

EDITORIAL

An overwhelming proportion of the population in numerous countries surveyed by the ICRC some years ago expressed the opinion that certain acts of war are so serious as to constitute war crimes and wrongdoers should be tried and punished. First-hand exposure to conflict and fighting seemed to increase the acceptance of punishment of war criminals, and there is a broadly held belief that the blame for many of the atrocities lies with military leaders, who exert incredible pressure on soldiers and fighters to commit heinous acts in order to gain a strategic advantage. In their comments, both civilians and combatants attempt to absolve young, ill-trained combatants of responsibility for their actions. What becomes clear from that survey is that the culture of war – and the constant assault on the ethical norms and conventions of war – has produced a demand for justice among both combatants and non-combatants.

The form citizens expect justice to take – that is, what kind of punishment, what it should be based on and who should sit in judgment – varies widely from one setting to another. The population's past experience of the institutions in question – the international courts, national courts, the government and the military – undoubtedly shapes their opinions about whether these institutions are capable of providing fair justice in the future. In most countries without strong state authority, more people tend to turn to an international court, believing their country's institutions to be either too weak or too corrupt to render fair judgment.

International humanitarian law obliges states to repress all violations of that law. Sanctions are an integral part of every coherent legal system, and the threat of an effective sanction has a dissuasive effect. States must ensure compliance with rules set out in international agreements or arising from customary international law, and must take whatever measures are necessary to prevent and repress violations thereof. Such measures may include military regulations, administrative orders and other regulatory measures. Where serious violations of international humanitarian law have been committed, the alleged perpetrators must face criminal prosecution.

Especially during armed conflicts, these obligations to repress breaches of international humanitarian law require the authorities to exercise great vigilance, in particular with regard to acts committed by members of their own armed forces. It is often the laxity of commanders that allows soldiers to turn into bandits. For repression to be effective during armed conflicts, strict discipline and

determination to ensure compliance must therefore prevail throughout the whole military hierarchy.

This is equally true for non-state armed groups, although it is more difficult for them as they are generally structured more loosely and may lack the requisite means.

After armed conflicts, the political, economic and social situation influences the forms of justice chosen, as well as its timing. While it is necessary to balance the needs of a post-conflict society – such as stabilization, security, reconciliation and demobilization – with the call for justice, justice must still be done. Justice must be rendered for the sake of the victims, but it is also part of a series of measures that must be taken to prevent further violations affecting future generations. It is crucial that states show the firm political will to ensure that persons suspected of having committed war crimes are duly prosecuted, whether at the national or the international level. The objective is clear: the atrocities must cease and those responsible for them must be held accountable. All necessary steps must be taken to achieve this goal. The *Review* hopes to contribute to its achievement by examining the part played by sanctions in obtaining greater respect for international humanitarian law.

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