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SYDNEY INSTITUTE

SYDNEY, 21 JUNE 2017

BEYOND THE TRAGEDY OF OTTO WARMBIER

Michael Kirby[[1]](#footnote-1)\*

This week the family of Otto Warmbier announced, in their polite, understated American way, “It is our sad duty to report that our son has completed his journey home. Otto died today at 2pm”.

The apparently healthy, well-nourished American university student from Wyoming, Ohio, made a fateful decision in China at the end of 2015. Instead of returning directly to his studies at the University of Virginia, he signed up for a short trip to the ‘hermit kingdom’. His idea was to spend the New Year break in North Korea. During his stay at a Pyongyang hotel, he entered a staff room which was off bounds. He removed a propaganda banner that lauded the achievements of the Korean Workers’ Party and proclaimed undying loyalty to the ‘Great Leader’, Kim Jong-un.

This act, doubtless conceived as a cheeky gesture, was not perceived that way by the North Korean authorities. The young Otto was arrested and separated from his group who left for home. He began his journey into grossly excessive punishment. He was tried and obliged to tender abject apologies. He was sentenced to 15 years hard labour. He joined other, mostly American, prisoners whose extreme punishments were probably designed to serve as inducements for outlandish concessions and to signify humiliation and submission. During 18 months of detention something happened that plunged Otto into an unresponsive coma. A deal was struck last week to return the comatose prisoner to his family. Wyoming, Ohio welcomed him back. But he died without recovering responsiveness. Otto Warmbier was foolish in the way that young people can sometimes be. But his jailers were brutal, secretive and neglectful. His ‘punishment’ was totally disproportionate. Proportion and moderation are features of universal human rights and democratic politics. They are not features of the society of North Korea that the young Otto so offhandedly decided to visit as a New Year lark. The tour company has now cancelled tours for Americans. The family condemn what they see as the wrong done to their son by North Korea. The world looks on and draws its conclusions.

In May 2013, I was appointed to chair a UN commission of inquiry on human rights violations in North Korea. Nothing in my previous 35 years as a judge in Australia had prepared me for the ‘systematic, widespread and gross human rights violations’ that were disclosed in the evidence about the conditions in that country. We were denied entry by the regime. We never expected that they would submit themselves to close up inspection. However, we had no problem gathering reliable and convincing evidence. More than 30,000 North Korean refugees are now living in South Korea where they have a constitutional right to citizenship. In understated public testimony, available online, many of them came forward to tell a horror story of what is going on in their country.

North Korea is a land of ceaseless propaganda. Of torture and inhuman treatment. Of arbitrary arrest and detention. Of public executions to which school children are brought to look and to learn what happens to state enemies. Detention camps exist where family members must join the accused so as to rid society of their contagion. It is a place where freedom of movement is strictly controlled. Where Korean, Japanese and other nationals have been abducted to serve the purposes of the Kim dynasty. Where starvation of thousands is a recurring nightmare because of the failures of the economic system, a left-over of the world’s last Stalinist society.

North Korea rejects the evidence and findings of the UN inquiry about the gulags containing the ‘hostile class’. Yet they reject UN demands to permit inspectors to examine the places we can identify. Satellite images confirm the testimony provided by our witnesses. In today’s world it is less easy than once it was to hide widespread wrongdoing.

After the UN report was delivered to the Human Rights Council in March 2014, it was impossible to deny, with any conviction, the serious state of affairs in North Korea. According to our findings ‘the gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world’. It is ‘a totalitarian State: a State that does not content itself with ensuring the authoritarian rule of a small group of people, but seeks to dominate every aspect of its citizens’ lives and terrorises them from within’.

The young Otto Warmbier had been specifically told by the tour company that he should not go into staff quarters in his hotel. He had been warned of the hyper-sensitivity of North Korea’s leadership to slights and to challenges to their leadership. Perhaps, as in his own country, that was just the challenge he needed to make his sudden, gesture to pilfer the propaganda symbol. But North Korea is a pitiless place. Especially so for uppity, well-fed American tourists. What he was not counting on was the pervasiveness of surveillance and the subordination of elite hotel employees to loyalty to their Leader.

Young Otto did not suffer detention in the political camps. His fate was incarceration in the ordinary prison system of the country. If, before setting out to Pyongyang, he had read the report of the UN commission on North Korea, he would have learned of the findings of grossly inhumane acts committed there against ordinary prisoners. Of extermination and murder, torture, rape and other grave sexual violence happening in the prisons. Of conditions similar to enslavement which persist behind prison walls. Of shocking shortages of food and hygiene. And the crimes against humanity that are a feature of daily life in North Korea. Had he read our report, he might have thought twice about going to such a country to celebrate the New Year. And if he had gone, he would have been aware of the brutality that attends trivial infractions, especially by foreigners, particularly by Americans. But he was just a high spirited student with his life ahead of him. Suddenly by an act he would have regarded as harmless, he became a dispensable pawn in a great international chess game.

A seemingly minor player on the geographical chess board (North Korea) has suddenly aspired to be a King. Despite comparative poverty and disadvantage it has developed nuclear warheads. It has tested sophisticated missiles. It has experimented with submarine launching facilities that will allow it to threaten more than its neighbours. The established players in the game do not seem to know how to declare checkmate to this new would-be King. A tiny pawn, like Otto Warmbier, can quite easily be removed from the game, and even from life. When and how the young Otto’s brain damage first occurred may never be known. Like much else about North Korea, it is shrouded in obsessive secrecy and mystery. Perhaps this is what intrigued Otto and caused him to take his fateful decision.

How should we remember Otto Warmbier from Ohio? His plight should draw our attention to the sufferings of an entire people subjected in North Korea to daily acts of fearsome disproportion and violence. Accidently perhaps, Otto’s incarceration, coma, removal and death, once again, call to notice the sufferings of the other prisoners, languishing in the jails of North Korea. A young American’s fate becomes a metaphor, a kind of symbol, of a big story about thousands of nameless statistics locked up and oppressed in North Korea. They are voiceless. But Otto Warmbier speaks of their suffering from his grave. He reminds the world of the human rights wrongs in North Korea. He joins the voices of the many witnesses who gave testimony to the UN commission.

The young Otto never woke from his coma to tell of his ordeal. Still the image of this healthy, strapping American student, joyfully speaking at his high school graduation on *YouTube*, is a reminder of all the other victims who remain behind. They are locked up in their prisons, their detention camps and elsewhere behind the DMZ in the closed society that is North Korea. They will remain locked up in that silence until the United Nations and the world community respond effectively to the UN Commission report.

In 1945, the world promised that never again would it turn away from crimes against humanity. That promise has not yet been delivered. We owe it to Otto Warmbier, but also to the people of North Korea who still live in the shadows, to deliver on the promise. The development of nuclear weapons in North Korea makes fidelity to the promise more difficult. But also more important and more urgent. The boy from Wyoming, Ohio tells the world that it should act. But will it? Can it? That is the puzzle left to humanity by the life and death of Otto Warmbier.

1. \* Formerly a Justice of the High Court of Australia. Between 2013-14, he chaired the UN Commission on Human Rights Violations in North Korea. Text for an address at the Sydney Institute, Sydney, Australia on 21 June 2017 at 18:00AEST. [↑](#footnote-ref-1)