. A consistent account of the trial process has not been forthcoming, nor has information on the extent of adherence to fair trial standards. Executing a prisoner without affording fundamental judicial guarantees is a war crime.

The commission concluded that information on executions perpetrated by anti-Government armed groups — with or without a trial — constituted reasonable grounds to believe that the war crimes of murder or of sentencing or execution without due process had been committed on several occasions. The commission was not able to corroborate alleged attacks directed against individual civilians not participating in hostilities or against a civilian population.¹²⁴

With regard to torture and ill-treatment the COI found that:

The commission found reasonable grounds to believe that torture and other forms of ill-treatment were committed by anti-Government armed groups during interrogation of captured members of Government forces and the Shabbiha. It determines that severe pain was inflicted to punish, to humiliate or to extract information.¹²⁵

These and similar violations continued throughout the Syrian conflict.¹²⁶

The Islamic State in Iraq and the Levant which has been operating in Syria killed many individuals in public and kidnapped children for the purpose of prisoners' exchange deal with Kurdish forces:

Executions in public spaces have become a common spectacle on Fridays in Ar Raqqa and ISIS-controlled areas of Aleppo governorate. ISIS informs residents beforehand and encourages them to attend. In some cases, ISIS forces passers-by to attend. Children have been present at the executions, which take the form of beheading or shooting in the head at close range. Before executions, ISIS fighters announce the victims' crimes. Bodies are placed on public display, often on crucifixes, for up to three days, serving as a warning to local residents.

Victims are usually accused of being affiliated with other armed groups, or of violating the ISIS criminal code. There have also been examples of the execution of men accused of being affiliated with the Syrian National Coalition, or of spying for the Government. The majority of those executed are adult men. ISIS has also executed several boys, aged between 15 and 17 years, who were reportedly members of other armed groups. In July, two women were stoned to death by an ISIS-sanctioned mob in different locations in Ar Raqqa governorate.

¹²⁴ UNCOI report, 23 November 2011, paras.59-60. See also Human Rights Watch, "You Can Still See Their Blood" – Executions, Unlawful Killings, and Hostage Taking by Opposition Forces in Latakia Countryside, October 2013.

¹²⁵ UNCOI report, 23 November 2011, para.88.

¹²⁶ UNCOI report, 11 February 2016. See also Amnesty International, 'Torture was my Punishment' – Abductions, Torture, and Summary Killings under Armed Group Rule in Aleppo and Idleb, Syria, 5 July 2016.

...

On 29 May, ISIS fighters in Minbij abducted 153 Kurdish schoolboys, aged 13 and 14 years old, as they returned to Ayn al-Arab from Aleppo city, where they had taken their year-end examinations. Five boys escaped and 15 were released on 28 June, reportedly as part of a prisoner exchange for three ISIS fighters held by YPG (Kurdish forces – MD). The 133 remaining hostages are in ISIS-controlled territory. Negotiations for a prisoner exchange with YPG are said to be ongoing.¹²⁷

US Led Coalition

The United States led coalition against the Islamic State was formed on 10 September 2014.¹²⁸ Airstrikes in Syria commenced on 22 September 2014.¹²⁹ It is not clear whether and to what extent the airstrikes caused illegitimate civilian death as defined by international humanitarian law.¹³⁰ According to an assessment conducted by the U.S. military at least 40 civilians died and 28 injured as a result of the U.S. led coalition airstrikes in Iraq and Syria.¹³¹ The U.S. military alleged that these deaths and injuries were not justified because the civilian victims did not directly participate in hostilities, but the harm inflicted occurred despite the military's adherence to the rules of international humanitarian law.

Russian Bombardment

On 30 September 2015 the Russian parliament approved Vladimir Putin's request to use military power in Syria in support of the Syrian government.¹³² Although the declared purpose of the Russian military's intervention was to combat the extremist organization ISIL, Russian airstrikes have targeted other, more moderate, opposition groups to the Syrian regime.¹³³ Russia did not justify its military intervention in Syria by a U.N. Security Council resolution, nor did it proclaim the existence of a binding defence agreement with Syria, although it declared its interest of reaching stability and a political settlement that includes all components of the Syrian people. The Syrian President Bashar Assad welcomed Russia's military intervention stating that it should be in line with international law.¹³⁴

Amnesty International researched six attacks by Russian forces between 30 September and 29 November 2015 in five governorates: Homs, Hama, Idleb, Latakia, and Aleppo. In five of the attacks, suspected Russian air strikes targeted residential areas,

¹²⁷ UNCOI report, 13 August 2014, paras.30-31, 42. See also Amnesty International, Rule of Fear: Isis Abuses in Detention in Northern Syria, 19 December 2013; Human Rights Watch, Under Kurdish Rule - Abuses in PYD-run Enclaves of Syria, June 2014; Human Rights Watch, "Maybe We Live and Maybe We Die" – Recruitment and Use of Children by Armed Groups in Syria, June 2014; Human Rights Watch, "He Didn't Have to Die" – Indiscriminate Attacks by Opposition Groups in Syria, March 2015.

¹²⁸ See <http://www.state.gov/s/sect/index.htm>

¹²⁹ Claudette Roulo, "U.S. Begins Airstrikes Against ISIL in Syria", DoD News, 22 September 2014, <http://www.defense.gov/News-Article-View/Article/603300/us-begins-airstrikes-against-isil-in-syria>

¹³⁰ See Tim McTague, "Isis air strikes: Civilian death toll from western bombing 'set to reach 1,000 within days', *The Independent*, 5 March 2016.

¹³¹ See Terry Moon Cronk, Centcom Releases Civilian Casualty Assessments, DoD Media Activity, April 2016, <http://www.defense.gov/News-Article-View/Article/741155/centcom-releases-civilian-casualty-assess-ments>; Centcom releases Iraq and Syria civilian casualty assessments, 22 April 2016, <http://www.centcom.mil/news/press-release/april-22-u.s.-central-command-releases-iraq-and-syria-civilian-casualty>.

¹³² See "Russia joins war in Syria: Five key points", *BBC*, 1 October 2015.

¹³³ See Andrew E. Kramer & Anne Barnard, "Russian Soldiers Join Syria Fight", *New York Times*, 5 October 2015.

¹³⁴ "Syria conflict: Assad in surprise visit to Moscow", *BBC*, 21 October 2015.

killing 119 civilians. The sixth attack concerns air strikes in the immediate vicinity of a hospital in which 13 civilians were killed.¹³⁵ The Russian military has used cluster munition systematically which is inherently indiscriminate and its use is prohibited by an international treaty.¹³⁶ The current number of Syrian civilian casualties as a result of Russian airstrikes is estimated to be significantly higher.¹³⁷

In May 2016 Amnesty International estimated that hundreds of civilians in Aleppo have been deliberately targeted by Syrian and Russian forces since 21 April 2016, which included direct attacks against hospitals:

The UN Security Council should impose targeted sanctions on all those carrying out deliberate attacks on hospitals and other war crimes, said Amnesty International as it released harrowing testimony revealing how

hundreds of civilians, including children, have been killed by intensified Syrian government air strikes since 21 April.

...

‘We have documented how Russian and Syrian government forces systematically targeted hospitals in opposition-controlled areas around Aleppo as a strategy of war. As the ceasefire unravels, such blatant breaches of international law must not be allowed to continue.’ (AI official – MD)

One doctor who was working in al-Quds hospital when it was bombed told Amnesty International that the rocket hit the emergency room, killing 27 medical staff, workers and patients. He said there were more medical staff than usual in the emergency room because of the intensity of shelling in Aleppo that day and the high number of casualties brought in.¹³⁸

Chechnya

Chechnya is a republic within the Russian Federation. The tense relations between the two has a long history that predates Tsarist and Stalinist Russia.¹³⁹ A 1989 Soviet census concluded that 1,084,000 people live in Chechnya: 715,000 Chechens, 269,000 ethnic Russians, and 25,000 Ingush.¹⁴⁰ Since the early 1990s the attempts of major forces within Chechnya to gain independence from Russia generated two armed conflicts. The first lasted for two years (1994 – 1996) the second commenced in 1999 and officially ended in April 2009,¹⁴¹ although the original tension remains. Large

¹³⁵ Amnesty International, “‘Civilian Objects Were Undamaged’ – Russia’s Statements on its Attacks in Syria Unmasked, 2015, p.5.

¹³⁶ Human Rights Watch, “Syria: New Russian – Made Cluster Munition Reported”, 10 October 2015; Human Rights Watch, “Russia/Syria: Extensive Recent Use of Cluster Munitions”, 20 December 2015; Human Rights Watch, “Russia/Syria: Daily Cluster Munition Attacks”, 8 February 2016; Jonathan Marcus, “Russian cluster munitions: now you see them, now you don’t?”, *BBC*, 20 June 2016.

¹³⁷ See Emma Graham-Harrison, “Killed by a Russian bomb, a five-year-old visiting relatives in Syria”, *The Guardian*, 4 December 2015; Emma Graham-Harrison, “Russian airstrikes in Syria killed 2,000 civilians in six months”, *The Guardian*, 15 March 2016.

¹³⁸ Amnesty International, “Syria: UN Security Council must step up pressure to end attacks on hospitals as hundreds killed in Aleppo”, 3 May 2016. See also Amnesty International, “Syrian and Russian forces targeting hospitals as a strategy of war”, 3 March 2016.

¹³⁹ See John B Dunlop, *Russia Confronts Chechnya: Roots of the Conflict*, (Cambridge University Press, 1998); Mark Galeotti, *Russia’s Wars in Chechnya 1994 – 1999* (Osprey Publishing, 2014); Orlando Figes, “Islam: The Russian Solution”, *The New York Review of Books*, 21 December 2006; “The lost cause of the Caucasus”, *The Economist*, 31 October 2002.

¹⁴⁰ Robert Seely, *Russo – Chechen Conflict 1800-2000: A Deadly Embrace* (Frank Cass, 2001), p.6.

¹⁴¹ “Russia ‘ends Chechnya operation’”, *BBC*, 16 April 2009; Luke Harding, “Russia ends anti-terrorism operations in Chechnya”, *The Guardian*, 16 April 2009.

scale unlawful killings, injuries, forced disappearance, and mass displacement through the violation of the laws of war and international human rights law characterized the two conflicts.¹⁴²

Arab, particularly Saudi, money and personnel sponsored and assisted rebels of Chechnya exacerbating an already volatile situation.¹⁴³ Russia was also involved in armed hostilities in two other republics in the same region and period: Ingushetia and Dagestan.¹⁴⁴

First Chechnya - Russia War: 1994 – 1996

Since Chechnya's declaration of independence in 1991 it faced internal armed opposition from groups supported and funded by Moscow. In August 1994 Moscow established a "provisional council" in Chechnya in an attempt to overthrow the Chechen leader Dudayev, a former general in the Soviet air force. On 11 December 1994 Russian President Boris Yeltsin sent Russian troops into Chechnya after two weeks of bombing the region attempting to quell the unrest between the conflicting factions in Chechnya.¹⁴⁵ An internal armed conflict ensued.¹⁴⁶

Two commentators linked the failed Russian military campaigns in Chechnya that preceded the mass deployment of troops to the devastating military operation launched on 11 December 1994:

Frustrated by the failure of their first four operations, the MVD, FSK, and the government mounted a fifth one involving supposed anti-Dudayev volunteers in November 1994. This, too, ignominiously failed and Dudayev exposed to the world the involvement of Russian troops. This public embarrassment undoubtedly enraged Yeltsin, Grachev, and other leaders who were shown to have been blindsided by the

¹⁴² See, generally, Dispatches – Chechnya the Dirty War, *Channel 4 - UK*, 2005. For a background on the warring parties' composition and structure see Mark Galeotti, *Spetsnaz: Russia's Special Forces* (Osprey Publishing, 2015); Mark Galeotti, *Russian Security and Paramilitary Forces since 1991 (Elite)*, (Osprey Publishing, 2013); Olga Oliker, *Russia's Chechen Wars 1994 – 2000: Lessons from Urban Combat* (Rand, 2001); Brian Glyn Williams, *The 'Chechen Arabs': An Introduction to the Real Al-Qaeda Terrorists from Chechnya* (The Jamestown Foundation, 2005); Jason Burke, *The New Threat from Islamic Militancy* (Vintage, 2016); *The Power of Nightmares*, *BBC Two*, 2005 (three episodes series).

¹⁴³ "The lost cause of the Caucasus", *The Economist*, 31 October 2002; Murad Batal Al-Shishani, "The Rise and Fall of Arab Fighters in Chechnya", (The Jamestown Foundation, undated); Brian Glyn Williams, "The 'Chechen Arabs': An Introduction to the Real Al-Qaeda Terrorists from Chechnya", (The Jamestown Foundation, 2005); Yavus Akhmadov et al, "Islam in the North Caucasus: A People Divided", in *Issues of the Post – Communist Transition: Structure, Culture, and Justice* (Stephen R Bowers ed.)(Council for Social and Economic Studies, 2001), pp.125 – 140; Lorenzo Vidino, "The Arab Foreign Fighters and the Sacralization of the Chechen Conflict", *Al-Nakhal – The Fletcher School Online Journal* for issues related to Southwest Asia and Islamic Civilization, 2006; Bryan Glenn Williams, "Allah's Foot Soldiers: An Assessment of the Role of Foreign Fighters and Al Qaida in the Chechen Insurgency" in *Ethno Nationalism, Islam and the State in the Caucasus: Post Soviet Disorder* (Moshe Gammer ed.)(Routledge, 2007), 157 - 178; Mairbek Vatchagaev, "Emir Muhannad: The Last of Chechnya's Arab volunteers" (The Jamestown Foundation, 2011).

¹⁴⁴ See Human Rights Watch / Helsinki, *Russia: The Ingush – Ossetian Conflict in the Prigorodnyi Region, 1996*; Human Rights Watch, "As if they Fell from the Sky" – Counterinsurgency, Rights Violations, and Rampant Impunity in Ingushetia, 2008; Human Rights Watch, "Invisible War" – Russia's Abusive Response to the Dagestan Insurgency, 2015. See also, Helsinki Watch, *Conflict in the Soviet Union: The Untold Story of the Clashes in Kazakhstan, 1990*; Helsinki Watch, *Overview of Areas of Conflict in the Former Soviet Union, 1992*; Human Rights Watch, *War or Peace? – Human Right and Russian Military Involvement in the "Near Abroad"*, 1993.

¹⁴⁵ "1994: Russian troops storm into Chechnya", *BBC*, 11 December 1994, http://news.bbc.co.uk/onthisday/hi/dates/stories/december/11/newsid_2801000/2801807.stm

¹⁴⁶ See Bill Keller, "The Caucasian War", *New York Times*, 21 June 1998.

FSK, and not fully in control of their own armed forces. Grachev, who had gone on television to deny the involvement of Russian troops, must have been particularly embarrassed. Even though Yeltsin and Grachev subsequently made a pretense of negotiations while they were massing troops, that was clearly a ruse. The Kremlin had decided on war to avenge its failure.¹⁴⁷

Jack F. Matlock, former U.S. Ambassador to the Soviet Union (1987 – 1991) distinguished Chechnya's quest for secession from the political transformation that took place in the Baltic states Ukraine, Moldova and Georgia. He linked Russia's military conduct to an attempt to circumvent democracy in Russia:

The horrors of Grozny may indeed turn out to be the first tolls in the death knell of Russian democracy. The attempt to subdue Chechnya militarily was without question a political blunder of the first order, and—given the inability of the Russian military to conduct the operation without heavy civilian casualties—a license to atrocity.¹⁴⁸

The Russian army used excessive force to attack Chechnya's main city Grozny, far exceeding the Bosnian Serb shelling of Sarajevo during its historic siege (1992 – 1995).¹⁴⁹ It is estimated that the Russian shelling in January 1995 caused the death of 15,000 people and the displacement of 400,000.¹⁵⁰ A member of a Russian human rights delegation to Chechnya calculated the number of civilian deaths by the end of January 1995 to be 25,000, many ethnic Russians. About 3,000 of these were killed by Russian snipers and special forces, not the regular Army draftees:

During December and January, the hospitals and Grozny's city authorities simply had no time to keep records.

Still, we were able to question closely some 491 Chechen refugees (from 99 different families) about what happened to their relatives and friends. By extrapolating statistically from their experiences, after making allowances for accounts that overlapped, we were able to arrive at an estimate of the numbers of deaths in Grozny from November 25, 1994, to January 30, 1995. We concluded that about 25,000 civilians were killed as a direct consequence of the military attack on Grozny. Most of these were killed by indiscriminate bombing and artillery or mortar fire. They were, in effect, trapped victims, many of them ethnic Russians, who were caught in the path of the Russian attack.

On the basis of the same interviews, we estimate that among the 25,000 civilians who died in Grozny more than 3,000 were defenceless civilians deliberately killed by snipers or by commando units mopping up after the assault on the city. For the most part those who killed civilians in cold blood in this way were members of the special forces of the Ministry of Defence and

¹⁴⁷ Stephen J. Blank & Earl H. Tilford, Jr., "Russia's Invasion of Chechnya: A Preliminary Assessment", Strategic Studies Institute, 1995, pp.11-12.

¹⁴⁸ See Jack F. Black, "The Chechen Tragedy", *The New York Review of Books*, 16 February 1995.

¹⁴⁹ See Fredrick C. Cuny, "Killing Chechnya", *The New York Review of Books*, 6 April 1995. On 9 April 1995 Cuny disappeared in Chechnya: Scott Anderson, "What Happened to Fred Cuny?", *New York Times*, 25 February 1996. See also "Sarajevo 1992 – 1995: looking back after 20 years", BBC, 10 April 2012.

¹⁵⁰ See Greg Hansen & Robert Seely, War and Humanitarian Action in Chechnya, (The Thomas J Watson Jr Institute for International Studies at Brown University, 1995), p.94.

the Ministry of Interior, not the regular army units which are made up largely of draftees.¹⁵¹

The Chechen fighters also engaged in serious violations of international law and human rights. According to Barry Renfrew who witnessed personally some of the escalating battles:

Chechen fighters, as well as using civilians as shields in battle, killed prisoners and civilian opponents, especially supporters of pro-Moscow Chechen political groups, frequently torturing and mutilating victims. Some captured Russian soldiers were tortured and executed, while others were treated well and released.¹⁵²

A special mission of Human Rights Watch reported about the conflict in Chechnya after three months of fighting:

As the war in the breakaway republic of Chechnya enters its third month, Russian forces continue to commit gross abuses against the civilian population in the region. In the early weeks of the war, Russian bombs and artillery fire laid waste to Grozny, the capital of Chechnya, and outlying villages, destroying apartment buildings, hospitals, and other civilian objects, and killing, maiming, or injuring thousands of civilians.

Now the war is spreading throughout Chechnya, leaving everywhere in its wake civilian suffering. Russian forces continue to use disproportionate force to dislodge Chechen fighters from villages. In some cases, villagers resent and fear Chechen fighters in their midst because of the tragedy their presence can bring. Undisciplined Russian soldiers attack civilians, systematically loot civilian property, and rob individual civilians. Russian Interior Ministry forces have brutally beaten and tortured Chechen prisoners detained at the Russian military base in Mozdok.¹⁵³

In January and February 1996 the Chechen – Russian armed conflict spilled over to neighboring republics of Dagestan (where Chechen fighters captured 2000 hostages) and Ingushetia (subjected to Russian military offensive on the Chechen frontier instigating confrontation with Ingush authorities).¹⁵⁴ In April 1996 the Chechen rebel leader Dzhokhar M. Dudayev was killed by a Russian rocket attack. According to the New York Times:

Mr. Dudayev's death thrust the spotlight on Zelimkhan Yandarbiyev, the vice president of the rebel Chechen government who has now risen to head the separatist movement.

¹⁵¹ Sergei Kovalev, "Death in Chechnya", *The New York Review of Books*, 8 June 1995. See also U.N. Commission of Human Rights, The Situation of Human Rights in the Republic of Chechnya of the Russian Federation, 20 March 1997, p.6 (describing generally the deteriorating human rights condition as a result of the armed conflict and noting the death of six ICRC workers killed by unknown gunmen in Chechnya "Tragically, on 17 December 1996 at 4 a.m. local time, six ICRC expatriate delegates were shot dead by unidentified gunmen at their quarters at the ICRC hospital in Novye Atagi, near Grozny. Five of the murdered delegates had been seconded to ICRC by the national Red Cross societies of Canada, the Netherlands, Norway and New Zealand. The sixth, a Spanish nurse, was under contract with ICRC. Another delegate, a Swiss national, had gunshot wounds.")

¹⁵² Barry Renfrew, Chechnya - Crimes of War, <http://www.crimesofwar.org/a-z-guide/chechnya/>

¹⁵³ Human Rights Watch, Russia – Three Months of War in Chechnya, February 1995, p.1. See also Human Rights Watch, Russia – Russia's War in Chechnya: Victims Speak Out, January 1995; Human Rights Watch, Russia – Partisan War in Chechnya on the Eve of the WWII Commemoration, May 1995.

¹⁵⁴ Greg Hansen & Robert Seely, War and Humanitarian Action in Chechnya, (The Thomas J Watson Jr Institute for International Studies at Brown University, 1995), p.95.

...

The Russian military commander in Chechnya, Lieut. Gen. Vyacheslav Tikhomirov, said Russian forces were not responsible for Mr. Dudayev's death.

Viktor S. Chernomyrdin, the Russian Prime Minister, said today that Mr. Dudayev's death would not lead to a change in the Russian proposal to settle the war. That proposal envisions giving Chechnya more autonomy than other parts of Russia while rejecting calls for independence.

But Akhmed Zakayev, a rebel military commander, said on Russian television tonight that the rebels would insist on full independence and the complete withdrawal of Russian troops.

'Now the Chechen people will dictate the conditions for the end of this war,' Mr. Zakayev said.¹⁵⁵

In May 1996 the new Chechen rebel leader Yandarbiyev traveled to Moscow to sign a cease-fire agreement, which had been violated for the next two months. In August the parties agreed to halt the fighting, not before a serious battle in Grozny in which the Russian military incurred substantial losses.¹⁵⁶

Second Chechnya - Russia War: 1999 – 2009

116. In September 1999 a series of terrorist bombings in Russia triggered a military operation in Chechnya and armed hostilities against Chechen rebels that lasted for ten years.¹⁵⁷ In August the Russian military was fighting Islamic militants who stormed into Dagestan and declared their intent to transform it into an Islamic republic.¹⁵⁸ The bombings also helped bring Vladimir Putin, head of the Russian Federal Security Service (FSB) until August 1999, and the Prime Minister to become Russia's president.¹⁵⁹ The Russian authorities had blamed Chechen militants for the bombings, but there could have been a domestic dimension to the atrocities, as the BBC had alleged at the end of the deadly month:

Meanwhile others in Moscow are still wondering whether there is a domestic political aspect to the crisis and whether rogue elements of the security forces are in some way involved in an attempt to provoke a state of emergency in Russia or the cancellation of elections. There is absolutely no proof of this, but a little noticed article in the Moscow newspaper *Moskovskaya Pravda* by a respectable journalist Alexander Zhilin is now attracting attention.

¹⁵⁵ Michael R. Gordon, "Chechen Rebels say Leader Died in Russian Air Attack", *New York Times*, April 1996.

¹⁵⁶ Michael Specter, "Chechnya Rebels Entrap and Shell Moscow's Troops", *New York Times*, 10 August 1996; Michael Specter, "How the Chechen Guerrillas Shocked Their Russian Foes", *New York Times*, 18 August 1996.

¹⁵⁷ The bombings in Russia occurred few months after the March – June 1999 NATO campaign in Kosovo. A French documentary implied that the Russian Federal Security Service (FSB) might have been involved in planning the bombings. See Charles Gazelle, *Assassination of Russia*, Transparences Productions, France, 2002.

¹⁵⁸ They were led by Shamil Basayev, a Chechen warlord, and Khattab, a Saudi militant. See Michael Gordon, "Russia Bombs Chechnya Sites; Major Set-Up", *New York Times*, 24 September 1999.

¹⁵⁹ "Putin takes control in Russia", *BBC*, 31 December 1999, <http://news.bbc.co.uk/2/hi/europe/585368.stm>; Stephen Mulvey, "Vladimir Putin: Spy turned politician", *BBC*, 1 January 2000, <http://news.bbc.co.uk/2/hi/europe/415124.stm>. See also "Vladimir Putin: Russia's action man president", *BBC*, 3 December 2015, <http://www.bbc.com/news/world-europe-15047823>.

Zhilin wrote on 25 August that President Yeltsin's health was failing and that a plan with the code name "Storm in Moscow" was being hatched in the Kremlin. He wrote that "tremendous shocks await Moscow," including a series of terrorist acts, which were being designed to discredit the mayor of Moscow Yury Luzhkov and force a cancellation of the elections.

Conspiracy theories are part of the staple diet of Moscow politics.

Zhilin's article is interesting because it was written before the bomb explosions. At the very least it says a lot about the fevered political atmosphere in Russia that some people take these theories seriously.¹⁶⁰

In 2003 the Russian authorities closed the investigation file in relation to the September 1999 bombings without providing an adequate explanation to this failure:

The office of Russia's prosecutor general unexpectedly announced today that it had closed its investigation into three apartment bombings in September 1999 that killed 243 people and wounded 1,742 others. The action provided a subdued coda to the sensational wave of violence that led to the second war in Chechnya, swept Vladimir V. Putin into power and spawned dark tales of conspiracy.

Agreeing with what officials have claimed from the start, prosecutors announced that nine Russian and foreign Islamic fighters carried out the bombings -- two in Moscow and one in the southern city of Volgograd -- presumably to advance the separatist movement in Chechnya.

Strikingly, though, none of those accused appeared to be Chechens themselves. Rather, they were Muslim fighters from other regions, which raises questions about Russia's stated reasons for starting the second war in Chechnya only weeks after the bombings.

...

Despite the gravity of the case, the prosecutor's office announced the closing of the investigation with no fanfare, releasing a matter-of-fact one-page statement on the eve of a long holiday weekend that begins with May Day, no longer celebrated as the day of International Workers' Solidarity but simply as the day of Spring and Labor.

As a result, there will be minimal coverage in the news media, since newspapers are not published over the holidays. Today's statement will also do little to answer accusations -- never substantiated -- that the bombings were carried out by the Russian security service, the F.S.B.¹⁶¹

Like the New York Times, the Telegraph also linked the FSB and Putin to the September 1999 bombings:

More than 240 other Russians were less fortunate. They died that autumn in a wave of bombings that destroyed three blocks of flats, two in Moscow and one in the town of Volgograd.

¹⁶⁰ Tom de Waal, "Russia's bombs: Who is it to blame?", *BBC*, 30 September 1999.

¹⁶¹ Steven Lee Myers, "Russia Closes File on Three 1999 Bombings", *New York Times*, 1 May 2003. See also Amy Knight, "Finally, We Know About the Moscow Bombing", *The New York Review of Books*, 22 November 2012.

The Russian authorities were swift to lay the blame at the door of Chechen separatists. But no supporting evidence has emerged. Two men from the Caucasus were convicted of involvement after a closed trial this year, but it was widely denounced as a charade.

Instead a growing body of proof has surfaced that links the bombings, and the Ryazan incident in particular, to the FSB - the revamped KGB.

Independent investigators, including several MPs, who have sought to look into the case have been intimidated, arrested or beaten. Analysts and investigators claim that President Vladimir Putin, who was FSB chief until August of that year and subsequently prime minister, must know the truth.

...

The 1999 bombings proved to be Mr Putin's political making. He positioned himself as a strongman who would crush the Chechen rebels and restore order to the ailing country. Riding a wave of nationalist fervour, in eight months he went from being a virtual political unknown to winning the presidency by an easy margin. Now, after winning nearly complete control over parliament in December and installing a loyal new cabinet days before tomorrow's presidential election, Mr Putin is poised to seal another four years at Russia's helm.

In Novosyolov Street the day before the bomb was due to detonate, residents noticed a white Lada parked with a man sitting in the back and a woman standing nervously by the front door. Then another man emerged from the cellar and the three drove away. The residents called the police who found the bomb - three sacks of hexogene, a military explosive used in the other attacks that autumn.

The railway station and airport were cordoned off and roadblocks set up. To general approval, Mr Putin announced that Russian planes had begun strafing Grozny, the Chechen capital.

That evening the bombers made a mistake. Using a public telephone one of them called a number in Moscow for instructions, saying it was impossible to leave the city undetected. An operator traced the call. The number called belonged to the FSB.

Shortly afterwards the two men were arrested. Each produced documents showing that he worked for the FSB. Later an order came down from Moscow ordering the local police release them.

The next day Nikolai Patrushev, the head of the FSB, announced that the entire thing had been a training drill to raise public awareness. The white substance was not hexogene, he said, but sugar. The residents who called the police and the telephone operator were each given a colour television to reward them for their vigilance.¹⁶²

¹⁶² Julius Strauss, "Secret at the heart of Putin's rise to power", *The Telegraph*, 13 March 2004, <http://www.telegraph.co.uk/news/worldnews/europe/russia/1456763/Secret-at-the-heart-of-Putins-rise-to-power.html>.

Although in September 1999 Prime Minister Putin declared that “ we are planning no large-scale military operation in Chechnya”,¹⁶³ 100,000 Russian soldiers were deployed in October in and around Chechnya. Prime Minister Putin had reportedly said that the aim is to dictate a “final solution” to the Chechnya issue.¹⁶⁴ The Russian army bombarded Grozny with plains and artillery, including multiple rocket launchers.¹⁶⁵ By December 1999 the Russian army was advancing into Grozny¹⁶⁶ and in January 2000 it continued its assault against Chechen rebels inside the capital Grozny “ which is systematically being ground to dust, has become a sniper's paradise - a wasteland of rubble and hollowed out buildings.”¹⁶⁷

In February 2000 UNHCR estimated that 180,000 people from Chechnya were displaced to Ingushetia as a result of Russia ’ s military campaign.¹⁶⁸ About 70,000 refugees were allowed or forced to return to Chechnya.¹⁶⁹ The same month the Russian military with the assistance of pro – Russian Chechen militia captured Grozny after fierce fighting that devastated Chechnya ’ s capital.¹⁷⁰ Russian soldiers suffered substantial casualties.¹⁷¹

The fighting between the parties was characterized by severe violations of the laws of war and international human rights law. Mary Robinson, the U.N. High Commissioner for Human Rights, described in her 5 April 2000 report to the United Nations some of the atrocities that were taking place in Chechnya that she heard from victims:

For several hours I listened to harrowing accounts from direct witnesses to events. I was given photographs and videotape evidence, and shown the wounds and scars of those who had themselves been injured. The individuals were clearly traumatized by what they had endured, and frightened, but they gave detailed, precise answers to close questioning. They were earnest to be accurate in response to questions, but, of course, the events would need full investigation and verification. I will describe three of these personal accounts, all of which shocked me by what they implied of how the military campaign is being conducted.

I listened to the account of a woman who, with two other women, went back to the Staropromoslovsky district of Grozny on January 21 to check on their houses. She described abuse at checkpoints, insults, ransom extorted, and finally that the three women were blindfolded by troops whom she described as being from the regular army. They were taken to a destroyed house and the

¹⁶³ Michael Gordon, “Russia Bombs Chechnya Sites; Major Set-Up”, *New York Times*, 24 September 1999.

¹⁶⁴ Ian Traynor, “Russian guns pound Grozny”, *The Guardian*, 28 October 1999.

¹⁶⁵ “Russian soldiers pound Grozny”, *BBC*, 19 November 1999.

¹⁶⁶ “Russian advance into Grozny”, *BBC*, 26 December 1999.

¹⁶⁷ “Russian forces pound Grozny”, *BBC*, 19 January 2000. See also “Russian planes set Grozny ablaze”, *BBC*, 18 January 2000.

¹⁶⁸ UNHCR, Chechnya: Ingushetia displaced estimated at 180,000, 15 February 2000, <http://www.unhcr.org/news/briefing/2000/2/3ae6b82268/chechnya-ingushetia-displaced-estimated-180000.html>.

¹⁶⁹ “Refugees return to Chechnya”, *BBC*, 7 January 2000, <http://news.bbc.co.uk/2/hi/europe/593907.stm>; See also Sabrina Tavernise, “Chechen Refugees Brace for Upheaval as Camps Close”, *New York Times*, 16 December 2002; Human Rights Watch, *Russia – Into Harm’s Way: Forced Return of Displaced People to Chechnya*, 2003.

¹⁷⁰ See Michael R. Gordon, “Russian Troops Capture What Remains of Grozny”, *New York Times*, February 2000; “Pro – Moscow militia ‘enters’ Grozny”, *BBC*, 23 December 1999.

¹⁷¹ “Russian army battered in Grozny”, *BBC*, 6 January 2000; “Russia admits heavy casualties”, *BBC*, January 2000.

blindfolds were removed. They pleaded desperately but the witness described how they shot the first woman and [how] part of her head came off, how they then shot the second in the head, and how they shot her, but the bullet went through her shoulder and she collapsed. While semiconscious she remembers having her earrings and ring pulled off and her clothes searched for money. The next sensation was of burning on her leg when mattresses had been placed over the three bodies and set alight. She managed to crawl away and was brought to a cellar where other people were hiding. Eventually she was able to be reunited with her family. Her injuries are serious and require urgent attention. The second testimony I will mention is that of a woman and a man who said that they were present in Novi Aldi when mass killings were carried out by militia or OMON special forces. The woman testified that the forces killed many people, including children and old people. She directly witnessed the shooting [to death] of one man to whom she sought to give assistance. She helped with the burial of bodies and showed me photographs of the burials that had been taken by a friend. The man said that there were so many bodies after the killings in Novi Aldi that they could not bury them all as quickly as they should. They decided to make a video film on February 9 of the bodies still not buried so that there might be evidence of the extent of the civilians killed. He also mentioned that the killings had been carried out by OMON forces.

The third testimony I will mention is that of a woman who had been a professor of linguistics at the State University in Chechnya and lived in Katyr-Yama in Grozny. She and her family tried to stay, hoping the violence would stop, but on October 25 they could not stand it anymore and decided they had to leave. They had been waiting for a promised humanitarian corridor and found themselves in a queue of several hundred cars at a checkpoint. A colonel came and said there was no humanitarian corridor and they should go back. They turned slowly because of the number of cars and began to return. She felt a sudden blow and the windows of the car shattered. Although wounded in the head, she and her family members got out and hid in a ditch. Wave after wave of aircraft came, flying very low, and bombed the convoy of cars. She knew her eldest son was in a car further back and ran to find him. On the way she saw many dead and dismembered bodies. Later that day, planes attacked again and there were more casualties. This happened near the village of Shaami-Yurt.¹⁷²

In December 1999 the Russian military took control of the village Alkhan-Yurt south of the Chechen capital Grozny which is inhabited by 9,000 people. During the subsequent two weeks to capturing the village the Russian forces:

[W]ent on a rampage in the village, summarily executing at least fourteen civilians. They first expelled, temporarily, hundreds of civilians from Alkhan-Yurt, and then began systematically looting and burning the village, killing anyone in their way ... Nearly every villager from Alkhan-Yurt interviewed by Human Rights Watch said he or she had personally seen Russian soldiers looting homes. Villagers described how they watched, powerless, as soldiers

¹⁷² Mary Robinson, "Chechnya: Mary Robinson's Report", *The New York Review of Books*, 25 May 2000. See also U.N. Commission for Human Rights, Situation in the Republic of Chechnya of the Russian Federation, 25 April 2000 ("Gravely concerned by the continued violence in the Republic of Chechnya of the Russian Federation, in particular reports indicating disproportionate and indiscriminate use of Russian military force, including attacks against civilians, which has led to a serious humanitarian situation,... Deploing the high number of victims and displaced persons and the suffering inflicted on the civilian population by all parties, including the serious and systematic destruction of installations and infrastructure, contrary to international humanitarian law.")

loaded household goods-furniture, clothing, refrigerators, televisions, and the like-onto military trucks and stolen vehicles and hauled away their loot ... According to many witnesses, soldiers also committed rape in Alkhan-Yurt.¹⁷³

In February 2000 Russian forces murdered 60 civilians in the suburbs of Grozny and raped women:

On 5 February, 2000, Russian forces summarily executed at least 60 civilians in Aldi and Chernochrechie, suburb of Grozny, the capital of Chechnya. The massacre, which amounts to a war crime, took place in the midst of a sweep operation several days after Russian forces seized Grozny.

The perpetrators of this massacre were Russian riot police and contract soldiers, or men hired by the military for short-term service contracts ... While going on house-to-house document checks to ferret out Chechen rebel fighters they shot their victims in cold blood, with automatic weapons, at close range.

The victims ranged in age from a one-year-old baby boy to an eighty-two-year-old woman.

...

While going on house-to-house document checks to ferret out Chechen rebel fighters they shot their victims in cold blood, with automatic weapons, at close range. The victims ranged in age from a one-year-old baby boy to an eighty-two-year-old woman.

Despite the great cultural stigma attached to rape in Chechnya's predominantly Muslim communities, reports of the rape of women by Russian soldiers in Aldi on February 5 have surfaced ... In one incident, soldiers reportedly gang-raped four women and strangled three of them, leaving the fourth for dead.

Russian contract soldiers torched many homes of Chechen civilians in Aldi... The incidents of arson were wanton acts of gratuitous destruction. Some of the arson seemed to be primitive attempts to destroy evidence of summary executions and other civilian killings. In one incident, the arson itself appeared to have been a murder attempt. While soldiers engaged in some pillage on February 5, pillage on a massive scale took place during the following week. Witnesses stated that soldiers returned in large numbers on February 10, and in broad daylight brazenly stripped their homes of goods of value.¹⁷⁴

In March 2000 Putin was elected President of Russia, officially becoming president in May.¹⁷⁵ The same month he declared direct rule of Chechnya from Moscow, and the

¹⁷³ Human Rights Watch, Russia / Chechnya: "No Happiness Remains" – Civilian Killings, Pillage, and Rape in Al-Khan Yurt, Chechnya, April 2000.

¹⁷⁴ Human Rights Watch, Russia / Chechnya: February 5 – A Day of Slaughter in Novye Aldi, June 2000. Russian forces have also conducted mass and arbitrary arrests torturing and abusing the rights of

those detained. See Human Rights Watch, "Welcome to Hell – Arbitrary Detention, Torture, and Extortion in Chechnya, October 2000; Human Rights Watch, Russia / Chechnya – The "Dirty War" in Chechnya: Forced Disappearances, Torture, and Summary Executions, March 2001.

¹⁷⁵ Michael Wines, "Elections in Russia: The Overview; Putin Wins Russia Vote in First Round, But his Majority is Less than Expected", *New York Times*, 27 March 2000. See also Chechnya, Russia and U.S. Policy and Aid Program, U.S. Senate Appropriations Subcommittee on Foreign Operations, C-Span, 4 April 2000.

following month he appointed separatist-turned -loyalist Akhmat Kadyrov head of its administration in Chechnya.¹⁷⁶

On 24 February 2001 a mass grave of 51 corpses was found in the Chechen village Dachny. Chechnya. The area was under the total control of Russian forces. Russian authorities initially denied responsibility for the mass murder, and later performed inadequate investigation regarding this crime:

On February 24, a dumping ground for human remains was discovered in the village of and Chernorechie, suburbs of Grozny, the capital of Chechnya. The massacre, which amounts to a war crime, took place in the midst of a sweep operation several days after Russian forces seized Grozny.

The perpetrators of this massacre were Russian riot police and contract soldiers, or men hired by the military for short-term service contracts ... While going on house-to-house document checks to ferret out Chechen rebel fighters they shot their victims in cold blood, with automatic weapons, at close range.

The victims ranged in age from a one-year-old baby boy to an eighty-two-year-old woman.

...

While going on house-to-house document checks to ferret out Chechen rebel fighters they shot their victims in cold blood, with automatic weapons, at close range. The victims ranged in age from a one-year-old baby boy to an eighty-two-year-old woman.

Despite the great cultural stigma attached to rape in Chechnya's predominantly Muslim communities, reports of the rape of women by Russian soldiers in Aldi on February 5 have surfaced ... In one incident, soldiers reportedly gang-raped four women and strangled three of them, leaving the fourth for dead.

Russian contract soldiers torched many homes of Chechen civilians in Aldi... The incidents of arson were wanton acts of gratuitous destruction. Some of the arson seemed to be primitive attempts to destroy evidence of summary executions and other civilian killings. In one incident, the arson itself appeared to have been a murder attempt. While soldiers engaged in some pillage on February 5, pillage on a massive scale took place during the following week. Witnesses stated that soldiers returned in large numbers on February 10, and in broad daylight brazenly stripped their homes of goods of value.¹⁷⁷

In March 2000 Putin was elected President of Russia, officially becoming president in May.¹⁷⁸ The same month he declared direct rule of Chechnya from Moscow, and the following month he appointed separatist-turned - loyalist Akhmat Kadyrov as head of its administration in Chechnya.¹⁷⁹

On 24 February 2001 a mass grave of 51 corpses was found in the Chechen village Dachny. The area was under the total control of Russian forces. Russian authorities

¹⁷⁶ "Chechnya Profile – Timeline", *BBC*, 11 August 2015.

¹⁷⁷ Human Rights Watch, *Russia / Chechnya: February 5 – A Day of Slaughter in Novye Aldi*, June 2000.

¹⁷⁸ Michael Wines, "Elections in Russia: The Overview; Putin Wins Russia Vote in First Round, But his Majority is Less than Expected", *New York Times*, 27 March 2000. See also Chechnya, Russia and U.S. Policy and Aid Program, U.S. Senate Appropriations Subcommittee on Foreign Operations, C-Span, 4 April 2000.

¹⁷⁹ "Chechnya Profile – Timeline", *BBC*, 11 August 2015.

initially denied responsibility for the mass murder, and later performed inadequate investigation regarding this crime:

On February 24, a dumping ground for human remains discovered in the village of Dachny (also called Zdorovye), was located less than a kilometer from the main Russian military base in Chechnya. The corpses of fifty-one people were eventually found in the vicinity; nineteen bodies were identified, at least sixteen of which were the remains of people who were last seen alive in the custody of Russian federal forces. Most were in civilian clothing, some were blindfolded, and many had their hands or feet bound.

The mass “dumping site” - the bodies were dumped along trees in the village and in abandoned cottages over an extended period of time - provides striking evidence of the practice of forced disappearances, torture, and extrajudicial execution of civilians by Russian federal forces in

Chechnya. Federal and local authorities denied responsibility for the deaths of those found and blamed the deaths on Chechen rebel forces and criminal gangs. However, the area where the mass dumping ground was found has been under Russian military control since December 1999, long before the vast majority of the bodies were deposited there. The Russian government’s investigation into the circumstances surrounding the deaths of those found at the site has been wholly inadequate.¹⁸⁰

In June– July 2001 Russian forces conducted military operations in various Chechen villages grossly violating the laws of war and international human rights law:

Between June 15 and July 4, Russian troops conducted exceptionally harsh sweep operations in at least six villages in different parts of Chechnya. Troops rounded up several thousand Chechens, mostly without any form of due process, and took them to temporary military bases in or near the villages. According to eyewitnesses, soldiers extra-judicially executed at least eleven detainees, and at least two detainees “disappeared” in detention.

Human Rights Watch interviewed twelve former detainees who gave detailed testimony of torture and ill-treatment, including electric shock, severe beatings, and being forced to remain in “ stress positions. ” They said

¹⁸⁰ Human Rights Watch, *Russia / Chechnya – Burying the Evidence: The Botched Investigation into Mass Grave in Chechnya*, May 2001. See also “Chechen mass grave exposed”, *BBC*, 25 February 2000; “Mass grave video: The Russian view”, *BBC*, 25 February 2000; Mark Tran, “Russia investigates alleged Chechnya atrocities”, *The Guardian*, 25 February 2000; “Mass grave found in Chechnya”, *BBC*, July 2000 (another mass grave in Chechen village Tangi-Chu allegedly containing 150 bodies of Chechen rebels); “Mass grave found on Chechen border”, *BBC*, 9 September 2002 (“Police in the southern Russian republic of Ingushetia have discovered a mass grave believed to contain the bodies of people arrested by Russian troops in neighbouring Chechnya several months ago.”); Nick Paton Walsh, “Chechen government admits civilians buried in mass graves”, *The Guardian*, 16 June 2005 (“The government that Moscow has installed in Chechnya admitted yesterday that there were more than 50 mass graves on its territory.”); Amnesty International, *Russian Federation: Russian police officer found guilty of crimes against the civilian population in the Chechen Republic*, 31 March 2005 (“Amnesty International welcomes the conviction and sentencing of Sergei Lapin, member of a special federal riot police unit (OMON) from the Khanty-Mansiisk region in the Russian Federation, by the Oktiabrskii District Court in Grozny in the Chechen Republic... Throughout the armed conflict in the Chechen Republic, Amnesty International has been concerned about the climate of impunity prevailing there and has called on the Russian authorities to bring to justice perpetrators of human rights violations. However, very few effective measures have been taken. Only very few cases of “disappearance”, torture and ill-treatment or extrajudicial execution have reached the Courts.”)

independently that dozens, if not hundreds, of other detainees had also faced torture and ill-treatment. Eyewitnesses also gave testimony about widespread extortion, looting, and destruction of civilian property.

...

The sweeps, however, did not come out of the blue. They occurred against the background of a highly volatile security situation and continuing serious abuses by both sides to the conflict. Between November 2000 and April 2001, Chechen rebel forces operated throughout Chechnya, clashing with federal troops, carrying out bomb attacks on federal positions, assassinating Chechens seen as cooperating with the Russian government, and kidnapping a foreign aid worker in broad daylight. Russian forces responded to this rebel activity with the occasional use of heavy weaponry and frequent large-scale, targeted sweep operations, during which numerous civilians were killed, tortured, ill-treated and “disappeared.”¹⁸¹

Between 23 and 27 October 2002 a group of gunmen and women which called itself suicide squad (“smertniki”) captured actors and audience in a Moscow theatre announcing that they will kill themselves and their captives if the Russia government does not withdraw from Chechnya. They killed and wounded few hostages during the negotiations process. The Al-Jazeera satellite TV channel broadcast declarations by some of the hostage-takers “I swear by God we are more keen on dying than you are keen on living, each one of us is willing to sacrifice himself for the sake of God and the independence of Chechnya.”¹⁸²

Nikolai Patrushev, the head of the Russian Federal Security Service (FSB) made the only public offer to the hostage-takers: release the hostages in return for their lives. On 26 October the Russian forces released gas into the building and special forces moved in. Fifty captors were killed, some 750 hostages freed and 90 hostages were reported dead. The final death toll among the hostages was 125 people.¹⁸³ Serious concerns and doubts remain regarding the entire affair as Russia’s health minister downplayed the gas’s effects on the significant death toll of the Russian rescue operation:

But at an evening news conference, Dr. Shevchenko bluntly rejected statements by some, including the United States ambassador here, that Russian secrecy over the nature of the gas may have delayed lifesaving aid to some hostages.

I officially declare that chemical substances of the kind banned under international conventions on chemical weapons were not used in the course of the special operations,” he said. “To neutralize terrorists, a compound based on Fentanyl derivatives was used.”

¹⁸¹ Human Rights Watch, Russia / Chechnya – Swept Under: Torture, Forced Disappearances, and Extrajudicial Killing During Sweep Operations in Chechnya, February 2002. See also Human Rights Watch, Russia – Last Seen: Continued “Disappearances” in Chechnya, April 2002.

¹⁸² Simon Jeffery, “The Moscow theatre siege”, *The Guardian*, 28 October 2002.

¹⁸³ Michael Wines, “Hostage Drama in Moscow: the Moscow Front; Chechens Kill Hostage in Siege at Russian Hall”, *New York Times*, 25 October 2002; Michael Wines, “At Least 118 Captives and 50 Chechens Die in Moscow Siege”, *New York Times*, 27 October 2002; Steve Lee Myers, “Hostage Drama in Moscow: Russia Responds; Putin Vows Hunt for Terror Cells Around the World”, *New York Times*, 29 October 2002; Judith Miller & William J. Broad, “Hostage Drama in Moscow: the Toxic Agent; U.S. Suspects Opiate in Gas in Russia Raid”, *New York Times*, 29 October 2002; Michael Wines, “The Aftermath in Moscow: Post – Mortem in Moscow; Russia Names Drug in Raid, Defending Use”, *New York Times*, 31 October 2002.

In broadcast remarks, he repeated Russian assertions that the gas "cannot in itself be called lethal," and that hostages who succumbed to the gas died because they had been weakened by "a complex of extremely aggressive factors" including hunger, existing illnesses and two days of captivity.

...

On Tuesday, the American ambassador, Alexander R. Vershbow, called the rescue an operational success but suggested that Russian refusal to tell doctors more about the gas used in the raid had delayed medical treatment and "perhaps" led to needless death.

...

American experts, speaking on condition of anonymity, said tonight that while Dr. Shevchenko's disclosure solves some of the mystery surrounding the gas, they believe Russian scientists melded the Fentanyl with a second disabling compound that they have yet to disclose. News services quoted some European scientists this evening as having reached the same conclusion.¹⁸⁴

In 2011 the European Court for Human Rights awarded compensation to survivors and victims' relatives of the Russia rescue operation holding that the Russian authorities had violated the right to life stipulated by article 2 of the European Convention on Human Rights – 1950. The violations related to the Russian authorities' failure to adequately plan and conduct the rescue operation and their failure to carry out an effective investigation into the rescue operation.¹⁸⁵

The Court concluded that the use of gas in the circumstances of the Russian rescue operation was legitimate and not disproportional. In addition, it concluded that the FSB's partial disclosure of the gas's content and its effects was not problematic:

The exact formula of the gas used in the course of the rescue operation has not been made public. According to a reply from the FSB of 3 November 2003, the security forces used a "special mixture based on derivatives of pentenyl". However, more precise information about this gas and its effects remain undisclosed, even to the investigative authorities, for reasons of national security.

...

In sum, the Court concludes that the use of gas during the storming was not in the circumstances a disproportionate measure, and, as such, did not breach Article 2 of the Convention.¹⁸⁶

Concerning the failed rescue operation, the European Court found that:

It appears that the original plan of the evacuation provided for the deployment of hundreds of doctors, rescue workers and other personnel to assist the hostages, whereas little was done to coordinate the work of those different services.

...

¹⁸⁴ Michael Wines, "The Aftermath in Moscow: Post-Mortem in Moscow; Russia Names Drug in Raid, Defending Use", *New York Times*, 31 October 2002. See also The Moscow Theatre Siege, *BBC Two*, 2004; C.J. Chivers, "Russia: Poll Finds Distrust Over 2002 Moscow Theatre Siege", *New York Times*, 24 October 2006. Following this operation, Russian authorities significantly abused the rights of Chechens living in Moscow. See Human Rights Watch, Briefing Paper – On the Situation of Ethnic Chechens in Moscow, 24 February 2003.

¹⁸⁵ ECHR Case No. 18299/03 and 27311/03 *Finogenov and Others v. Russia*, 20 December 2011, p.77.

¹⁸⁶ ECHR Case No. 18299/03 and 27311/03 *Finogenov and Others v. Russia*, 20 December 2011, paras.101, 236.

the original plan of the rescue and evacuation of the hostages was in itself flawed in many respects

...

The Court acknowledges that in such situations some measure of disorder is unavoidable. It also recognises the need to keep certain aspects of security operations secret. However, in the circumstances the rescue operation of 26 October 2002 was not sufficiently prepared, in particular because of the inadequate information exchange between various services, the belated start of the evacuation, limited on-the-field coordination of various services, lack of appropriate medical treatment and equipment on the spot, and inadequate logistics. The Court concludes that the State breached its positive obligations under Article 2 of the Convention.¹⁸⁷

The Court determined that the Russian authorities' investigation which was performed by a body comprised mainly from FSB personnel was flawed:

It has sufficient evidence to conclude that the investigation into the authorities' alleged negligence in this case was neither thorough nor independent, and, therefore, not "effective". The Court concludes that there was a breach of the State's positive obligation under Article 2 of the Convention on this account.¹⁸⁸

Despite continued guerrilla warfare against Russian troops and Moscow backed Chechen council, the Russian authorities attempted to portray a region under its control.¹⁸⁹ A referendum was held in Chechnya in March 2003 and elections were conducted October the same year, both suffering from severe credibility.¹⁹⁰ The Chief Mufti of Chechnya in the 1990s Akhmad Kadyrov backed by the Russian authorities was elected President, only to be assassinated a year later.¹⁹¹ Chechnya's interior minister Alu Alkhanuv became its president pursuant to election held in 2004 considered as farcical.¹⁹² Similar processes characterized the parliamentary elections of 2005, the first since the conflict began in 1999.¹⁹³ In 2007 Putin appointed as president of Chechnya Khadyrov the son, Ramzan, at the time the prime minister and who had been accused as responsible for major human rights violations.¹⁹⁴

Throughout this period the conflict continued while rebel forces engaging in disturbing activities and suffering serious losses among its leadership. In September 2004 Chechen rebels and their fighters stormed into a school in North Ossetia, a

¹⁸⁷ ECHR Case No. 18299/03 and 27311/03 *Finogenov and Others v. Russia*, 20 December 2011, paras.246, 252, 266.

¹⁸⁸ ECHR Case No. 18299/03 and 27311/03 *Finogenov and Others v. Russia*, 20 December 2011, para.282.

¹⁸⁹ See "Q & A: The Chechen conflict", *BBC*, 10 July 2006.

¹⁹⁰ See Sabrina Tavernise, "Russia Announces Chechen Vote on New Constitution in March", *New York Times*, 11 January 2003; "The vote of the dead souls", 27 March 2003; Seth Mydans, "Opposition in Chechen Vote Seen as Mainly Underground", *New York Times*, 3 October 2003.

¹⁹¹ Iyan Traynor, "Akhmad Kadyrov", *The Guardian*, 10 May 2004.

¹⁹² Nick Paton Walsh, "Chechens vote in 'farcical' election", *The Guardian*, 30 August 2004. See also "Double air disaster hits Russia", *BBC*, 25 August 2004.

¹⁹³ Steven Lee Myers, "Putin's Candidates Sweep Chechnya Elections", *New York Times*, 29 November 2005; "Pro-Putin party leads in Chechnya", *BBC*, 28 November 2005.

¹⁹⁴ Peter Finn, "Putin Removes Chechen President, Appoints Ally", *Washington Post*, 16 February 2007. See also Michael Schwartz, "Another Foe of Chechen Leader Shot Dead", *New York Times*, 30 March 2009; Joshua Yaffa, "Putin's Dragon", *The New Yorker*, 8 February 2016; Roland Oliphant, "Ramzan Kadyrov: Putin's 'sniper' in Chechnya", *The Telegraph*, 24 February 2016; Shuan Walker, "Putin nominates Ramzan Kadyrov to remain Chechen leader", *The Guardian*, 25 March 2016; Editorial Board, "Mr. Putin's deal with the devil in Chechnya", *Washington Post*, 31 March 2016.

Russian republic to the West of Chechnya taking students, their parents, and teachers as hostages. 250 died as a result of the subsequent confrontation between the rebels and Russian forces.¹⁹⁵ In March 2005 Chechen warlord Maskhadov was killed in a special operation by Russian forces.¹⁹⁶

In October the same year Chechen warlord Basayev claimed responsibility for clashes with Russian police in Nalchik, a city 75 miles away from Chechnya which resulted in 60 people dead, including rebels and Russian officials.¹⁹⁷ In June and July 2006 Chechen rebel leaders Abdul-Khalim Saydullayev and Shamil Basayev were killed by pro-Russian and Russian forces.¹⁹⁸

Russia and pro – Russian Chechen forces maintained their gross abuses of human rights and international law, mainly by engaging in mass torture and forced disappearances.¹⁹⁹

In April 2009 Russian President Vladimir Putin declared an end to Russia's military operations in Chechnya.²⁰⁰ Despite Moscow's declaration tension between the parties continued as Chechens carried out terrorist attacks in the Russian capital and their leaders were eliminated. On 29 March 2010 two female suicide bombers blew up themselves in a Moscow subway killing more than 30 people.²⁰¹ Chechen rebel leader Doku Umarov claimed responsibility for this attack on 1 April 2010 after two similar bombings directed at Russian police in Chechnya's neighbouring Russian republic Dagestan.²⁰² Umarov also claimed responsibility for the terrorist attack against the Moscow airport executed in January 2011 resulting in the killing of 36 people and injuring more than 120.²⁰³ In March 2014 Umarov was reported as dead.²⁰⁴

¹⁹⁵ Peter Baker & Susan Glaser, "Russia School Siege Ends in Carnage", *Washington Post*, 4 September 2004; C.J. Chivers & Steven Lee Myers, "250 Die as Siege at a Russian School Ends in Chaos", *New York Times*, 4 September 2004; Nick Paton Walsh & Peter Beaumont, "When hell came calling at Beslan's School No 1", *The Guardian*, 5 September 2004.

¹⁹⁶ "Chechen rebel leader killed", *CNN*, 8 March 2005, <http://edition.cnn.com/2005/WORLD/europe/03/08/chechnya.rebel.killed/>; Nick Paton Walsh, "Chechen rebel leader killed in Russian assault", *The Guardian*, 9 March 2005.

¹⁹⁷ "60 killed in city battle", *The Guardian*, 13 October 2005.

¹⁹⁸ Michael Hirst, "Chechnya's rebel leader killed by pro-Russia forces", *The Telegraph*, 18 June 2006; Peter Finn, "Blast Kills Leader of Separatists in Chechnya", *Washington Post*, 11 July 2006; "Chechen rebel chief Basayev dies", *BBC*, 10 July 2006; "Rebels' dilemma after Basayev death", *BBC*, July 2006; "Mastermind of Russian school siege killed", *BBC*, 11 July 2006.

¹⁹⁹ See Human Rights Watch, *Worse than a War: "Disappearances" in Chechnya – a Crime Against Humanity*, March 2005; Amnesty International, *Russian Federation – Violations Continue, No Justice in Sight*, a Briefing Paper on Human Rights Violations in the Context of the Armed Conflict in the Chechen Republic, 2005; Human Rights Watch, *Widespread Torture in the Chechen Republic*, November 2006; Amnesty International, *What Justice for Chechnya's Disappeared?*, May 2007; ICRC, *Families of Missing Persons: Responding to their Needs*, August 2009.

²⁰⁰ See Luke Harding, "Russia ends anti-terrorism operations in Chechnya", *The Guardian*, 16 April 2009; "Russia ends Chechnya operation", *BBC*, 16 April 2009; Michael Schwartz, "Russia Ends Operations in Chechnya", *New York Times*, 16 April 2009; Uwe Klubmann, "The Long War in the Caucasus: Russia Claims Victory in Chechnya", *Der Spiegel*, 17 April 2009.

²⁰¹ Cliffo J Levy, "Moscow Attack a Test for Putin and his Record Against Terror", *New York Times*, March 2010; "Moscow Metro hit by deadly suicide bombings", *BBC*, 29 March 2010; Luke Harding & Mark Tran, "Moscow metro bombs kill dozens", *The Guardian*, 29 March 2010.

²⁰² Luke Harding, "Chechen rebel chief claims responsibility for Moscow underground bombings", *The Guardian*, 1 April 2010; Philip P. Pan, "Chechen rebel leader asserts role in Moscow subway bombings", *Washington Post*, 1 April 2010.

²⁰³ Ellen Barry, "Deadly Blast Comes at Sensitive Time for Russia", *New York Times*, 24 January 2011; Luke Harding & Tom Parfitt, "Domodedovo airport hit by deadly bombing", *The Guardian*, 24 January 2011; Richard Boudreaux & Gregory L. White, "Terror at Moscow Airport", *Wall Street Journal*, 25 January 2011; "Chechen warlord Doku Umarov admits Moscow airport bomb", *BBC*, 8 February 2011.

Russia's Failure to Investigate and Prosecute Human Rights Violations

Russian authorities have consistently failed to properly identify, investigate, and prosecute individuals implicated in committing serious human rights violations in Chechnya which included murders, torture and enforced disappearances on a large scale:

Russian authorities have concealed and obstructed the prosecution of Russian forces for violations of human rights and international humanitarian law in the Chechnya conflict. The failure to hold violators accountable can be expected to encourage Russian federal forces to continue to perpetrate abuses. Announced investigations into three well-known massacres believed to be committed by federal forces in the first six months of the war — at Alkhan-Yurt, Staropromyslovski, and Aldi — have been incomplete, haphazard, or suspended altogether.²⁰⁵

Russian authorities did not implement rulings delivered by the European Court for Human Rights in relation to its activities in Chechnya granting impunity to its officials:

This report, based on materials related to 33 cases, describes the problems that have plagued Russian investigations into these cases after the European Court judgments were handed down.

First, and most significantly, as of this writing no perpetrator in any of these cases has been brought to justice, even in cases in which the court has found that the perpetrators are known, and in some instances even named in its judgments. Other problems include: the state's failure to inform the aggrieved parties about the investigation; failure to provide access to criminal case files; inexplicable delays in investigation; and legal obstacles preventing investigators from accessing key evidence held by Russian military or security services. These same failures had plagued earlier investigations into abuses in Chechnya and had led the court to find violations related to the investigations.

In addition, in a new and very troubling trend, the investigative authorities have flatly contested several of the European Court's judgments apparently in order to justify closing investigations and refusing to bring charges against perpetrators. This has occurred even in cases in which those responsible or their superiors are known and named in European Court judgments, or could readily be known. Russia has shown resistance to cooperating with the court in other ways. In 40 judgments on cases from Chechnya, the European Court found that Russia's refusal to share with the court documents from the criminal case files had violated its obligation to "furnish all necessary facilities" to support the court's examination of a case.²⁰⁶

²⁰⁴ "Chechen rebel leader Doku Umarov 'dead'", *BBC*, 18 March 2014; Ellen Barry, "Russia's Most-Wanted Rebel Is Dead, Website Says", *New York Times*, 18 March 2014.

²⁰⁵ Human Rights Watch, Memorandum on Domestic Prosecutions for Violations of International Human Rights and Humanitarian Law in Chechnya, 9 February 2001. See also Human Rights Watch, Russia / Chechnya – Burying the Evidence: The Botched Investigation into Mass Grave in Chechnya, May 2001.

²⁰⁶ Human Rights Watch, "Who Will Tell Me What Happened to My Son?" – Russia's Implementation of European Court of Human Rights Judgments on Chechnya, September 2009. See also Human Rights Watch, Joint Letter to President Medvedev regarding Human Rights Situation in the North Caucasus, 20 April 2011.

As of March 2016, the European Court of Human Rights delivered 250 judgments relating to the Chechen – Russian armed conflicts (1994 – 1996; 1999 – 2009):

About 60% of the applications concern enforced disappearances; other issues include killing and injuries to civilians, destruction of homes and property, indiscriminate use of force, use of landmines, illegal detention, torture and inhuman conditions of detention.²⁰⁷

The Russian authorities' disregard for the rule of law outlined in the 2009 Human Rights Watch report have persisted. In the case of *Aslakhanova and others v. Russia* (2012) the ECHR considered the Russian authorities' investigation of the forced disappearance of 8 individuals from Grozny or the Grozny district in Chechnya between March 2002 and July 2004:

The abductions occurred in quite similar circumstances: the applicants' relatives were arrested by groups of armed and masked men at their homes or in the streets in a manner resembling a security operation. In each case a criminal investigation file was opened by the local prosecutor's office. At the end of 2011, when the latest round of observations was submitted, the investigations remained pending without having produced any tangible results as to the whereabouts of the applicants' relatives or the identity of the perpetrators.²⁰⁸

The ECHR reiterated its findings in previous cases regarding the failures and shortcoming of the Russian authorities to properly investigate forced disappearances concluding that also in the case before it "the authorities failed to carry out effective criminal investigations into the circumstances of the disappearance".²⁰⁹ The ECHR elaborated that:

[I]n the context of disappearances that took place in Chechnya and Ingushetia between 1999 and 2006, the Court has previously identified the following common shortcomings of the criminal investigations: delays in the opening of the proceedings and in the taking of essential steps; lengthy periods of inactivity; failure to take vital investigative steps, especially those aimed at the identification and questioning of the military and security officers who could have witnessed or participated in the abduction; failure to involve the military prosecutors even where there was sufficient evidence of the servicemen's involvement in the crimes; inability to trace the vehicles, their provenance and passage through military roadblocks; belated granting of victim status to the relatives; and failure to ensure public scrutiny by informing the next of kin of the important investigative steps and by granting them access to the results of the investigation. In numerous such cases, the Court has noted that the combination of these factors had rendered the criminal investigations ineffective, and thus had rendered the domestic remedies, potentially available to the victims, futile (see, among many examples, *Vakhayeva and Others v. Russia*, no. 1758/04, § 157, 29 October 2009; *Shokkarov and Others v. Russia*, no. 41009/04, § 107, 3 May 2011; and *Umarova and Others v. Russia*, no. 25654/08, § 94, 31 July 2012).

...

In the cases at hand, the investigations have been pending for many years without bringing about any significant developments as to the identities of the

²⁰⁷ ECHR – Press Unit, Factsheet – Armed Conflicts, March 2016, p.7.

²⁰⁸ ECHR Case No.2944/06 *Aslakhanova and others v. Russia*, Judgment, 18 December 2012, para.6.

²⁰⁹ ECHR Case No.2944/06 *Aslakhanova and others v. Russia*, Judgment, 18 December 2012, para.127.

perpetrators or the fate of the applicants' missing relatives. While the obligation to investigate effectively is one of means and not of results, the Court notes that the criminal proceedings in each of the four files opened by the district prosecutor's office have been plagued by a combination of the same defects as enumerated in the preceding paragraph. To give but a few examples, the delays in the opening of the criminal investigation files amounted to between seven days in the case of Abuyazid Shidayev ... and more than five months in the case of Apti Avtayev...The eyewitnesses of the abductions were questioned with substantial delays, for example seven and nine months in the case of the abduction of the Barshov brothers ... Each of the cases at hand was the subject of several decisions to adjourn the investigation, followed by periods of inactivity, which further diminished the prospects of solving the crimes. No steps have been taken in any of the four criminal cases to identify and question the servicemen who could have witnessed, registered or participated in the operation.

Even where there was sufficient evidence of the involvement of the military or security officers in the operation, the case file was not transferred to the military prosecutors for investigation, as in the case of the abductions in Dachu-Borzoy ... That case is particularly illustrative of the low level of cooperation of the security services, which refused to provide the law-enforcement agencies with the requisite information ... As in many previous cases, the supervising prosecutors and the courts were aware of the investigations' faults ... , but their instructions did not bring about any positive developments. Lastly, even where the applicants tried to obtain access to the case file, their requests were rejected...They were thus deprived of the possibility to acquaint themselves with the progress of the proceedings and to safeguard their procedural interests in an effective manner.²¹⁰

The ECHR concluded that the Russian authorities' failures had been widespread and systemic and that they also did not abide by their assurances to remedy their severe shortcomings:

Accordingly, the Court finds that the situation in the present case must be characterised as resulting from systemic problems at the national level, for which there is no effective domestic remedy. It affects core human rights and requires the prompt implementation of comprehensive and complex measures.

The widespread nature of the above-mentioned problems is attested by other relevant sources, including national and international bodies, and statements by various public officials ... Despite the Government's assurances to the contrary, most of the recent documents and, in particular, the Council of Europe Committee of Ministers' reports, show that these issues have remained largely unresolved.

Although a majority of cases concern disappearances that occurred between 1999 and 2006 in Chechnya and Ingushetia, the Court has concluded that the criminal investigations were ineffective also in cases of abductions that occurred either before or after that date, and outside of those two regions (see *Tashukhadzhiyev v. Russia*, no. 33251/04, 25 October 2011, for a disappearance in Chechnya in 1996; *Umarov v. Russia*, no. 2546/08, 12 June

²¹⁰ ECHR Case No.2944/06 *Aslakhanova and others v. Russia*, Judgment, 18 December 2012, paras.123-125.

2012, for disappearances in 2007 in Chechnya and Dagestan; and Shafiyeva v. Russia, cited above, for a disappearance in Dagestan in 2009). The Court therefore finds that, even though the systemic nature of the violation is obvious in relation to the period between 1999 and 2006, the problems of the investigation of such events are more widespread and should be borne in mind when examining complaints arising out of similar cases occurring outside of that period and/or elsewhere in the region.²¹¹

In another case concerning investigating 36 forced disappearances and deaths in Chechnya committed by Russian forces between 2000 and 2006, the ECHR rejected the Russian government's claim that "there was no evidence to prove beyond reasonable doubt that State agents had been involved in the abductions."²¹² The Court concluded that the pattern of flawed Russian investigation articulated in the Aslakhanova case continued given that the investigations:

Each was subjected to several decisions to suspend the investigation, followed by periods of inactivity, which further diminished the prospects of solving the crimes. No meaningful steps were taken to identify and question the servicemen who could have witnessed, registered or participated in the operations.

In the light of the foregoing, the Court finds that the authorities failed to carry out effective criminal investigations into the circumstances of the disappearance and death of the applicants' relatives.²¹³

Similarly, the ECHR held that the Russian authorities carried out illegitimate air strikes in Chechen village on 17 February 2000 killing 30 people and injuring 25 and on 19 and 20 February 2000 killing two individuals. It also concluded that the Russian authorities violated the right to life and the obligation to conduct an effective criminal investigation. The failure to investigate was particularly flagrant considering that Russian courts had ordered to initiate one.²¹⁴

Russia's Persecution of Human Rights Activists and Journalists

The Russian government, particularly under the rule of Putin, stifled debate and opinions that opposed it. Russian human rights activists and journalists who reported about Russia's human rights record and Putin's authoritarian rule have been either murdered or intimidated.²¹⁵ Since Putin became President 40 journalists had been killed.²¹⁶ It is estimated that a total of 80 journalists had been killed since the dismantling of the Soviet Union.²¹⁷ Putin has signed laws against undesirable NGOs

²¹¹ ECHR Case No.2944/06 *Aslakhanova and others v. Russia*, Judgment, 18 December 2012, paras.217-219.

²¹² ECHR Case No.53036/08 *Pitsayeva and others v. Russia*, Judgment, 9 January 2014, para.10.

²¹³ ECHR Case No.53036/08 *Pitsayeva and others v. Russia*, Judgment, 9 January 2014, paras.471-472.

²¹⁴ ECHR Case No.22782/06 *Abdulkhanov and others v. Russia*, Judgment, 3 October 2013.

²¹⁵ See Michael Schwartz & Ellen Barry, "Chechen Rights Campaigner Is Killed", *New York Times*, July 2009; Miriam Elder, "Russian rights activist Natalya Estemirova murdered", *The Telegraph*, 15 July 2009; The Editorial Board, "Who Ordered Politkovskaya's Murder?", *New York Times*, 10 June 2014; Peter Preston, "Putin's win is a hollow victory for a Russian free press", *The Guardian*, 11 March 2012; Howard Amos & Tom Prafitt, "Kremlin critics killed during Vladimir Putin's leadership", *The Telegraph*, 28 February 2015.

²¹⁶ Peter Preston, "Putin's win is a hollow victory for a Russian free press", *The Guardian*, 11 March 2012.

²¹⁷ Committee to Protect Journalists, <https://cpj.org/killed/europe/russia/>. See also Human Rights Watch, Threats to Press Freedoms, November 1993, pp.17-19.

and empowered the Russian Constitutional Court to overturn rulings of the European Court of Human Rights.²¹⁸

On 7 October 2006, Russian journalist Anna Politkovskaya who wrote about the war in Chechnya and Putin's authoritarian rule²¹⁹ was shot by a gunman near her apartment.²²⁰ On 9 June 2014 Moscow's highest criminal court sentenced five men to prison for the journalist's murder which Putin described as having brought Russia "far greater injuries and damage than her publications."²²¹ Two Chechens, the gunman and his uncle, were determined by the Court as the main planners and executioners of this murder. Who ordered her death remains unclear.²²²

Three months after Putin's April 2009 declaration about the end of military operations in Chechnya, four gunmen abducted and killed Russian human rights activist Natalia Estemirova in Chechnya.²²³ She documented kidnappings and killings in this region. According to Human Rights Watch this phenomenon had worsened:

Threats and harassment against human rights defenders in Chechnya have increased since Estemirova's murder, and the working environment has deteriorated. Three weeks after she was killed, Zarema Sadulaeva and Alik Djabrailov, activists with "Save the Generation," a local nongovernmental organization, were also abducted in Grozny and murdered. The investigation into their killing has not yielded tangible results.²²⁴

Following Putin's return to power as President in 2012, after having been Prime Minister for four years and swapping jobs with the outgoing President Medvedev,²²⁵ Russian authorities unleashed a series of measures aimed at restricting the activities of civil society organizations:

In the year since Vladimir Putin's return to the presidency in May 2012, the Russian government has unleashed a crackdown on civil society unprecedented in the country's post-Soviet history. The authorities have introduced a series of restrictive laws, harassed, intimidated, and in several cases imprisoned political activists, interfered in the work of nongovernmental

²¹⁸ See Thomas Grove, "Russia's Putin Signs New Law Against 'Undesirable' NGOs", *Wall Street Journal*, 25 May 2015; Darren Boyle, "Putin signs new law allowing Russia to ignore international human rights court", *MailOnline*, 15 December 2015.

²¹⁹ See Anna Politkovskaya's writings: *A Dirty War: A Russian Reporter in Chechnya*, (Harvill Press, 2001); *A Small Corner of Hell: Dispatches from Chechnya* (University of Chicago Press, 2003); *Putin's Russia* (Harvill Press, 2004); *Putin's Russia: Life in a Failing Democracy* (Metropolitan Books, 2005).

²²⁰ Thomas de Waal, "The Chechen silence", *The Guardian*, 12 October 2006; Michael Mainville, "Death in Russia: The Silencing of Anna Politkovskaya", *Der Spiegel*, 13 October 2006.

²²¹ See Andrew Roth, "Prison for 5 in Murder of Journalist", *New York Times*, 9 June 2014.

²²² See Amy Knight, "Who Killed Anna Politkovskaya?", *The New York Review of Books*, 6 November 2008; The Editorial Board, "Who Ordered Politkovskaya's Murder?", *New York Times*, 10 June 2014; Mary Dejevsky, "Who really did kill Russian journalist Anna Politkovskaya?", *The Independent*, 13 June 2014; Roy Greenslade, "Who was the mastermind behind the murder of Anna Politkovskaya?", *The Guardian*, 19 June 2014. See also Peter Preston, "Putin's win is a hollow victory for a Russian free press", *The Guardian*, 11 March 2012 (chronicling the death of 40 journalists since Putin became president in 2000); Howard Amos & Tom Praffitt, "Kremlin critics killed during Vladimir Putin's leadership", *The Telegraph*, 28 February 2015.

²²³ See Michael Schwartz & Ellen Barry, "Chechen Rights Campaigner Is Killed", *New York Times*, July 2009; Miriam Elder, "Russian rights activist Natalya Estemirova murdered", *The Telegraph*, 15 July 2009; Luke Harding, "Who shot Natalia Estemirova?", *The Guardian*, 23 July 2009.

²²⁴ See Human Rights Watch, *Russia: Bring Natalia Estemirova's Murderers to Justice*, 13 July 2012.

²²⁵ See David M. Herszenhorn, "Putin Wins, but Opposition Keeps Pressing", *New York Times*, 4 March 2012; Michael Schwartz, "With Some Dissent, Russia's Parliament Confirms Medvedev", *New York Times*, 8 May 2012.

organizations (NGOs), and sought to cast government critics as clandestine enemies, thereby threatening the viability of Russia's civil society.²²⁶

This has been a continuation of Putin's policy from his earlier 8 years of tenure as president (2000 - 2008).²²⁷ Such practices have complemented the general dire human rights situation in Russia which covered fields: the conduct of the police²²⁸ and military,²²⁹ rights of people with disabilities,²³⁰ women,²³¹ migrant workers,²³² health care,²³³ and the LGBT community.²³⁴

Conclusion

In this report I sought to discover the industry of producing death and destruction, particularly by the Russian army. The culmination of this process had been a systematic violation of the laws of war and total disregard for the rule of law, human rights, and basic principles of democratic governance. Whether there had been other forces that contributed significantly to the human rights abuses chronicled in this report is a matter for additional and not less important research.²³⁵

²²⁶ Human Rights Watch, *Laws of Attrition - Crack Down on Russia's Civil Society after Putin's Return to Presidency*, 24 April 2013. See also Amnesty International, *Freedom Under Threat – Clampdown on Freedoms of Expression, Assembly, and Association in Russia*, 2013; U.S. Department of State, *Russia 2013 Human Rights Report*, <http://www.state.gov/documents/organization/220536.pdf>.

²²⁷ See Robert Cottrell, "The Emperor Vladimir", *The New York Review of Books*, 9 February 2006; Aryeh Neier & Leonard Benardo, "Russia: The Persecution of Civil Society", *The New York Review of Books*, 27 April 2006; Human Rights Watch, *An Uncivil Approach to Civil Society - Continuing State Curbs on Independent NGOs and Activists in Russia*, June 2009; Human Rights Watch, *Choking on Bureaucracy - State Curbs on Independent Civil Society Activism*, February 2008; Human Rights Watch, *Managing Civil Society - Are NGOs Next?*, November 2005; Human Rights Watch, *Russia 'Spy Mania' - A Study in the Case of Igor Sutigin*, October 2003.

²²⁸ See Human Rights Watch, *Russia: Crime or Simply Punishment? - Racist Attacks by Moscow Law Enforcement*, September 1995; Human Rights Watch, *Confessions at any Cost - Police Torture in Russia*, November 1999.

²²⁹ Human Rights Watch, *To Serve without Health? - Inadequate Nutrition and Health Care in the Russian Armed Forces*, 2003; Human Rights Watch, *The Wrongs of Passage: Inhumane and Degrading Treatment of New Recruits in the Russian Armed Forces*, 2004.

²³⁰ Human Rights Watch, *Barriers Everywhere - Lack of Accessibility for People with Disability in Russia*, 2013; Human Rights Watch, *Abandoned by the State - Violence, Neglect, and Isolation for Children with Disabilities in Russian Orphanage*, 2014; Human Rights Watch, *Left Out? - Obstacles to Education for People with Disabilities in Russia*, 2015.

²³¹ Human Rights Watch, *Neither Jobs nor Justice - State Discrimination Against Women in Russia*, 1995; Human Rights Watch, *Russia - Too Little, Too Late - State Response to Violence Against Women*, 1997.

²³² Human Rights Watch, *'Are you Happy to Cheat Us?' - Exploitation of Migrant Construction Workers in Russia*, 2009; Human Rights Watch, *Race to the Bottom - Exploitation of Migrant Workers Ahead of Russia's 2014 Winter Olympic Games in Sochi*, 2013.

²³³ Human Rights Watch, *Lessons Not Learned: Human Rights Abuses and HIV/AIDS in the Russian Federation*; Human Rights Watch, *Positively Abandoned - Stigma and Discrimination against HIV-Positive Mothers and their Children in Russia*, 2005; Human Rights Watch, *Rehabilitation Required - Russia's Human Rights Obligation to Provide Evidence-based Drug Dependent Treatment*, 2007.

²³⁴ Human Rights Watch, *'We Have the Upper Hand' - Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual, and transgender people*, 2007; Human Rights Watch, *License to Harm - Violence and Harassment against LGBT People and Activists in Russia*, 2014.

²³⁵ On possible American involvement in destabilization efforts against the Soviet Union and subsequently Russia see John Limon Hart, *The CIA's Russians* (Naval Institute Press, 2003); ; Benjamin Tromly, *Cold War Exiles and the CIA: Plotting to Free Russia* (Oxford University Press, 2019); Joseph Persico, "Spy Versus Spy", *New York Times*, 28 September 1997; "Russian ambassador to Turkey Andrei Karlov shot dead in Ankara", BBC, 20 December 2016 (it is not clear in this report whether the shadows of the U.S. mission in Turkey have played evident or vague problematic role in this murder). See also Edward Herman & Frank Brodhead, *The Rise and Fall of the Bulgarian Connection* (Sheridan Square, 1986); Jeffrey St. Clair et al, *Whiteout – The CIA, Drugs, and the Press* (Verso, 1998); Robert Baer Interview at the Jewish Community Center in San Francisco, C-Span, 10 November 2014, <https://www.c-span.org/video/?322743-1/the-perfect-kill> (on the CIA and political

assassinations in the Middle East); John Stockwell, Secret Wars of the CIA, American University, C-Span, 3 November 1989, <https://www.c-span.org/video/?10353-1/secret-wars-cia#> (CIA's destabilization in Africa).