Part Two

Nuremberg and the Importance of Criminal Responsibility
Chapter 3
The Importance of a Retributive Approach to Justice

Graham T. Blewitt AM

The theme of this publication invites us to look at the legacy of the Nuremberg Trial and to consider whether that legacy has resulted in a civilising influence or has merely institutionalised vengeance. My own experiences working in the field of international criminal law since 1988 have led me to come down firmly on the side of the former, namely the Nuremberg Trial and the developments of international criminal law in more recent times has clearly had a civilising influence. This chapter argues that victims and survivors of crimes against humanity, and similar violations of international humanitarian law, are more likely to forgive and allow reconciliation to occur, without recourse to acts of revenge, if justice is achieved.

Recent attempts to extend the legacy of Nuremberg, through the creation of various ad hoc international criminal tribunals and most recently the permanent International Criminal Court (ICC), has resulted in international criminal law no longer being merely an academic topic to be studied in universities and law schools around the world; it is now finally a body of law that is enforceable. Through these efforts to give teeth to international criminal law, there is at last a real deterrent present at the international level that may give pause to future political and military leaders who would embrace genocide and crimes against humanity as a means of implementing their policies. The creation of a permanent deterrent at the international level, coupled with mechanisms that enable reconciliation – particularly after conflicts arising from cycles of violence that have spanned decades or centuries – demonstrate how the legacy of Nuremberg has had civilising consequences.

To show the importance of the retributive approach I will turn to the topic of reconciliation. All victims expect, and in my view are entitled to see, that the persons most responsible for the crimes against them, their families and loved ones, are brought to justice. If justice is not achieved on their behalf, then their feelings of grievance and their desire for revenge could lead to them taking the law into their own hands to achieve justice, or what they perceive in their eyes as justice – an eye for an eye!