

Books and reviews

THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND THE PROTECTION OF WAR VICTIMS*

François Bugnion has subjected the International Committee of the Red Cross to a critical — “but not ill-intentioned” — examination in a work which should become required reading.

The reason for this criticism is explained in the general introduction: the Committee, whose mission is to protect war victims, has devoted most of its efforts to this task, thereby inevitably minimizing the time needed for reflection about “its own areas of competence, the bases for its action, and its position in contemporary society and in the international legal order”. And yet, as François Bugnion goes on to say, “any activity that is not guided by reflection is doomed to become dissipated in short-sighted activism”. The institution, which emanated from the dynamics of history and is being carried along by this same force, must now take the time to analyse “its basic orientations and the principles and limitations of its action”. This entails a recapitulation of the International Committee’s history, during which certain principles and rules of conduct have been developed and its position in the international system has been established.

This is the subject of the first volume, which is followed by Volume II, in which the author examines “the bases, scope and limitations of the tasks and areas of competence that humanitarian law has assigned to the International Committee with a view to the protection of war victims”. Volume III is devoted to an examination of the Committee’s legal personality.

The general introduction gives some details concerning the way the author proceeded, his investigations, his choice of the problems to be dealt with in the book, the need for an historical approach and arguments in favour of the legal approach, and the sources of his study. I have mentioned these subjects only to stress the broad scope and high quality of François Bugnion’s presentation of his project and of the structure of his work. Readers understand at once that the wealth of information provided will enable them to enter a complex world under

* François Bugnion, *Le Comité international de la Croix-Rouge et la protection des victimes de la guerre (The International Committee of the Red Cross and the protection of war victims)* International Committee of the Red Cross, Geneva, 1994, 1,438 pages.

the guidance of a practitioner whose judgment is based on common sense and sensitivity, within a strictly academic framework.

It is clearly impossible to carry out in a book review a critical, chapter-by-chapter analysis of a work which is voluminous, despite its concise style. François Bugnion has set out to offer everyone who, willingly or unwillingly, is part of what may be called the international community, to politicians, their protégés and their victims, and to humanitarian activists in universities, schools, religious communities and intergovernmental or non-governmental organizations, a global overview of the work carried out for well over a century, in Europe and throughout the world, by a strange international institution — an association governed by Swiss private law and composed exclusively of Swiss citizens. This institution, according to the author's reference to the advisory opinion of the International Court of Justice of 11 April 1949, "has an independent, limited and functional status in international law" of which "it is time for the Committee to become fully aware and to accept the necessary consequences".

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I shall single out only two fragments from this vast fresco in which military confrontations and peace conferences, scenes of violence and the operations of the International Committee and other humanitarian organizations succeed each other. The first relates to the ICRC's activities during the Second World War, and the second to the author's analysis of the effects of the challenges of our times on the International Committee of the Red Cross, on its policy — or, rather, its humanitarian strategy — on its structure and on its future.

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When entering upon the subject of the Second World War with François Bugnion, we should bear in mind how he defines his approach to the history of the ICRC. Referring to the works on the subject by Pierre Boissier and André Durand, he stresses that his intention is different, "much more modest; it is simply to retrace, through a study of ICRC practice and the work of International Conferences, the initiatives and decisions that have led to the International Committee being assigned tasks and areas of competence relating to the protection of war victims".

That is why his brief presentation of the political causes of the Second World War, which started in Europe with the German attack on Poland, and of the legal relations between the belligerents is followed by a section devoted to the delegations that the International Committee was rapidly able to set up, thanks to the mandate given it by the 1929 Convention and to the development of a standard

operational procedure. The ICRC is thus in a position to take the initiative when necessary. It certainly encounters difficulties and often comes up against insurmountable obstacles, but it is nevertheless committed to the arduous task of protecting the victims of war and pursues this goal by all the means at its disposal. Bugnion's work traces the different stages and setbacks in this process and describes the results achieved according to the status of the people concerned — wounded and sick members of the armed forces, prisoners of war and civilians.

This approach is of interest to any historian who seeks to evaluate the achievements of the ICRC by distancing himself somewhat from recent controversies. It is indeed impossible to assess the scope of the operations conducted by the ICRC and to pass judgment on its policy without placing them in a strategic context: a theatre of war which expanded to cover the whole world; enormous numbers of prisoners on one side or the other, depending on fluctuations in the fortunes of war; the refusal of Soviet Russia and Japan to apply the provisions of the 1929 Convention, which the governments of those countries had not signed — a refusal which led to retaliation by Germany against the Russian prisoners in its hands; the consequent impossibility for the ICRC to ensure protection for a considerable number of war victims; the Japanese Government's decision to apply the provisions of the 1929 Convention according to its own evaluations of circumstances; its refusal to recognize ICRC delegates in occupied territories; the death sentence pronounced against Dr Vischer and his wife, and many other dramatic wartime incidents that took place throughout the world. Wherever they were, ICRC delegates carried out dangerous missions, and were able to save some prisoners of war and improve their living conditions.

This was not possible, however, for civilians in the territories under the control of the National Socialist Government, and especially for the Jewish victims of a systematic extermination policy. The facts are well known. François Bugnion's brief account of the tragedy of the holocaust requires no further comment.

On the other hand, important lessons can be learned from the defeat inflicted by this monstrous totalitarian régime on an institution which, together with others, was defending the dignity of the individual.

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Alas, totalitarianism is not dead. It is re-emerging in different forms in a world in which war is still endemic and which is sliding into a state of chaos and wanton violence.

To what extent will the International Committee of the Red Cross be able to fulfil its mission? François Bugnion enumerates in his conclusion the steps that the ICRC should take in order to meet the challenges — both internal and external — posed by the way in which societies, and the relations between them,

have evolved. His concise statement once again bears witness to his knowledge of the world and of the institution he serves and to his clear-sightedness. It is a work programme that he is proposing to the ICRC and, more widely still, to all people and institutions sufficiently aware of the gravity of the world situation not to content themselves with empty words.

He concludes with a quotation from Clausewitz: "War is an act of violence, and there is no limit to its manifestations. Each adversary's behaviour prompts the other to do likewise, resulting in reciprocal action which, as a concept, is bound to lead to extremes".

Nevertheless, as Bugnion notes, the material constraints which, in Clausewitz's time, "kept war confined in a harness which indeed prevented it from going to extremes [...] have now disappeared. [...] Mankind has amply provided itself with the means of its own destruction. [...] The Second World War has demonstrated that the limits of horror can be pushed back *ad infinitum*".

To this we have to add the savagery of belligerents who, by resorting to the genocide engendered by nationalist passions and racism, destroy not only a country, like the former Yugoslavia, but the entire legal edifice so slowly built up in The Hague and Geneva to keep violence in check.

"The International Committee of the Red Cross", as François Bugnion points out, "has no means of stopping this slide towards the abyss. It cannot prevent war, or even ensure that war claims no victims. Yet what it can do is to draw the attention of governments and public opinion to the consequences of this trend, the disastrous effects of which it is best placed to assess through its day-to-day activities".

This is a great book because of its unity of form and substance and an important work because of its contribution to the design and implementation of a humanitarian strategy. Since I have been able to convey but a dim reflection of it, I can only express the hope that it will be widely publicized and translated and will be read with the attention it deserves by those responsible for the present and future conduct of world affairs.

I should like to add that there are several approaches to a work of this magnitude. In my opinion, the most stimulating and immediately rewarding way of reading it would be to begin with the critical examination of the challenges set out in the conclusion, since it is by formulating responses to these challenges that we will succeed in re-establishing respect for the law of war and the humanitarian law on which collective security is founded.

Jacques Freymond

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