

The second edition has been simplified by the deletion of some parts, for example, the long recital of what was said at the 1863 Geneva Conference, seeing that the trends which were apparent during the meeting were recorded the following year in the First Geneva Convention. Finally, extracts from Dunant's correspondence during his latter years at Heiden show how deeply he felt his financial difficulties. This is shown clearly in his letters to his faithful friend Rudolf Müller, although this in no way detracts from the merit of the "man in white" at the Chiesa Maggiore at Castiglione, this man of vision who called each of us to help our neighbour whoever he may be.

The book concludes with an excellent summary by Mr. Anton Schlögel of the main ideas common to the four Geneva Conventions and to the Protocols signed in 1977 which will henceforth be inseparable from those Conventions. This new edition is therefore most welcome and it is to be hoped that in translation it will be read as widely as it deserves.

J. G. Lossier

I.P. BLISHCHENKO: "INTERNATIONAL CASE-LAW" ¹

This work, in Russian language, presents a comprehensive, critical and lucid review of international case-law. It focuses in particular on a number of cases which have not yet been the subject of discussion in the Western doctrine. At the same time this book is the first publication in Russian on international case-law, a branch of international law which until now has, to a certain degree, been neglected by the specialists of international law in eastern European countries. This fact may be due in part to the general tendency of these scholars to recognize as sources of international law first of all international conventions, and then custom, so not much place is left for judicial decisions.

The book consists of an introduction and nine chapters: Liberation wars and international law; Subjects of international law; Territory and borders; International law of the sea; International air space law; Population and international law; International law of treaties; Peaceful means of settlement of disputes; Armed conflicts and international law.

In the last chapter, the author underlines that the most important problem of any armed conflict is to ensure the maximal protection of

¹ Moscow, 1977, 224 p.

human rights, the “humanization” of warfare. To this end a number of international instruments have been adopted and ratified. According to some scholars, it is the totality of existing humanitarian norms, the purpose of which is the protection of human rights, which constitutes the international humanitarian law. Referring in particular to “The Principles of International Humanitarian Law”, by J. Pictet, who divides international humanitarian law in two parts: the law of warfare and norms of protection of human rights, Blishchenko finds it justifiable to talk about international humanitarian law as a recent branch of contemporary international law, but, taking into account that war as a means of national policy is forbidden, it is not appropriate to single out the law of war. Since the essential part of the so-called law of war is the protection of human rights, it would be rather more adequate to establish a closer link between norms and principles of warfare on the one hand and international norms for the protection of human rights on the other.

The author studies and comments a number of cases of particular interest. Referring to the case of American prisoners of war in the Democratic Republic of Vietnam, Blishchenko states that contemporary international law and domestic law contain generally recognized principles and norms on State responsibility and individual criminal responsibility for violations of the Geneva and Hague Conventions. Since the prosecution of war criminals is both the right and the duty of States, it is also, in the view of the author, permissible for detaining Powers which have made relevant reservations to create for prisoners of war a régime of captivity other than that prescribed by the third Geneva Convention. He even feels that such reservations reinforce the humanitarian character of that instrument, since they increase responsibility for the implementation of norms and customs of warfare. It applies fully to the reservation made by the Democratic Republic of Vietnam to article 85 of the Convention. The author asserts at the same time that American prisoners of war were treated humanely in the Democratic Republic of Vietnam and were released after the war.

In a case of determination of the status of prisoners of war, where the Malaysian Court of Appeals confirmed the death sentence for several Malaysian subjects who had illegally entered Malaysia from Indonesia carrying arms during the 1963-1966 hostilities between these two countries, the author shares the views of some scholars that such persons should first be treated according to Article 4 (A) (2) of the third Geneva Convention, concerning determination of the status of persons having committed a belligerent act and having fallen into the hands of the enemy. He feels that the Court of Appeals should check whether or not these

persons were members of the Indonesia armed forces, in which case they should be given the status of prisoners of war.

In the Shimoda case, the Tokyo District Court in 1963 held to be illegal the atomic bombing of Hiroshima and Nagasaki in 1945, as constituting bombardment of undefended towns which is prohibited under Article 25 of the Hague Regulations. The author endorses the decision of the Court which, in his view, rightly reflects the generally recognized norms and principles of humanitarian law. He considers as important the refusal by the Court to accept any political motivation for justifying this illegal act, since any behaviour of belligerent parties should be consistent with international law, as well as the conclusion of the Court, according to which any weapon is legal unless it is directly prohibited by international law or is in contradiction with its basic principles.

In the Yamashita case, the United States Supreme Court found the former officer-in-command of the Japanese armed forces in the Philippines guilty for not having prevented his troops from committing atrocities and crimes against prisoners of war and the local Philippine population. The decision of the Supreme Court is, according to Blishchenko, a very important confirmation of a basic provision of contemporary international law on the responsibility of war criminals irrespective of their official positions.

In the Linas case, the Soviet Government requested, in 1961, the United States Government for the extradition of Linas who, during the war, had been officer-in-charge of the concentration camp at Tartu and had participated in killings of thousands of people. Blishchenko is of the opinion that the refusal of the United States Government to extradite him was in contradiction with valid norms of international law.

Y. Rechetov
