Serious violations of international humanitarian rules, a collective acting out ?[1]

Introduction

The serious offenses against civilian populations perpetrated by governmental or non-governmental armed forces are illegal view to the internationally established norms. These acts need primary support of the perpetrators and groups involved. As regards armed forces, processes of obedience to authority can explain breakings of War Law. Concerning mass violations due to civilians, example given in Ruanda, an adhesion process to ideology of destruction is needed. Contributions of Freud in the field of leadership, the inversion of moral values and social desirability to this new order, as well as emotional manipulation of people, are elements of explanation of collective and massive acting out. A study of specifications of the contemporary armed conflicts and of the relevant Law, added to an exploration of the component parts which support the criminal massive acting out, could allow us to understand the mechanisms in play.

1- Specifications of the contemporary armed conflicts: non-international

The Law of armed conflicts is based on an absolute ban of deliberate attacks against civilian populations. The Hague Conventions, addressed to fighters, limit the means to harm the enemy[2]. The Geneva Conventions clarify the prohibited acts, and the Fourth Geneva Convention provides protection measures to civilians within war fights. According to their terms, protected people have the right, in all circumstances, to respect of their individuality, their honor, their family rights, their religious beliefs and practices, their habits and customs (art.27). The Second Additional Protocol[3] to the Fourth Geneva Convention extends the applicability of some measures relative to the protection of the whole civilian populations in case of non-international armed conflicts of high intensity (art.1), and is addressed to all armed forces, official or non-official. In this frame, are prohibited everywhere and every time, instructions to give no quarters, offenses to life and physical integrity, collective punishment, hostages, acts of terrorism, offenses to dignity, rape and sexual assaults, slavery and traffic in human beings, looting, threat to commit the acts listed above. The juridical frame created through international texts nevertheless offers less protection to victims of internal armed conflicts than to victims of international wars, in terms of suppression and legal responsibility. Indeed, limits of means and methods of warfare are limited, notably because of the state sovereignty principle, which let the States organize the suppression of rebel forces within their countries, in case of civil war for example. Whereas in cases of internal armed conflict, the fights are mostly between a governmental armed force and a non-governmental counterpart, leading to an imbalance of forces.

According to Internationally established rules, civilian victims in wartime have then to be non-fighters, except the child soldiers, eligible under the qualification as war crime of the involvement of

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[2] The Hague Convention, Section II, chap. I
[3] Second Additional Protocol to Geneva Conventions, Geneva, June, 8th 1977

child under fifteen in armed forces[4]. The population has to be victimized massively during an armed conflict or in post-conflict situation, except the victims of genocide, which do not depend of the occurrence of an armed conflict and can occur in peace time[5].

[6]Subsequent to World War II, the armed conflicts changed, as much geographically that as regards the type of war. Indeed, the worldwide confrontation gave way to local conflicts, arising from decolonization[7] for a part, and from the fall of communism blocs (former USSR, former Yugoslavia), for another part. The logics that drive these conflicts are from nationalist and identity claims, instead of the ideological and the technological, as it was during World War II and Cold War[8]. Moreover, these current armed conflicts are rooted on very deep oppositions, the war being the emerged part of very old and well-kept conflicts[9], usually set up by leaders. The setting up of these conflicts and the means employed led to create antagonisms which far exceed the politics in order to involve people, and ensure popular support and mobilization[10]. So, internal conflicts generate a lot of victims, mostly civilian. Victims affected by offenses during these local conflicts are not war damages, but well the target of commanded military assaults, in opposition to the rules of the Law of armed conflict, evoked above. Methods and warfare employed against civilians are choices, made by leaders to fulfill their projects. Besides, the armed conflict environment is potentially favorable to massive offenses, as much in logistic, organizational, and human means, as in the war climate that permits to hide criminal events, like deliberate military or police offenses against civilians.

[11]However, the employed means reveal the will to deeply affect the identity of the group defined as enemy, and to destroy this identity. This is true for torture or massive rape[12]. The aftermaths of these types of conflicts, and of the crimes occurring consequently, are severe and last for a very long time, not only for individuals and community, but also for the society and its pillars. So, various specifications are identifiable. These victims are numerous; they are targeted as members of an identified group previously defined by the criminal organization; some antagonisms were created or fed between these defined groups (targeted victims / saved); before the crime in itself, these victims are often subject to previous measures, in order to exclude them from the social group, and to deprive them of their usual support network. Furthermore, that which has been lived by these victims of massive offenses in wartime is characterized by the multiplicity of the suffered victimizations and the extent of their aftermaths.

Some analysts, face to the extent of such victimizations, advocate the irrationality of such events, which are actually considered as inexplicable. This point of view can be linked to staggering,

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[4] International penal court, Statute, art.8, 2, b, xxvi
[5] Convention on genocide, December, 9th 1948
[6] Extract of a previous oral presentation (ESC, September 2010)
[7] Rothe, D.L. ; Muliins, C.W. ; « Genocide, war crimes and crimes against humanity in Central Africa : a criminological exploration", p 135 – 158, in Smeulers, A. ; Haveman, R. (eds.) ; 2008, *Op. Cité*
[8] Durand, D. ; 2010 (1979), *La systémique*, PUF, Coll. Que sais-je ?, Paris, p120-121
[9] Dérens, J.A. ; « Les mémoires antagonistes du Kosovo », *Le Monde Diplomatique*, juillet 2005
[10] In example, the Radio des Mille collines in Rwanda, the only available one, which broadcast propaganda messages against Tutsis ; or the Serbian medias, which broadcast fake news about military victories in order to demoralize the Albanians.
[11] Extract of a previous oral presentation (ESC, September 2010)
[12] Salas, D. (Dir.) ; 2004, *Victimes de guerre en quête de justice*, L'Harmattan ; Chap. 2 : Reconnaître la victime (le cas du viol), p 89-131

the psychological sense, and testifies of the traumatic aspects carried along by such armed conflicts, including for bystanders. This traumatic reaction leads to the loss of major components in the study of contemporary armed conflicts, mostly the planning and the involvement of the population.

2-Governmental armed forces against civilians: planned mass victimizations

Despite the measures internationally established to protect civilian populations, military choices on the battle field are sometimes far away from the Law of armed conflicts. The specific nature of the mass victimizations of civilians in wartime during the 20th century is that a State attacks internal groups, composed with its own citizens. In most cases of massive offenses against civilians perpetrated in war time, offenders are under command, often governmental or state. Massacres can indeed turn mass and systematical against civilians only if a central authority urges people to do it. Actually, massive offenses against civilians and breakings of the rules of war are due to planning. The project is based on identity issues, and several possibilities for its accomplishment exist, including elimination of an internal group. Indeed, the elimination, by a superior instance, of a part of a population which the State is responsible for, is a tactical choice, made by politics and executed by militaries. The context is often a radical nationalism, which goal is to make win a group over another, designed as inferior, while both groups usually share the same territory. According to Ignatieff's thought, nationalism could be viewed as a sort of narcissism, minor differences being considered as major, in reference to Freud theory of narcissism. When conflicts are identity based, the aim is the total destruction of the enemy, what leads to use weapons highly destructive to the physical and psychic integrity of the targeted group.

Furthermore, a criminal State knows who can support its project, and surrounds itself with convenient people to fulfill its destructive policy. A State relies on the means at its disposal, mostly the governmental armed forces or police forces. More specifically, motive of genocide is to bring victory to an ideology[13], which, set by an authoritarian state, limits the personal freedoms to support a collectivity that enforces and punishes, according to H. Arendt. When characters who laud a genocide ideology hold power, the recognition of ideology turns political. Ideology becomes then governmental strategy[14]. Because the government is perceived as legitimate, the state bodies comply with it. Thus, state governments who know national minorities have means to strengthen their civil and penal legislation to the detriment of the national groups conventionally protected. Therefore, the targeted group can be reduced as a secondary community, through administrative and social discriminations, as it is the case of apartheids. In this case, victims are tolerated on the national territory but they have not the same rights than the others citizens. The victims can also be forced to live in a restraint and defined area. This is the case of ghettos for example. When the ruling logic is the extermination, that is to say when the project is not only the domination of the territory but the possession, the targeted group is considered as too much, and thus has to disappear. The State, through its ideology, allows the death impulse to develop, while violence is hidden thanks to its institutionalization. Victims

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[13] *Idem*, p 100
[14] Sémelin, J. ; 2005, *Purifier et détruire*, Seuil

cannot resist the powerful of a state. Well, it does exist practices of mass disappearance of individuals, planned by states.

[15]So State criminality and war criminality are some organized forms of crimes. Nevertheless, these forms are beyond the scope of classical criminology in matter of organized crime, because the criminal government makes use of its regular means of action. These organizational and logistic means allow to plan and commit massive and systematic crimes. Thus, administration, legislation and even the constitutional rights may enable or support the setting up of the criminal project. By following government guidelines, the citizens or members of the armed forces or police are not deviant in the usual sense of the word. They respect legally established standards, which allow discrimination, exclusion, indeed even disqualification as human being of a defined part of the population[16].

Besides, ideology brings some specific component. Some testimonies, of offenders involved in mass and systematical offenses against civilians, highlight they internalized the supportive ideology to crime. Indeed, perpetrators kill to obey authority as well as to serve a cause. Obedience to authority thus makes the acting out easier, because order is considered as a guarantee of absolution. Milgram's experiments show that any citizen tend to follow criminal orders without oppose it. These experiments show moreover that the superiority of the one who orders is one of the major components of the obedience, even while the ordering one has no means of constraint. When military, state orders are increased by superior military orders.

3- Civilian perpetrators: call to popular emotions

In some cases of mass offenses against civilians in wartime, not only the state forces are involved, but also the popular. There are several leads which can be elements of explanation of the involvement of civilians as perpetrators in mass crime. One of them can be found within contribution of Freud in the field of leadership, which allows us to locate the adhesion to the crime project in the frame of desirability of power. In normal ruling, State gives itself the monopoly of constraint and the citizen voluntary submits to it. The society, independent from the State, is linked to it through what Freud called libinal link to leader[17]. Each member of the society identifies to the leader, hoping, whatever his status is, getting one day a bit of the leader's power and, this way, being able to subject some others. Some civilian perpetrators are what we can name "opportunist criminals". They can be individuals who find in the crime project an opportunity to gain social status or advantages, or they can be from previously organized criminal groups who find in the extermination project a playing field.

To get huge popular support and involvement, an adhesion process to ideology of destructiveness is otherwise needed. This adhesion is made through ideology. Three major themes support the rhetoric of such murdering ideologies. These themes are identity, purity (ethnical or political) and safety. The ideology identity based is built on the idea of survival. Popular emotions are

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[15] Extract of a previous oral presentation (ESC, September 2010)
[16] Haveman, R. ; Smeulers, A. ; « Criminology in a state of denial – towards a criminology of international crimes : supranational criminology », p 3-26; in Smeulers, A. ; Haveman, R. (eds.) ; 2008, *Op. Cité*
[17] Freud, S. ; 1921, « Psychologie des foules et analyse du Moi » in *Essais de psychanalyse*, PBP

called, as well as popular fears. This leads that it is the whole group defined as enemy who is targeted by the destructive project. Moreover, the propaganda keeps alive and develops the fear, notably thanks to mass means of communication like Medias. The propaganda success depends on receptiveness of the audience, maximized in a context of crisis and fear. There is a manipulation of people's emotions to make them support the ideology in a first time, then the crime project in a second time. The threat the targeted group represents therefore crystallizes the violence and lead to acting out. The abolition of the difference between the fighting people and the non-fighting people allows the spread of violence. In addition, Zimbardo proved when the normal living context disappears, everyone, due to the loss of normative landmark and values can be guilty of behaviors socially repressed.

The ideology must impose itself upon everyone, so the political power must be stronger than the social cohesion which could prevent the mass crime. The protective side of the State disappears in the criminal states, to benefit to a radical and totalitarian state, which broadcasts a murdering ideology. It is because the crime is carefully planned and the ideology wide broadcasted and impressed on the citizens mentalities, well before the killings, that the victims are isolated and become easy targets. To break the social link of a national community, the threat must come from the outside of the group or a stranger. The social link is specific to a given group and needed to recognize each other as a member of this group, and leads to be opposite to others groups seen as strangers. In an ethological view, attacks against another member of the group are unusual. The external individual, identified as stranger, is preferentially subject to attack from a set up group. Thus, in a project of mass and systematical offenses against a defined group, this group is rejected off the social body, thanks to an ideology identity based. Indeed, the group designed as enemy is no more member of the society, so there will be no one to protect and help when the time of mass murder is coming. Deprivation of social status and resorts leads to a social death. Became external, a stranger, the targeted group turns into a potential enemy. This way, this rejected group could be seen much more threatening since it is an outsider. The violence is so enhanced through the fact is turned into warfare to survival, because of the identity based ideology. Eventually, the perpetrator stays implied in a social relation with his victim, even if this relation leads to marginalization of the targeted group. If the offender shows solidarity with the victim, the violence can be slow down. So the massacres can be part of the crime project, as they are means of terror for the government that wants to enforce its domination. In a crisis and violent context, individuals can be afraid of being rejected by the group if they don't agree to the new order, so they can not oppose it. In the context of an identity based conflict, being rejected is become an enemy, and since life is threatened. For example in Ruanda, perpetrators had state orders, and their own life was threatened if they would not obey these orders. This double constraint is psychologically unbearable, and leads civilians to act within the government command, even if it is criminal.

Besides, in mass crime, the inversion of moral values and social desirability to this new order, are elements of explanation of collective and massive acting out. The involvement in the action can lead to the inversion of the moral values, what allows individuals to act badly while thinking they are

acting fine. The inversion of moral values adds to the inversion of personal values. Ideology can indeed be a part of the socialization and training process of individuals to violence. In this frame, the experience gained into action would be the major component of the acting out. A group dynamics is otherwise needed in addition to ideology, to lead to the murdering acting out. Individual turns murderers if he is linked to a group where he is just one link in the chain. The group acts as a collective operator[18]. Example given, there is a "massacre language" during the killings, that creates a common culture to the murderers and enhanced the group dynamics. The massacres let emerge the instrumental violence leading to the goal, as well as the cruel and humiliating violence. Cruelty undergone by the enemy, in his very body, is a mean to maintain the dehumanization of the victim, after the dehumanization through the ideology and words. What was said is now acting. Cruelty would allow taking psychological distance with the victim which is propelled in the non-human field. This way the perpetrator can no longer identify to the victim in the most universal dimension, the one of mankind. Therefore, there are no more psychical boundaries to the violence. This is visible when time of peace comes, when lots of perpetrators are acting like the crime never exists or still believe in its benefits. Indeed, to recognize the reality of their acts as crimes would lead them to psychical collapse.

Conclusion

A major difficulty of the internal armed conflicts is that perpetrators and victims belong to the same society, offenders and offended must live together after the killings. The internalized murdering ideology, which denied the victims as member of the society and often as human being, is one of the challenges encountered in post-conflict situations consequent to a non-international armed conflict identity based. The lack of confident of the victims in their counterparts as well as in the whole humanity is a very challenging issue too. So the main goal of the crisis output is to overpass the huge divergences created by the tragic event, to build up confident basis and to support cooperation between the two groups created through the ideology. The challenges of such post-conflict contexts are thus linked to governance, social aspects, individuals issues, what need a global approach and a focus on the roots of the antagonisms.

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[18] Sémelin, J. ; 2005, *Purifier et détruire*, Seuil