

The mass crimes in the former Yugoslavia: participation, punishment and prevention?

Samuel Tanner

Samuel Tanner is a Ph.D. candidate at the School of Criminology of the University of Montreal. He is also a research assistant at the International Centre for Comparative Criminology, University of Montreal.

Abstract

This article discusses sanctions for and the prevention of mass violence. But rather than take a classic approach centred on statutory players such as soldiers, officers or political leaders, all of them acting within a legal chain of command, I focus on non-state perpetrators. My reflections are based on case studies of four former Serbian militiamen who took part in mass violence in the former Yugoslavia. I argue that it is of the utmost importance to consider the typical grass-roots relationship between these local players and their own community, so as to maximize the effect of sanctions and perhaps prevent further offences by potential future perpetrators.

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Mass crimes: legal and sociological approaches

What influence would international, national or local criminal sanctions have on the armed bands who took part in mass crimes in Croatia and in Bosnia and Herzegovina during the 1990s? I argue that to prevent and punish such acts, it is first necessary to assess and understand the perpetrators' experience of participation in mass violence. To begin with, two approaches to the study of "ethnic cleansing" or genocide, as in the former Yugoslavia or Rwanda, may be

envisaged: the legal and the sociological approach. For example, consider the concept of genocide. A legal approach defines genocide as a violation of the 1948 United Nations Convention for the Prevention and Repression of Genocide. It can, however, also be contemplated from a substantial, or sociological, perspective, which is the approach I shall take in this article. Viewed thus, genocide is no longer considered in terms of a violation of an international norm and rule, but rather as the result of social practices. It is not only a “nominal” crime that violates a rule of international law, but also a set of actions and social practices that need to be grasped and understood in order both to prevent and to sanction them. Consequently, mass crimes – seen from a legal perspective – concern the whole range of violations of international humanitarian and human rights law; they comprises, but are surely not limited to, the crime of genocide, crimes against humanity and war crimes. On the other hand, mass violence – to revert to a sociological perspective – includes the various aggressive social practices perpetrated by a group or entity against a civilian population. Such a body of perpetrators may comprise militias, armed thugs, an army, or even a whole state. The mass nature of these social practices depends on several criteria. First, they imply the existence of groups on both sides, be they perpetrators or victims. Second, they occur extensively: for example, the ethnic cleansing in Bosnia and Herzegovina was perpetrated by a complex network of soldiers, militiamen, armed bands and political protagonists. And third, social practices that typify mass violence occur over a long period of time: the ethnic cleansing of Bosnia and Herzegovina lasted three years. Massacres, rape, deportations, terrorization, imprisonment in concentration camps and extermination are the main characteristics of mass violence. In the following analysis, based on the foregoing typology and my socio-criminologist background, I shall focus mainly on a substantial, or sociological, appraisal of the experience of four former Serbian executioners who took part in the mass crimes committed in Croatia and in Bosnia and Herzegovina between 1991 and 1995. I shall then sum up the results of my ongoing research before outlining some propositions relating to the prevention and punishment of such specific perpetrators of mass violence.

Assessing the experience of four former Serbian perpetrators in the Yugoslav wars

The literature on how people “become evil”¹ or commit genocide or mass killing tends to focus on state agents. By definition, those individuals act within a specific hierarchical, bureaucratic structure which respects chains of command and reflects a high division of labour. Although such state institutions might not always be well

1 James Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killings*, Oxford University Press, New York, 2002, p. 316.

co-ordinated,² they nonetheless convey the idea of “total institutions”. The soldier consequently evolves in an environment in which he is subordinate to, and dependent upon, the decisions and orders of his superiors. That social structure regulates all spheres of his personal life.³ The focus on state agents has produced a valuable core of knowledge which sheds crucial light on how such perpetrators become involved in violence against civilian populations, whether out of “obedience to authority”⁴ or because of the “banality of evil”,⁵ “doubling”,⁶ and so on. Yet recent events, such as the mass violence that occurred in the former Yugoslavia, show different and sometimes more volatile patterns than the Holocaust, on which the core literature is mostly grounded. In the Yugoslavian events, evidence shows that some perpetrators may have benefited from an “authorization space” – a certain latitude to act as they saw fit, and thus a criminal negligence on the part of state authorities; not all the perpetrators were affiliated to, or given orders by, the legal chain of command.⁷ Among these non-affiliated operatives, I focus on “armed bands”. They may be defined as perpetrators who are midway between two types of criminality. On the one hand, they are involved in “low- or middle-range criminality” such as theft, rioting, organized crime or trafficking.⁸ On the other hand, they take part in “long-range criminality” such as ethnic cleansing; the concept of range relates to the consequences, in terms of human lives, such criminality produces. Long-range criminality mostly concerns criminal political projects undertaken by central governments. Because of their dual involvement in both short- and long- range criminality, the participation by these armed bands in mass violence cannot be accounted for by explanations such as ethnic hatred⁹ or nationalist fervour.¹⁰ However, other explanations, such as greed, opportunism or pleasure,¹¹ are not accurate either, for they disregard the political objectives such armed bands nonetheless pursue.¹² I have therefore

2 For example, in his novel *Les Bienveillantes* (Gallimard, Paris, 2006), Jonathan Littell shows how competitive the SS and SA were in working towards the “Final Solution”, even though they were supposed to co-operate within the complex Nazi bureaucracy.

3 Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, Anchor Books, Garden City, New York, 1961, p. 386.

4 Stanley Milgram, *Obedience to Authority: An Experimental View*, Harper & Row, New York, 1974, p. 224.

5 Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, Viking Press, New York, 1964, p. 312.

6 Robert Jay Lifton, *The Nazi Doctors: Medical Killing and the Psychology of Genocide*, Basic Books, New York, 1986, p. 561.

7 Chérif Bassiouni, *Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)*, United Nations, New York, 1994, available at www.his.com/~twarrick/commxyu1.htm (last visited 13 March 2008).

8 Bill Buford, *Among the Thugs*, Norton, New York, 1992, p. 317; Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism*, Cornell University Press, Ithaca, N.Y., 2002, p. 201.

9 Neil, J. Kressel, *Mass Hate: The Global Rise of Genocide and Terror*, Westview Press, Cambridge, Mass., 2002, p. 312.

10 Misha Glenny, *The Balkans: Nationalism, War and the Great Powers, 1804–1999*, Viking Press, New York, 2000, p. 726.

11 Paul Collier and Anke Hoefler, “Greed and grievance in civil war”, *Oxford Economic Papers*, 56 (4), 2004, p. 28; John Mueller, *The Remnants of War*, Cornell University Press, Ithaca, N.Y., 2004, p. 258.

12 Jeremy M. Weinstein, *Inside Rebellion: The Politics of Insurgent Violence*, Cambridge University Press, New York, 2007, p. 402.

proposed an alternative hypothesis, namely the emerging premeditation pattern,¹³ which I shall summarize in the following section.

The emerging premeditation pattern: approach and findings

In brief, the emerging premeditation pattern takes a sequential approach in considering participation by armed bands in mass violence. Hence, even though consent may be a reason for their members to get involved in mass violence, I argue that it is not the outcome of long-term advance planning to destroy a group, wholly or in part, because of its characteristics. Rather, such consent has to be split up into a series of decisions, which are the outcome of meaningful events produced by interactions between them within their group and with both their respective community and current war-related political and social events. The emerging premeditation pattern is based on material I collected during fieldwork undertaken with four former Serbian perpetrators-respondents, whom I shall name Radislav, Ivan, Nenan and Janko.¹⁴ Radislav, Nenan and Ivan operated in Croatia (Knin and Vukovar) in 1991–2. Janko, Nenan and Ivan took part in events that occurred in Bosnia and Herzegovina between 1992 and 1995 (Bratunac, Zvornik, Srebrenica and Sarajevo). These interviewees were divided into two groups: Radislav, Nenan and Ivan were part of a militia affiliated to the political opposition of the ultra-nationalist Serbian Renewal Movement (SPO) headed at the time by Vuk Drašković, a strong opponent of the clique supporting Slobodan Milošević, then president of Serbia. In contrast, Janko acted within an armed group affiliated to the central government. Apart from Nenan, whom Radislav and Ivan met during the violent events in Krajina, Croatia, they all came from the same town (that I shall refer to as Uzila) and had known each other for several decades. In my further analysis I identify four main characteristics of the relationship between the perpetrators, the collective structure in which they were embedded and the environment in which such atrocities took place. These four elements interacted, combined and fuelled the process inducing these perpetrators-respondents to participate in mass violence.

Politics and militarization in Serbia in 1990–1991

The political climate of contention in Serbia between pro-Milošević and monarchist factions back in 1990–1 stemmed from an underlying plot that ultimately led to the four perpetrators-respondents' participation in mass atrocities.¹⁵ The Serbian Renewal Movement saw that political climate as a

13 Samuel Tanner, "Political opportunities and local contingencies in mass crime participation: Personal experiences by former Serbian militiamen", *Global Crime*, Vol. 8 (2), 2007, p. 19.

14 For more details about the methodology and fieldwork, see *ibid.*

15 This contention revolved around the December 1990 multiparty elections held in Serbia and won by Milošević's party, the Socialist Party of Serbia. That victory was contested by the Serbian Renewal Movement, claiming that Milošević's party had stolen their political platform, namely the creation of a Greater Serbia.

window of opportunity to increase its own political legitimacy; to that effect the monarchist opposition, using the “defamation repertoire”, launched a harsh campaign centred on security issues to discredit Milošević and the federal Yugoslav People’s Army (JNA) by suggesting that the latter could no longer be trusted. Basically the opposition wanted to raise a genuine Serbian army of modern-day Chetniks (Slavic nationalist guerrillas) to defend Serbdom within and outside Serbia’s borders. According to some, that strategy worked on the population’s feeling of insecurity, regardless of their political affiliations.¹⁶ This political contention, interpreted by the four perpetrators-respondents as a crucial time to take action, triggered a “militarization” process that indisputably brought mass violence a step closer. Their mobilization was therefore both anti-government action and a will to protect Serbs abroad, which prompted them to leave for Croatia in 1991.

Local nationalistic cognitive scripts¹⁷

The contentious political climate outlined above definitely shook nationalistic attitudes and cognitive scripts that shape frames of meanings, which “do not simply affect the strategic calculations of individuals, ... but also their most basic preferences and very identity”.¹⁸ Alongside a political agenda pressing for the return of the monarchy and the Chetniks, three other cognitive scripts shaped the frame of meaning of the four perpetrators-respondents. A first refers to racial theories founded on evolutionism in which the Serb type ranks highest. Consequently Serbs, as perceived by these four individuals, should endorse the governance of the whole territory of Yugoslavia. On several occasions the interviews disclosed a largely reinvented history which disregards basic facts about Balkan demography.

A second set of cognitive scripts shaping the perpetrators-respondents’ frame of meaning revolves around mythology and religion. These contents are mostly activated by listening to popular songs that extol the prowess of former Chetnik warriors. In those songs, as well as in the said four respondents’ accounts, such warriors are often acting with the benediction of the Orthodox Church and are therefore considered as promoters and defenders of Christianity against Islam. Accordingly, executioners tend to be identified and referred to as heavenly warriors rather than as war criminals. Except for Janko, the respondents became

16 Dubravka Stojanovic, “The Traumatic Circle of the Serbian Opposition”, in Nebojsa Popov (ed.), *The Road to War in Serbia. Traumas and Catharsis*, Central European University Press, Budapest, 1996, p. 29.

17 “Cognitive scripts are one form of memory structure that evolve over multiple exposure to the same set of stimuli and/or repeated enactment of a particular behavior.” See A. Lakshmi-Ratan and Easwar Iyer, “Similarity analysis of cognitive scripts”, *Journal of the Academy of Marketing Science*, Vol. 16 (2) (1988), available at www.springerlink.com/content/hv0089x18652mqp3/ (last visited 12 April 2008).

18 Peter A. Hall and Rosemary C. R. Taylor, “Political science and the three new institutionalisms”, *Political Studies*, No. 44 (1996), p. 22.

true believers after their involvement in mass violence. But such cognitive scripts are also revealed through conversations about Serbian history, the Orthodox religion, novels and highly sensitive issues such as the continuing dispute between Croats and Serbs over the number of Serb victims of the Nazi-affiliated Ustashes during the Second World War.

And finally, a third set of cognitive scripts rests on specific beliefs shared both by the participants and by the community to which they belong. Revolving around local rural values, which differ from urban ones, they include mistrust of people living in urban centres such as Belgrade, a reversion to local preoccupations and values (pig and chicken farming, agriculture), and a simultaneous strong resistance to the ongoing modernization of Serbian politics and society (human rights activism, neo-liberal outlooks, political pluralism, anti-war protests). Even though the respondents promoted a nationalist agenda, it is important to stress that it differed on many points from the version promoted by Belgrade and the central government, a government which, moreover, was perceived in that area as illegitimate and not at all concerned with the interests of the rural population. Most of the Serbian communities that directly experienced the war and violence – as perpetrators or as witnesses of the Serb refugees coming from Croatia after Operation Storm there in 1995 – were from rural areas, rather than from the capital, Belgrade.¹⁹

The organizational background to the scenes of mass violence

The underlying social and organizational environment which set the scene for the mass violence also needs to be considered. I shall present a brief summary of the two contexts in which the four interviewees operated, namely Croatia and Bosnia and Herzegovina. The first concerns the participation of Radislav, Nenan and Ivan, between August 1991 and February 1992, in the events surrounding the formation of the self-proclaimed Autonomous Region of Krajina in eastern and western Croatia. As documented, the entire non-Serb population was ethnically cleansed from those areas.²⁰ Starting in July 1991 Krajina received more and more external human and material support, especially from Serbia. Interestingly, documents and interviews show that such support was not only officially (and unofficially) provided by the Serbian central government, but also de facto by volunteers like Vojislav Šešelj's Chetniks or executioners like Radislav, Nenan and Ivan affiliated to the Serbian Renewal Movement. Some evidence points to the fact that many perpetrators acted outside a single and united chain of command in the incarnation of the Yugoslav People's Army joint chiefs of staff.²¹ Moreover, the

19 This is not to say that the Belgrade population did not experience harsh years during the 1990s because of the international embargo imposed by the UN Security Council.

20 ICTY, *The Prosecutor v. Milan Martić*, Case No. IT-95-11, Judgement (Trial Chamber), 17 June 2007.

21 ICTY, *The Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67, Third Amended Indictment, 7 December 2007; ICTY, *The Prosecutor v. Slobodan Milošević*, Case No. IT-02-54, Amended Indictment (Bosnia), 21 April 2001; Amended Indictment (Croatia), 22 July 2004.

situation appears to have been quite complex, as the perpetrators-respondents indicate major struggles between these multiple chains of command, many of which could not even be clearly identified. Consequently, besides creating an “authorizing space”, this network of perpetrators competing for control of the territories not only fuelled the violence but made it more indeterminate and unpredictable. Although nationalism is a key element, it is definitely not enough to sort out the myriad perpetrators who were involved in Croatia. The main protagonists included the Yugoslav People’s Army, the Croatian and Serb Territorial Defence Forces, Milan Martić’s police and several militias, among them Vojislav Šešelj’s Chetniks, plus “weekend killers” defined thus by Radislav, to name just a few. Radislav, Nenana and Ivan’s mobilization patterns each followed a different course. Rather than being appointed by a central government and a legal command – either to complement the Yugoslav People’s Army or militias loyal to the central government – they joined the war individually to see how they could “help”.²² After a few days in the field they finally linked up with units close to their ideology and hence deemed “prone to defend” Serbian interests in Croatia.

During the interviews the three aforesaid perpetrators-respondents strongly insisted that they could not trust the Yugoslav People’s Army, at that time perceived as being full of “fifth columnists”. The three men took part in the ultimate cycle of violence that occurred in Croatia in late 1991 and early 1992. Interestingly, Radislav acknowledges that the UN Security Council’s decision on 21 February 1992 to deploy the United Nations Protection Force²³ in Croatia precipitated their decision to leave the area. Radislav emphasized that he just did not want to get caught by the “Blue Helmets” and face the risk of being tried. Thus the elimination of the civilian population was not exclusively in the hands of a single party, namely the state, as has mostly been considered and up to now argued to be the case. The mass violence was the outcome of a polycentric structure comprising many stakeholders, whose motives and goals may have differed even though they all backed a nationalist political agenda. As pointed out by the respondents, the absence of a monopolistic authority exercising full control over the territory had devastating consequences for the non-Serb civilian population. The scope it provided for opportunistic intervention opened the door to competition between many types of perpetrators keen to implement their agendas – both political and criminal – and gave free rein to use of the most radical means in the repertoire available to the four perpetrators-respondents – that is, extreme violence. Brutalization – as the result of the struggling stakeholders’ attempts to seize control of the territory – accelerated the ongoing mass violence and plunged the perpetrators all the more deeply into mass crimes. For many this decentralized

22 Radislav told me that since he was a doctor, the first idea he had when he left for Croatia was to see how he could help the Serb victims in local hospitals.

23 UN Security Council Resolution 743 (1992) Establishing a United Nations Protection Force “UNPROFOR” on Croatian territory controlled by para-authorities, Un Doc. S/RES/743/1992.

mass violence,²⁴ at least in the early months of the war, presented numerous opportunities for acquiring political capital and legitimacy.

In addition, Ivan, Nenana and Janko operated in eastern Bosnia and Herzegovina during the first months of the war, in March and April 1992, mostly in such places as Bijeljina, Višegrad, Bratunac and Zvornik. Nenana, Ivan and Janko also operated in Srebrenica before and during the genocide.²⁵ The material collected provides a different but complementary insight into the organizational background for the scenes of mass violence. For example, Janko explained that although some of his orders came from his leader, a criminal mobster, he was also given many instructions, such as what to do and where to go, both by local civilians in Bosnia and Herzegovina and by local crisis staffs.²⁶ Janko also revealed a consenting environment that made mass violence unproblematic in the region where he operated. Compliant attitudes shown by both the officials and the local population gave him and his colleagues scope to act. He added that he usually operated at night, in a small unit of three or four individuals, saying that when they got to a place indicated, the local population would tell them exactly where to operate. It was no problem to find weapons, since they knew where to pick them up after the withdrawal, as demanded by the Security Council on 15 May 1992, of the Yugoslav People's Army from Bosnia and Herzegovina. Trafficking also helped to provide weapons. Finally, once they had "cleansed" an area, the Bosnian Serb Army (VRS) would dig mass graves and erase the traces.

Such findings contradict the widely documented portrayal of executioners as being persons who acted exclusively under the orders of a legal chain of command. Of course, I am not denying the importance of considering a "state paradigm" according to which political elites and state agents are responsible for the committing of such crimes. But such a "top-down" perspective obviously does not account for the manifold forms of mass violence. One only needs to consider grass-roots dynamics to realize that not all participation in mass crimes results from "obedience to authority". So concentrating on the role and responsibility of the regular army commanders and the political elite is not enough to address the issues of sanctioning and preventing mass crimes, and may even obscure crucial dynamics governing the elimination of civilians.

24 It occurred in parallel with Serbia's centralized criminal policy to eliminate the non-Serbs of Croatia.

25 It is qualified thus in the *Krstić* case: ICTY, *The Prosecutor v. Radislav Krstić*, Case No. IT-98-33, Judgment (Chamber of Appeal), 19 April 2004.

26 These were local committees in charge of organizing and co-ordinating the elimination of the non-Serb population in Bosnia and Herzegovina. They were composed of members of the Bosnian Serb Army (VRS), police officers, secret services consisting of both Bosnian Serbs and Serbs from the Republic of Serbia, local mayors and politicians, and representatives from the local population. The crisis staffs were ideologically affiliated to the Serbian Democratic Party (SDS) led by Radovan Karadžić, and were also responsible for directing militias and executioners coming from outside Bosnia.

Grassroots organizational features: petty crime and patterns of community interaction

In the eyes of many Serbs, action on behalf of the Serbs in Croatia and Bosnia and Herzegovina transformed marginal players de facto into trustworthy protectors of both the Serbian nation and tradition. Yet many nationalists did not join militias or participate in mass violence. Within the prevailing environment of political conflict, nationalistic upheaval and the spread of collective violence, parallel incentives and facilitating resources were also in place to induce participation in mass crimes. I shall focus here on criminal activities and grass-roots organizational features.

Criminal activities

As mentioned above, Radislav, Ivan and Janko had known each other since their youth. They were bonded together by many experiences in common, not least low- or medium-range criminality. Radislav acknowledges that such activity was conducive to their participation in the crimes committed during the war, thus recognizing it as a form of continuation, yet of a different nature. Janko also admits that even though fighting the “Muslim threat” was definitely the initial incentive for him to go to – and stay in – Bosnia, he grew richer by looting property and stealing from his victims’ houses. The solidarity developed through former criminal activities helped to establish a network of mutual trust which facilitated criminal enterprise in time of war. Such a network not only generated connections but also compelled its members to protect the stakeholders and criminal activities.²⁷ Petty crime does not automatically lead to mass violence. However, nationalist scripts, as well as templates for interaction passed on via trust networks, helped to mobilize them for mass violence. Radislav’s comments about their opposition to the Milošević government and their intention to counter it are indicative. Their conviction of the central government’s inaction vis-à-vis the external Serb communities paved the way for those activists to take non-state quasi-institutional action, and criminal networks facilitated collective action.

Patterns of community action

Radislav holds a public position in the small town where I met him. He was, and still is, an important person in the area. A complex web of affiliations became evident during the time I spent following him in his multiple activities. His strategic position requires constant efforts to maintain his social capital. This includes offering drinks, settling disputes between members of the community and showing solidarity with members experiencing difficult or joyful events in their lives. Such small interactions may not have accounted in themselves for

27 Charles Tilly, *Trust and Rule*, Cambridge University Press, New York, 2005, p. 196.

participation in mass violence. But when coupled with other considerations (the political situation and growing militarization in Serbia in 1990–1, local nationalistic cognitive scripts and the organizational background to the scenes of mass violence), they chronicle the complexity of the four respondents' social network and provide crucial insight into their experience of mass violence. All these elements combined have a bearing on the local concept of *komsije*. It refers to a set of daily practices and considerations that sustain and strengthen solidarity between people who frequent the same neighbourhoods, bars and sports clubs. It translates into a series of small, repeated acts that create binding ties, whereas ideological and behavioural alternatives eventually stigmatize their authors and thus lead to disaffiliation. Informal mechanisms, such as shaming, compel people to abide by the rules mostly decreed by individuals like Radislav, Nenan, Ivan and Janko. People trust them and mobilize at their request. Consequently, Radislav, Ivan, Nenan and Janko are political and criminal entrepreneurs: they prescribe organizational solutions and actions enabling nationalist scripts and former criminal activities to be converted into social and symbolic capital on a quasi-permanent basis. Nationalist scripts and criminal activities – including the assets thus obtained – are means of turning formerly marginal mobsters and ideologists into key players in the local community. In the post-war context, their influence on the local population facilitates concealment of their wartime activities – and trust is unquestionably an essential part of that influence. So even though they operated on the sidelines of the whole structure and legal command responsible for the havoc in the former Yugoslavia, these four perpetrators are hugely instrumental in establishing idiosyncratic scenarios which not only minimize and blur their own responsibilities, but also distort the historical facts. These techniques produce altered scenarios of the past crimes, thus keeping the local population misinformed at best and impervious to ongoing national programmes related to “dealing with the past”.

The challenge of appropriate sanctions

I postulate that sanctioning and preventing participation by such individuals in mass crimes also require a domestic and grass-roots approach. It is of the utmost importance that issues such as sanctions and prevention be addressed via the characteristic relationship of perpetrators of that kind with the Serbian population in general and their local community in particular. First, I shall make some comments on the impact of sanctions applied hitherto by both international and national justice systems. Second, I shall pin down issues that might be relevant for building a preventive strategy for such specific non-state armed groups' participation in mass violence. Although my focus remains centred on the example of the four interviewed perpetrators and their community, I think the general tenor of my argument might resonate in other parts of the world that are now struggling with the participation in mass violence by non-state armed groups.

Sanctions for mass crimes: the domestic context

Despite their misdeeds, evidence shows that the four perpetrators-respondents were well aware of the most basic principles of international humanitarian law when they engaged in mass violence. It appears, however, that rules are interpretable and negotiable. Although they acknowledged being involved in grave breaches of international humanitarian law, they maintained that their victims were too. In their view, and with reference to “Operation Storm” in which hundreds of thousands of Serbs from Croatia were expelled by the Croatian forces, Croats and Muslims can be accused of the same sins. This sophism rests on the unjustified conclusion reached: the need to kill innocent civilians. Even though such attitudes may be false justifications and/or a way of coping with their own moral conscience, they nonetheless neutralized the very meaning of international humanitarian law – namely that civilians and persons not or no longer taking direct part in hostilities must be respected in all circumstances – and thus also the reason to respect and enforce that law. More disturbingly, and despite recognizing their misconduct, they considered their actions to be justified. Dissemination of knowledge of international humanitarian law may therefore be ineffective.

Sanctions by international justice

What influence would international sanctions have on such perpetrators? Three issues need to be underlined. First, for such local wrongdoers, the consequences and dissuasive effects of the international justice exercised by the International Criminal Tribunal for the former Yugoslavia are unclear and remote. Even though they keep themselves very well informed about the current trials and the sentences handed down by that tribunal, they do not feel really threatened by it. Many of the local executioners do not identify with indicted high-ranking army or government officials. On the contrary, as I have tried to show above, they were opposed to most of them during the armed conflicts.

Second, and interestingly, a parallel can be drawn between the victims and the perpetrators with regard to the impact of international justice at the local level. For both groups, that form of justice has little bearing and only a limited impact on their daily life and routine. But while the victims do feel, rightly or not, that international justice might not bring the kind of justice they request or expect, the situation for the perpetrators is different. In view of the type of persons indicted by international justice, namely high-ranking state officials, they feel safe in that they did not act under a legal chain of command.

And third, international justice can be seen to have little effect among the local communities, where it meets with a general lack of interest. I argue that this is due both to its remoteness from them and to the nature of its targets, former high-ranking officers and politicians. Except for a minority, people in Serbia today are mostly preoccupied with their daily routines and the country’s economic problems. The fate of their former leaders or obscure and barely known secret service members is consequently of minimal concern to them. I am not saying that

these officials should not be tried. But when it comes to ensuring that justice is done, legality, legitimacy and acceptability might not be seen by the multiple stakeholders, including the local population, as coinciding and straightforward. The results might be ineffective and counterproductive if such dynamics are discarded. For all these reasons, I argue that the impact on local communities of the application of international justice is limited, in both the short and the long term.

Sanctions by national/domestic justice

Sanctions by national courts, as in the current activity of the Serbian War Crimes Chamber, responsible for prosecuting crimes committed by Serbian citizens, have a much greater impact. First of all, they are not imposed by a remote international tribunal associated in local minds with those who dropped bombs on the region in 1999. In the process of healing and “dealing with the past” now under way in Serbia, sanctions imposed by a domestic court may be more effective than international justice. As someone I met in Belgrade put it,

Some of our citizens committed crimes abroad in our name. Now, judging them here [in Serbia] is important for our recovery because it means that we are not all guilty of these events, contrary to what international opinion expounds, and that we can identify the guilty ones and try them. It gives a strong signal to others that their turn might come.²⁸

This process may help a society to experience a fundamental distinction, already put forward by Hannah Arendt, between collective guilt and collective responsibility.²⁹ According to Arendt, if everyone is considered guilty, then paradoxically, no one really is, and to do so would amount to using the perpetrators’ own sophism and line of defence. Not everybody did actually kill or rape someone, yet a larger circle of individuals closed their eyes or did not try to prevent it. Precisely therein lies collective responsibility, according to this philosopher. If national judicial institutions declare some of the “common people” – in contrast to high-ranking dignitaries – guilty of war crimes in events presented at the time as protecting Serbdom, then it means that “something went wrong” and a rule has been violated. In some way it induces people to take a stand on that issue, whatever their opinion, and thus encourages them to examine their own conscience.

Sanctions have to be accompanied by an “awareness-raising” or outreach process in order to help remind people of the criminal nature of the acts performed in the name of the Serbian population. It would help to transform war heroes, or “heavenly warriors”, into war criminals in the eyes of the local

28 Interview conducted in Belgrade in March 2006 with a human rights activist from the Humanitarian Law Centre, Belgrade.

29 Hannah Arendt, *Responsibility and Judgment*, ed. and with an introduction by Jerome Kohn, Schocken Books, New York, 2003, p. 295.

communities. For example, the film shown of a group of local militiamen, known as the “Scorpions”, executing a group of young and harmless Muslim men definitely shocked public opinion in Serbia, as it did everywhere else. Those individuals were not high-ranking officials. On the contrary, they came from the same sphere as the general population, and that proximity has an impact on the Serbian population. That type of sanction may well help people to become aware of past events and thus change public opinion that has been misled by nationalist propaganda.³⁰

Besides the retributive aspect of sanctions, it is important to consider what effects we want them to have, and more specifically, on what target group. On the international community? That would be counterproductive, since the Serbs as a nation were already condemned by international public opinion even before the first convictions. On the former Yugoslav leaders? The sentences already passed on former leaders might give a strong signal to the one still at large. However, the cases of Karadžić and Mladić could also lead to the conclusion that a way out remains, despite the fact that those two indictees are the most wanted fugitives. In other words, attempts to raise the awareness of the local population might render justice more meaningful for them and impel them to look inside themselves and probe their conscience.

Preventing mass crimes

To conclude this article, I should like to formulate a few propositions relating to the prevention of such mass crimes. Once again, I shall stay focused on the experience of the four perpetrators-respondents and the grass-roots aspect, first addressing the issue at the international level, then the local initiatives that come to mind.

The international initiatives

The organization and action taken by the interviewed group of four militiamen are extremely volatile. There is no actual socialization or link to human values that I can think of, and which could be displayed through their “chain of command”. Yet one element that emerged during the field inquiry and might be of interest to prevent or stop such atrocities was revealed by Radislav himself. In response to my question about why they left Croatia at the beginning of 1992, he spoke of the deployment of the United Nations Protection Force (UNPROFOR). That force changed the whole balance of military and other power in the region and was an additional obstacle to their plans, so pursuing the political agenda and gaining full control of Krajina began to seem more and more problematic to them. That is

30 Eric Gordy, *The Culture of Power in Serbia: Nationalism and the Destruction of Alternatives*, Pennsylvania State University Press, University Park, 1999, p. 230.

when they decided to pull back. Hence international intervention might be a means of prevention to be envisaged.

Local initiatives

As mentioned above, not only must the retributive aspect of the sanction be taken into account, but also the effect it would have on the specific target group, namely the community in which the perpetrator is embedded. In many rural Serbian communities, international justice has so far turned war criminals into martyrs, and the *Šešelj* case is the most representative example of this, even though it might be considered as remote. There is therefore a huge effort to be made to deal with the image these communities have of their “heavenly warriors”. The prevention of mass atrocities involves not only the perpetrators themselves but also the whole grass-roots relationship between them and their community.

A first step would be to assess why such individuals are granted so much social capital and symbolic power by their community. One way of doing so is to consider the fears experienced by that community at the beginning of the war, in 1991. For example, numerous images of their “Serbian brothers” being threatened by the Croats were broadcast on Serbian TV. Many of these were propaganda and showed footage from the Second World War portraying violence by fascist Croatian Ustasas against the Serbs. These images had a strong impact on local communities “left alone” by the elite, which was more concerned with maintaining its own power than addressing the current social and economic crisis in rural areas. The result, following a mafia-like pattern, was that entrepreneurs like Radislav, Nenan, Ivan and Janko were seen by a scared population as a vital alternative, not only providing a quick way for the local community to resolve both its economic difficulties and genuine fears but also as someone to rely on, someone who would make a difference. These perpetrators then changed from economic entrepreneurs into moral and nationalist entrepreneurs promoting the “real” values of “Serbdom”, thus combining it with criminal agendas abroad. On the other hand, many of the crimes they committed were not witnessed by the local community, so their supporters have only a partial image on which they have built their trust. What can be done to reduce the symbolic capital accorded to these perpetrators? What would the alternative be for a population needing help with concrete issues, such as employment and security? The really crucial point is to cut the support the four respondents and others like them may get from their community from the very start, namely, to address the initial fears leading these communities to rely on such individuals. How can we show these communities there might be alternatives? Sanctions by local justice are probably a good way of weakening the social capital of such entrepreneurs and reliance upon them, but working on local cognitive scripts, representations and interests is definitely necessary too.

It is absolutely essential to address the link between the actual commission of mass violence and the surrounding social and political structure in which the perpetrator is embedded. The executioners described above indisputably had a

kind of tacit authorization resulting from the (voluntary?) lack of sanctions or other measures by the central government(s) to stop the criminal activities, even though they knew what was going on, but also from the local population's compliance and consent, despite being aware of the ultimate consequences their support would entail. Social control was virtually non-existent, so it was almost impossible for local judicial institutions to enforce international law during the conflict. Even though the group in which Radislav, Nenan and Ivan were operating was strongly opposed to the Milošević government, that government greatly benefited – paradoxically – from the involvement of opposing ultra-nationalist armed groups. They were working towards the same end: to eliminate the non-Serb population in Croatia and Bosnia and Herzegovina so as to gain new territories. In such situations, military intervention could be more effective than law enforcement.

Finally, although I have focused so far on penal sanctions, which are the first pillar of transitional justice, the second pillar, namely “truth-seeking mechanisms”, needs attention too. At some time during the field study, Radislav expressed regrets about what happened, even though he still is convinced that their actions were justified. Some of the executioners are literally haunted by what they did back in the 1990s and need to express it, but to whom, and how? If a truth and reconciliation commission were to take place on a regional, pan-Balkan, basis, Radislav would talk about his experiences and what occurred.³¹ On the other hand, and with the criminal investigations still going on to catch the perpetrators and bring them to trial, he admits that he would certainly not take any risks by making his deeds public. I am certainly no expert in transitional justice, but there does seem to be a wasted opportunity here. Would the disclosure of a former perpetrator's experience of involvement in mass crimes and the consequences he endures (having to live in hiding, traumas, nightmares, etc.) serve to deter potential future candidates from taking part?

31 However, while everyone agrees that the truth should be told about the events in the territory of the former Yugoslavia, very few dare speak about reconciliation or actually want it.