

BOOKS AND REVIEWS

FRITS KALSHOVEN: " BELLIGERENT REPRISALS " ¹

It is well-known that the Henry Dunant Institute has started to bring out several series of works. Some of the books have already come out in print, and their publication has been announced in *International Review*. Thus, in the *Collection du Centenaire*, there has appeared " L'Etat moderne et la Croix-Rouge " (The Modern State and the Red Cross), which was reviewed here in detail, while the *Collection Henry-Dunant* contains several titles: " Un Souvenir de Solférino ", suivi de " L'Avenir sanglant ", by Henry Dunant, and his " Mémoires ". And now, a new series under the general heading, *Collection scientifique*, has been brilliantly inaugurated with the publication of Mr. Kalshoven's book.

M. Jean Pictet, Chairman of the Legal Commission and a member of the ICRC, has written an important preface to this work, and we cannot do better than to give it here in full:

Acts of violence, committed against all respect of humanitarian law—terrorism, reprisals, the taking of hostages, torture—are increasing nowadays everywhere in disturbing fashion and seem to point to a dangerous escalation of these methods. It has been found that the more conflicts are inflamed by human passions, the less is respect for the law manifested. New forms of struggle, justification for which is professed because of the necessities of war, are spread, in violation of the most elementary principles of humanity, and tend to bring the level of combats down to barbarousness. Let us watch that we do not lend too much respectability to those brutish acts. There are, indeed, some forms of behaviour which can never be deemed to be acts of war, but which will be solely and at all times considered as crimes. Far from being inevitable, these methods rather constitute the easiest way out;

¹ Published by A. W. Sijthoff, Leyden, 1971, 390 pp. Members of the Red Cross may obtain this book at a reduced price from the Henry Dunant Institute, 3, rue de Varembe, 1202 - Geneva.

in the long run, they do not "pay" and bring disrepute to the cause of those who practise them.

Over fifty years ago, the Red Cross protested against the harsh measures inflicted upon innocent persons, under pretexts of military or political necessity. Thus in 1916, the International Committee of the Red Cross launched its celebrated appeal against the use of reprisals, and proposed that there should be a total renunciation of such acts against persons protected by the Geneva Conventions. At that time still, most writers accepted reprisals as a means of coercion to be employed against an adversary who did not fulfil his obligations. This conception was a witness to the unorganized character of international law, since each State could in this way make its own laws. In 1943, the International Committee solemnly entreated governments "to respect, even in the face of military considerations, man's natural right not to be treated in an arbitrary manner and not to be charged with the responsibility for acts which he had not committed".

The appeal by the International Committee of the Red Cross was heeded, and the Geneva Conventions, as revised and developed in 1949, prohibited all acts of reprisal against victims falling under Geneva Law, thus enshrining one of the basic principles of law, that of personal responsibility. Humanity had undoubtedly scored here a great victory, hailed with fervour by all men dedicated to justice and high ideals. Reprisals do not only beget terrible suffering; as Mr. Kalshoven's book clearly demonstrates, they almost invariably fail to attain their goal, which is the restoration of law and order. In the state of extreme tension current during hostilities, they are liable to spark off counter-measures and to lead, by an inevitable concatenation of events, to the gravest evils. Such a prohibition is in line with the contemporary evolution of international law; it is still another blow aimed at the already tottering structure of the absolute sovereignty of the State.

The prohibition of reprisals as set out here is absolute and remains valid even if the violations against which reprisals are sought were committed within the field of the Geneva Conventions. The unconditional character of the compact entered upon by the Powers which set their seal to the document is thus affirmed.

If the Geneva Conventions were able to forbid reprisals, that was because they substituted other means, measures better suited to establish respect for law, such as a system of supervision and some rudimentary

measures of sanctions. The provisions relative to reprisals are thus added to those which, by ensuring the application of the Conventions in all circumstances, lend them the character of a higher order of things based essentially on the protection of the human person.

True, the achievement of 1949 was not quite entire. There still remains a vast sphere of action—the laws and customs of war, or the law of The Hague—where belligerent reprisals have to be prohibited, and it is here that Mr. Kalshoven believes that the situation is so much less favourable. It is common knowledge that the International Committee of the Red Cross has undertaken further studies towards the reaffirmation and development of the rules applicable in armed conflicts, and it will certainly not fail to draw the experts' attention very seriously indeed to this point. It is to be hoped that a solution conformable to the legitimate aspirations of nations will emerge.

I believe that I have shown, in the considerations I have set forth above, the grave significance of the reprisals question. Far from being a matter of purely academic interest, it is highly topical, since it will be, in the near future, the subject of detailed discussions with a view to an extension of the law embodied in the Conventions. It is certain that Mr. Kalshoven's most important book will be an extremely valuable contribution to that undertaking.

It is today recognized that events are followed rather than preceded by law. It can also be affirmed that one of the fundamental elements of law is its stability. That is why history takes such a large part in legal studies, without us being quite conscious of that fact. In order to tackle a problem like that of reprisals, it is necessary to know what are the basic elements, its history and the tenets of legal writers, as well as what has actually been done in this field. Mr. Kalshoven has not failed to acquaint us of these subjects, for which we are grateful.

I would like, finally, to congratulate Mr. Kalshoven on the scientific and objective character of the book he offers to our consideration. It reveals the solid research, concentrated effort of analysis and synthesis and clarity of thought that have gone into its making. Coming at a most appropriate time, this volume will be a valuable work of reference for all those who are interested in the reprisals question, as well as in the development of humanitarian law as a whole. I am happy that it comes from the pen of a citizen of the Netherlands, a country which has done so much to render war less inhuman.

As may be seen, this is a book of major interest. In order to show that its author has not examined the arduous question of reprisals without having presented beforehand the historical aspects and referred to the most recent developments of international law in this field, we quote the chapter headings: General Aspects of Reprisals; Evolution of the Law as to Belligerent Reprisals in the Period prior to the First World War; The Period between the First and Second World Wars; Reprisals in the Second World War; Developments after the Second World War; Results and Perspectives.

G. JASSERON: "LA CROIX-ROUGE" ¹

In this small book, a sub-title of which defines the Red Cross as "a universal ideology", the author states his modest purpose, which is "to satisfy with a brief explanation the curiosity of people who wish to know about the Red Cross". It is his opinion that fresh tasks continually arise for the Red Cross which "although it may not have come to a crossroads, has at least completed a phase and is faced with the choice of a new orientation". It should meet new needs in order to satisfy its own ambition which is "to protect man against all forms of aggression".

In order to determine its future paths, it is necessary to know from where it comes, and for that to trace its source. That is why several chapters concentrate on the landmarks in the life of the Red Cross, such as the development of the Geneva Conventions, the work of the French Red Cross and the significance of first aid. The author concludes with some personal and ambitious views of the future of the Red Cross and, reminding us of all the threats

¹ *Edition Allais*, Sotteville-lès-Rouen, France, 136 pp.