

BOOKS AND REVIEWS

JACQUES FREYMOND: « GUERRES, RÉVOLUTIONS, CROIX-ROUGE, RÉFLEXIONS SUR LE RÔLE DU COMITÉ INTERNATIONAL DE LA CROIX-ROUGE. »¹

This book, full of restrained passion, aggressive, fervid, and at the same time lucid, on which I express here only my own personal views, differs from most books dealing with the Red Cross in that it is concerned solely with the body that founded the Red Cross, namely, the International Committee of the Red Cross. Right from the beginning, Jacques Freymond dismisses nearly all the fields of assistance and « charity » where the International Committee works in concert with the National Societies, the League, and indeed with many aid and relief associations. Instead, he probes in depth only what is unique and specific to the ICRC and which at times isolates it in spite of itself, within the Red Cross movement,² that is to say, its action in protecting the rights of victims of armed conflicted and collective disturbances, an action most delicate to undertake and of which it is often dangerous to speak. Jacques Freymond is well aware of the dangers involved and is well-placed to speak of them; but he believes it is still more hazardous for action to be shrouded in silence or secretiveness, denying it the support of public opinion, which may be apathetic, ignorant, or distrustful of anything arcane and therefore obscure.

Whether the book is timely is not something we shall discuss here: but it has been written with discernment and published, and will be read. The author carefully weighed his responsibility. Those seeking revelations will find some, although they may not be quite of the kind they were looking for: they will find a clear and gripping account of a combination of complex issues at times impossible to unravel, although expounded on tirelessly in more legalistic or more « neutral » treatises, publications or news reports issued by the ICRC itself, but which they may find « heavy going ».

This book, whose tone is critical and at times trenchant, could greatly serve the cause of the Red Cross movement in general and of the ICRC in particular. Its author is highly qualified and writes in a brilliant and penetrating style. He has a very full knowledge of the

¹ Graduate Institute of International Studies, Geneva, 1976.

² It is of course understood that the term "Red Cross" includes also the "Red Crescent" and the "Red Lion and Sun".

subject on which he freely speaks his mind, observing it from the outside, writing for critically minded readers who, through him, will understand the true dimensions of the ICRC's tasks and difficulties.

For it is a fact that even the knowledgeable public does not fully realize how, by the multiplicity of new types of conflicts subject to no rules — and which have become the rule — the ICRC was lead step by step to act close to the very limits prescribed by the 1949 Geneva Conventions on which its operations are based. Often it can invoke no more than article 3 of those Conventions which is common to all four and requires parties to a “conflict not of an international character” to observe humanitarian rules. Unfortunately, in such conflicts at least one of the parties will not have signed these Conventions and both must be induced to agree to the provisions that “an impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the parties to the conflict.” The woolly terminology matches the vagueness of positive law which, in a quarter of a century, has failed to define “non-international conflict” (which is often an internal conflict or civil war with a concealed international character) and hence cases in which article 3 should be applied. These are conflicts in which the stakes are national sovereignty and legitimacy of government, concepts on which all positive international law is based. They are conflicts between a government — claiming sole and lawful sovereignty — and political, social, ethnic or religious parties or groups which, contesting that claim, resort to violence and, more often than not, are supported from outside.

Whereas belligerents who recognize each other as states can conclude a peace treaty, an established government and a revolutionary movement in conflict seldom have or seek an alternative to eliminating one another. Moreover, between “internal” armed conflict and repression or “silent terror”, the kinds of conflicts in which the adversaries' human dignity is trampled underfoot range from bad to worse.

The ICRC has been drawn in such situations into the defence of human rights on all continents, and this is what characterizes it today in the international Red Cross movement.

Freymond, in chapters III, IV and V, analyzes a number of experiences in Nigeria, Greece, the Middle East — apart from the short but fierce open wars — Vietnam, Bangladesh, (and later Angola and Lebanon to mention only the worst cases). These were experiences of non-international conflict, of that ill-defined category of war which has so far defied attempts to bring it within the scope of law; they were examples of action anticipating law, as often before in Red Cross history.

The ICRC has not chosen to act alone in these "non-international conflicts", so called because they elude the rule of international law. It enlists the co-operation of National Societies if they are able to operate and it yields to the temptation to boast of its role as a precursor of law less if that role calls for commitments which are not only legal. Its unique status as an international institution representing no state or group of states led to its assumption of this role which no other organization could undertake. For in these conflicts which might be called "conflicts of sovereignty", the National Society of the country concerned is tied to the government whose overthrow is sought by the subversive forces and therefore is or appears to be a party to the conflict, despite itself; it cannot therefore intervene on both sides, or deal with the government's adversary as if that adversary had legal status. Consequently, the initiative must be taken by an "impartial humanitarian body such as the ICRC", and so far no alternative has been forthcoming. Its initiative could fail for, persist as it may, its offer of services can be rejected, and, not infrequently, for reasons which they refuse to divulge or discuss, governments will not allow foreigners of any sort to observe a conflict which they are bent on settling unwitnessed.

These facts are well known. There are also functions which the ICRC may never undertake, because they are incompatible with the conditions to which its action is subject: it may not publicly accuse; it may not bear witness "for the prosecution". Jacques Freymond knows and says this. The ICRC is grateful to him for saying so, for this is one of the lesser known aspects. "In the interest of the people whom it is required to protect, the ICRC, while doing so or attempting to do so, must say nothing which may be a barrier to contact or cause doors to be closed to it... It must avoid taking a stand which might cause its neutrality, impartiality and independence... to be called into question... Otherwise, it must surely meet with failure."

This is the dilemma of "secret diplomacy and public support", a permanent one for the ICRC. Freymond rightly points out the constant need to hold the interest of the public where public feeling has not been deadened by daily exposure to pictures of horror; a need to be met through painstaking explanation and documentation, through personal accounts, pictures and films of actual experience. But this cannot be done by the organization in the front line, where touchy parties to a conflict may interpret as interference, public accusation or reproach anything intended to mobilize public opinion during a crisis or to appeal to popular emotion and indignation. There are organizations which do this; there are books like Freymond's; there are news-

papers, radio and television. Nothing would be more dangerous than the idea that the ICRC could or should use these media to bring pressure to bear, for by doing so it would be acting contrary to the conditions to which its action is subject. Its work may be carried out only by keeping faith with those who accept its offers of service. There is no other basis, in law or in practice, to intervene in the conflicts which recognize no law and which have succeeded "legal wars."

The unsatisfactory adaptation of positive humanitarian law to typical contemporary conflicts is recognized by everyone who has in any way dealt with the concrete problems of humanitarian action. In the course of a century, States managed to codify humanitarian standards applicable in the conventional warfare they waged among themselves, recognizing one another as legitimate participants, with equal sovereignty, in a state of war. Total warfare and apocalyptic weapons, however, have put an end to conventional warfare and have cast doubt on the customs and usages of war. It might seem utopian to expect sovereign States to accord comparable recognition as legitimate participants to adversaries within their territory who are in a state of rebellion against their authority. In such a situation opinions on humanitarian tactics and strategy may well differ. We must certainly avoid excess legalism, but it would also be inexcusable to neglect the least possibility for strengthening the legal basis for humanitarian action. While we must avoid falling into the routines of opportunist diplomacy which smooths off the rough edges and undermines the principles, hard negotiations are essential in every case to assure the application, even incomplete, of these principles...

If we set side by side the book by Jacques Freymond and the newly published work by Michel Veuthey, *Guerilla et droit humanitaire*, we find that the tones differ; the starting points and approaches are not the same—yet the convergence of aims is striking. Among those devoted to the Red Cross cause, there can be no disagreement about the purpose, even if there are divergent views about the most suitable means for achieving that purpose, just as there are differences between militant and conciliatory temperaments. Should we attack an obstacle direct or go around it? Should we move patiently through the channels provided by States and other established institutions, or, if need be, throw down the gauntlet and battle openly against every denial of justice and humanity? In this struggle for humanity, as in every great cause, there are the temperaments of the stoics and the millenarians; of the Franciscans and Dominicans; of Loyola, Talleyrand or Lenin. Perhaps we need them all, for there are too many well-meaning and peaceful people who lack

determination, and people with fanatic determination and fiery devotion who, depending on the situation, may either achieve miracles or destroy everything.

The word "utopia" has no pejorative connotations for the ICRC, a utopian enterprise from its inception, dedicated to accomplishing the impossible and yet, despite unsparing efforts to do so, forced to remain within the limits of the feasible. Herein lies the fundamental contradiction which from the outset has been flung in the faces of Red Cross workers: if suffering and death are to be opposed, then surely the first thing is to abolish war, to create peace! This is self-evident. Nevertheless, in spite of innumerable solemn international agreements to outlaw war and ostracize those who resort to it, the absence of an international order able to establish peace has meant that war in defiance of the law has been replaced by war which recognizes no law, which assumes many names, which forever spreads and shifts to the areas of tension on the surface of the globe. Peace-making has continued to be an effort to make a particular *kind* of peace, a striving after a world order which will impose its *own* peace, in the tradition of the *Pax Romana*, with its own name and particular ideology.

Among the various factions confronting each other around the world, each attempting to impose its *own* kind of peace, its *own* concept of world order which will base peace on the triumph of its *own* cause, people fighting for peace find it difficult to avoid being partisans of their own cause and denouncing as enemies of peace those who do not subscribe to that cause. In this lethal dialectic between rival causes regarded as just and sacred, which in the name of the highest principles turns the adversary or dissident into a war criminal, hostile to the human race, an opponent of established order, an enemy of the people, refused even the title of human being, the rightness of each cause is invoked to justify hatred, terrorism and butchery. Thus humane principles are in perpetual danger of being turned against themselves, of being appropriated for partisan ends and prostituted by those who lay claim to them for their own advantage, only to betray them once they are victorious. This pattern of behaviour has been encountered by the ICRC in its work for the development of humanitarian law and in its activities to aid and protect the victims of war, activities which those who requested them are eager to terminate as soon as they gain power. That is where the deepest malaise lies, and Freymond does well to bring it into the open.

It is at such times, in the face of ever-recurring obstacles, that messianic solutions are proposed. The Red Cross, and particularly the

ICRC, we are told, cannot continue to steer between the shoals—cannot continue to negotiate, patiently and stubbornly for the right of a man to be treated as a man. It cannot go on being content to grant its protection everywhere it is possible to do so—it is no longer a question of saving human lives, but of saving the human race. All the ICRC can do is go forward, putting itself into a state of moral belligerence, leading a vast crusade over the heads of the nation states, and if necessary against them; in short, to turn itself into a movement for reawakening humanity and turning it against violence in all its forms, which are always complementary and interchangeable, whether war or civil disturbance, police action or revolution, oppression or liberation, terrorism or anti-terrorism. At a time when humanitarian law is trodden underfoot or sabotaged, the author concludes rather abruptly (p. 141) that “it is no longer possible to humanize war, and therefore the ICRC has no choice but to draw up, with and beyond the Red Cross organizations, a global humanitarian strategy mobilizing world opinion in a long-term struggle against the use of force to solve internal problems or to settle relations between States”.

That passage exemplifies the passion and the anguish that imbue this fine book. The ICRC must hope that it will find a wider readership than its own publications achieve. These more weighty works, as Freymond confirms, provide all the facts without emotionalizing questions which are already too burning. How, and how far, the ICRC may commit itself publicly without betraying or compromising the very basis of its existence are questions as old as the Red Cross itself and remain unanswered, for the institution cannot live and work in a climate of indifference or mistrust. Perhaps this unusual book, which is not a treatise on the Red Cross or even on all aspects of the ICRC, but on the political dimensions of its most intractable problems, will stimulate its readers to make further studies of the subject and to look more closely at the spheres in which the institution undertakes its responsibilities. Freymond provides abundant accounts and analyses of the major crisis operations over the past twenty years. It is impossible to sum them up here, or to enter into detailed discussion of the cases he analyses. But these remarkable descriptions of experiences will give the reader a vivid insight into actual conditions of operations that are always having to be repeated, so complex that they are difficult to convey to the general public. The ICRC will heed Freymond, the historian and political scientist, when he exhorts it to keep its own history up to date, to draw up a precise account of every experience and analyse it with care, to draw all possible lessons from it, in order constantly to adapt its tech-

niques, approaches, tactics and strategy to future requirements, bearing in mind that each new operation may raise doubts about everything it does: for "it is from its operations in the field that the ICRC draws its legitimacy".

In his brief description of the institution which is officially entitled and called by the public the "International Committee", Jacques Freymond speaks, first of all, not about the "Committee" or even about the central administration, but about the delegates in the field, who undertake, organize and co-ordinate emergency action at moments of crisis, when confusion usually reigns supreme, when communications are difficult or non-existent, supply lines unreliable and operational bases extremely precarious. He does so because the ICRC is far from being merely a committee, or even a group of committees and permanent specialized services. Some of these services operate so silently and smoothly that they receive almost no attention or comment from the public. One of them is the Central Tracing Agency, which is unique, compiling and keeping records of the victims, prisoners and missing persons of all the conflicts or disturbances in which the Red Cross has been involved. The ICRC itself is only a more or less stable nucleus, a limited number of people and resources around which, at critical times, rally numerous and occasionally heterogeneous teams placed at its disposal for a particular emergency operation by National Societies from their own experts, equipment and resources.

The reader of *Guerres, Révolutions, Croix-Rouge* is thus given a picture of the difficulties of that very singular organization, the ICRC, which, in a way, is perpetually inflating, deflating and reflatting itself in response to alerts and crises, endemic conflicts and sudden outbreaks of fighting. In fact, in the spheres of operations covered by this book, the ICRC often commits itself and undertakes responsibilities to an extent far in excess of its own human, material or financial resources—and then appeals through all possible channels for the solidarity which it must have to carry on operations that are becoming more extensive in scope and duration. Whatever experience has been acquired, whatever the more or less firmly established contacts, however good the preparation, the planning and the state of constant readiness, there is always a large measure of improvisation. This should be reduced to a minimum by the "staff work" which Freymond recommends to the ICRC, but it can never be completely eliminated. The ICRC should certainly do more to evaluate situations likely to produce crises; but it cannot programme in advance of outbreaks of fighting, their violence or their extent. The permanent, or semi-permanent, organization has become larger, wider

in scope and more varied, but at the same time more ponderous. The author speaks with knowledge when he deplores the widening gulfs between the "Committee", the "headquarters" and the "field", and when he describes the increasing difficulties of communication between the levels of decision and of action, the occasional lack of comprehension, the responsibilities in danger of being eroded. Because of the changes in the nature of conflicts and because of their regional and global contexts, the demands of a world in crisis, and the unending shifts in international relationships, the organization of the ICRC is always having to remould itself, to readjust to circumstances, from top to bottom. As to the reforms introduced, sometimes in haste, they have not always turned out to be beneficial in the long run. The proposals made by Freymond—not all of them new, some of them far-reaching, but none of them casting doubt on the essential nature, the basic tenets or the "un-nationality" of the institution—are prompted by a desire for effectiveness and lucidity. Inspired by the same desire, the ICRC will welcome this book and its proposals. In an agenda mostly filled with items of great urgency, a place, and a sizeable place, must be found for reflection on the whole basis and conception of the institution.

In closing this book, the reader cannot help but feel that the continuing existence of the ICRC is something of a paradox or a miracle. Is it the result of a historical incongruity or, to express it more realistically, is it because it meets a need not yet filled and unlikely to be filled in the foreseeable future by any of the proliferating international bodies and intergovernmental organizations?

Even in his foreword, Freymond asks the fundamental question: "Does the Red Cross still have a role to play?". That is exactly the same question put by Max Huber to a dictator forty years ago in a world in full disintegration. The tentative answer by the author, and the answer given by human history still enmeshed in violence, is that the more impossible it appears, the greater the role of the Red Cross will have to be. However we may look at it, Sisyphus, pushing his rock towards a summit never reached, had few reasons and few opportunities to be pleased with himself. In the context of continual reorganization, of unending improvisation, of unremitting inadequacy, this role, which the author lauds as both idealistic and necessary, is that of effort which too often appears to be doomed to fail. The ICRC must continue and intensify this effort as long as it hears the call of man's distress, arising from man-made violence.

HERBERT LÜTHY