

Aftermath of Paris massacre: Let's seek justice not war

Nov. 17, 2015 | 12:19 AM

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An act of war, or a crime against humanity? The declaration of French President François Hollande has set the tone – the Paris massacre is an “acte de guerre.” As in the case of Sept. 11, the massacre perpetrated in Paris is not so much considered as a crime, not even a war crime, but as a declaration of war. The statement was followed a day later with the bombing of Raqqa, ISIS’ de facto capital in Syria. The logic is set. The war is on. Considering the nonterritorial nature of the enemy, it is bound to be endless. This year, 14 years after Sept. 11, it dawned on me that the relatives of the 3,000 victims still lack a court where they could have registered their grievances. Even though Osama bin Laden is dead, the victim of a retaliatory act of war by the American government, the victims lack a forum to follow up on their profound grief and an institution where they can take stock of the progress of justice against the killers.

Fourteen years on, I still think that the victims of Sept. 11, and the rest of the world, would have been better off if the U.S. government, and the United Nations Security Council, had considered the killings first and foremost as a crime against humanity, rather than an “act of war” or as “war against terrorism.” The logic in each of the cases is profoundly different. With terrorism, an inchoate crime at best in international law, controversy starts with the usual provisos: Is a “freedom fighter” using violence, even against civilians, a terrorist? Does a state using violence, even when it purportedly says it seeks to avoid civilians, a terrorist? With “act of war,” a concept linked to a logic which eludes religious-based violence perpetrated by criminals who lack nationality and territory, there will be no victory and no register of progress for the victims. The matter is profoundly different for a crime against humanity. Once the horror is defined as a crime against humanity, all governments on earth are bound to actively pursue the killers, and to forcefully bring them to justice. If they don’t, they fall behind on a legally binding obligation, and any government can step in to do the job.

Once the massacres in New York, Paris, Beirut and elsewhere are considered with a more precise lens as crimes against humanity, the inchoate definition of terrorism and the elusive war against a nonstate actor are replaced by a clearly defined universal crime under international law, including in

the statutes of the International Criminal Court. No two jurists will disagree that this is what happened in Paris, as the suddenness of the crime and the large number of victims, especially civilians, fit in the universal definition. The logic of justice is no less implacable in that case. If a crime against humanity occurs, all countries are bound to deliver the perpetrator. There is no safe haven, and those governments or private parties who harbor them become accomplices, unless they willingly and openly become part of the search and arrest operation worldwide. These parties' refusal or inability to cooperate, in any case, does not prevent active search by the most concerned government, usually that of the country belonging to the majority of victims. This is safeguarded by justice, and confirms in law the right of the victims and their governments to keep extremely active in pushing the search for the perpetrators and their arrest wherever they are, and to holding those who stand in the way as potential accomplices.

Coherence and logic matter in the world. ISIS and similar actors responsible for massive crimes, whether individuals or officials in recognized governments, are bound by the same indivisible justice as the French Republic. The oneness of justice is the defining feature of human civilization. It cannot be left to wrong or approximate definitions.

The world had with Sept. 11 that possibility for a universal condemnation coupled with a universal responsibility. Through a mischaracterization of the crime, we missed the occasion to act justly. The consequence is the development of a logic of war which leaves justice behind. Nov. 13 is a renewed occasion to set the world on a more ethical and more effective path at once. This path is universal. It vests in justice rather than war.

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17/11/2015