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XVIIth International Red Cross Conference

Stockholm, August 1948

Resolutions of the Preliminary Conference
of Red Cross National Societies

(Geneva, July 26 - August 3, 1946)

relating to Specific Red Cross Problems

Report

by the International Committee of the Red Cross

(Under Item IV of the Agenda of
the Legal Commission)



It will be recalled that the Agenda of the Preliminary Conference comprised two parts, one relating to revision of the Conventions and the other to various problems bearing on the Red Cross. The work of the Conference under the first heading bore fruit in the "Revised and New Draft Conventions", which are submitted by the International Committee to the XVIIth Conference.

The resolutions of the Preliminary Conference relating to the second part, concerned with Specific Red Cross problems are, in view of the fact that the Conference of 1946 was only preparatory, to be examined by the XVIIth Conference, for adoption, rejection, or amendment.

Many of the resolutions will come up for examination by the XVIIth Conference as separate items of the Agenda. Others have become out of date.

It seems advisable to give here a full list of them, and then to deal with those which are still of current interest and have not already been included in particular items of the Agenda. The delegates to the XVIIth Conference are requested to refer for further particulars to the document published by the International Committee in January 1947 entitled: "Report on the Work of the Preliminary Conference of National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross", page 105.

A. GENERAL SURVEY OF THE RESOLUTIONS OF THE PRELIMINARY CONFERENCE RELATING TO RED CROSS PROBLEMS

I.- National Societies in Time of War.

1. Field of Action of National Societies.
See below.
2. Activities of National Societies in behalf of
Enemy Prisoners of War detained in their territory.
See below.
3. Independence of National Societies in regard to
the Public Authorities.

There seems no occasion to return to this last resolution, which recalls a Resolution by the XIXth Session of the Board of Governors. The independence of National Societies in regard to the Public Authorities has already been the subject of a new "condition for recognition" of National Societies. On this matter, reference should be made to the report submitted by the International Committee under Item V of the Legal Commission.

II.- Co-operation of National Societies in Time of War.

1. Relations between National Societies of Enemy Countries. This question will be dealt with under Item XV of the Agenda of the General Commission. Cf. Report by the Committee.
2. Possibility for Neutral National Societies to facilitate relations between the Red Cross Societies of belligerent Countries. This point will be dealt with also under Item XV of the General Commission.
3. Red Cross Branches remaining on territory occupied by the enemy. Same remark.
4. Relief Activities by neutral National Societies in behalf of Red Cross Societies of belligerent States. This question will be dealt with under Item III, point (c) of the Relief Commission. See Report of the International Committee.
5. Co-ordination of Relief Activities of Neutral Red Cross Societies in behalf of belligerents. This question will be dealt with also under Item II, point (c) of the Relief Commission.

III. Role of the International Committee and its Finances.

1. Role of the International Committee of the Red Cross. This Resolution resulted in the appointment of a "Special Commission to study methods for strengthening the efficacy of the work of the International Committee of the Red Cross". This Commission will submit its report under Item XIV of the General Commission.

2. Financial Resources of the International Committee.
This Resolution, being provisional, does not require to be examined as such. The question of the financial resources of the International Committee will be dealt with under Item X of the General Commission.

IV. Foundations of the Red Cross in International Law.

This Resolution may be dropped, as it has been carried into effect in the work of revision of the Conventions, and also in the Resolution passed by the United Nations.

V. Relations of National Societies with the International Committee.

1. Facilities to be granted to the Red Cross.
This question will be dealt with under Item VII of the Legal Commission.
2. Activities of the International Committee in various countries. This question will be dealt with under Item XV of the General Commission.
3. Relations between the International Committee and National Red Cross Societies in occupied countries.
This question will be dealt with under Item XV of the General Commission.
4. Delegations of the International Committee abroad, and Delegations of National Societies to the Committee.
Same remark.

VI. Constitution and Recognition of National Red Cross Societies.

1. Policy adopted by the International Committee during the second World War.
This question will be dealt with under Item V of the Legal Commission.
2. Conditions of Recognition of National Red Cross Societies.
This Resolution gave rise to the work of the Joint Commission of the International Committee and of the League, of which a report will be found under Item V of the Legal Commission. It may therefore be deleted.

VII. Protests of National Red Cross Societies against alleged violations of the Humanitarian Conventions.

See below.

VIII. The Red Cross and New Methods of Warfare.

This question will be dealt with under Item VI of the Legal Commission (Humanization of War).

IX. Preparation of the Seventeenth International Red Cross Conference.

This Resolution has been carried out and is of no further interest.

X. Special Commission for the study of New Draft Conventions.

This Resolution has fulfilled its purpose. A report will be given on the work of the Special Commission under Item III of the Legal Commission (Revision of the Geneva Conventions).

XI. Proposal of the Czechoslovak Red Cross concerning the dissolution of National Societies by an Occupying Power.

This question will be dealt with under Item VII of the Legal Commission.

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From the above review it will be seen that.. only three resolutions of the Preliminary Conference require to be dealt with here, namely,

- 1) Field of action of the National Societies;
- 2) Activities of National Societies in behalf of Enemy Prisoners of War detained in their territory;
- 3) Protests of National Red Cross Societies against alleged Violations of the Humanitarian Conventions.

B. EXAMINATION OF THESE RESOLUTIONS

1. Field of action of the National Societies.

The resolution of the Preliminary Conference runs as follows :

"The Commission, having heard the reports of the various National Red Cross Societies on their work during the recent War;

"Notes that these activities have often extended beyond the framework of the Conventions now in force;

"Considers that the wording of the Geneva Conventions should be extended so as to determine the sphere in which National Red Cross Societies can function, and desires to see embodied in the Convention, in addition to the care and relief of the wounded and sick of belligerent forces, the following activities:

- (a) care and relief of civilian victims of the war and of prisoners of war;
- (b) care and relief of Alien Refugees who may be resident on the territory of one of the National Societies during hostilities;
- (c) in case of the occupation of a country, or in case of civil war, the Red Cross shall be authorized to extend its care to all wounded, without distinction of the party to which they may belong.

"National Red Cross Societies shall further undertake all activities specified in their Statutes, on the understanding that if these activities go beyond the limits fixed by the Conventions, they shall not enjoy the protection afforded by these agreements".

Since its foundation, the work of the Red Cross has continued to develop. From the limited scope of its early aims, its service to-day covers human suffering in almost all its forms.

The Red Cross activities in time of war, the only branch which is being examined here, were at first concerned only with the care and relief of sick and wounded in the armies in the field. In the course of successive wars, the activities have been gradually extended to other classes of victims of war, both civilian and combatant. It may be said that during the second World War, the ministrations of the Red Cross were extended, either direct by the National Societies, or through the International Committee and the League, to all victims of war.

In addition, some National Societies took on a new type of activity, especially during the recent War. This was in the nature of welfare or patriotic work in behalf of persons who were not strictly speaking victims of war. The work included the shipment of parcels of food and clothing to soldiers at the front, organization of welfare and free-time recreation of men in the forces, welfare work for the next-of-kin of men on active service, and other services which are all of undoubted usefulness.

The International Committee had placed upon the agenda of the Preliminary Conference the general question of activities of the National Societies in time of war. It did not propose a draft Resolution. Its intention was that these Societies might review the results of their experience in these new developments in Red Cross work and examine : (1) the possibility of defining the activities which are in keeping with the primary aim of the Red Cross and in the spirit of the Conventions, and (2) to what extent the emblem of the Red Cross might be used for other activities.

The discussions revealed that the National Societies had very varied opinions on this question. Some considered that the Red Cross ought to limit ^{its} activities to aid for the actual victims of war; others felt they were justified in carrying out any welfare activity sanctioned by their own Statutes.

The resolution referred to above conveys the desire of the majority at the Preliminary Conference : (1) to seek a solid foundation for any new activities which are unanimously recognized as coming within the normal scope of Red Cross work; and (2) to limit protection under the Conventions to these activities alone, whilst authorizing the National Societies to undertake other work.

In the event of the XVIIth International Conference deciding to confirm the opinion expressed by the above Resolution, the International Committee considers that the form of this Resolution might be appreciably improved. The Legal Commission will also study the revised and new Draft Conventions, to see if they afford sufficient support to the National Red Cross Societies and their work.

The two categories of activities referred to in the resolution should be examined separately: (1) those in behalf of war victims, properly speaking, enumerated under letters (a), (b) and (c), and (2) those referred to in the last paragraph of the Resolution.

Activities in behalf of victims of war, properly so-called.

Within the Red Cross, there does not seem to be the least doubt that these activities have a justification in law. The widening of the scope of the Red Cross to include the categories referred to in the Resolution, is the logical extension of its original purpose adapted to the scale and methods of modern warfare; it remains true to the spirit which inspired it in the first place. The International Committee has made contributions to this larger purpose since 1870, when it began to look after the interests of prisoners of war. Throughout the recent war, it endeavoured to extend its work to cover the most varied categories of victims of war, both civilian and combatant.

In this connection the resolution adopted in 1946 confines itself to expressing the desire that these activities be incorporated in the Convention, along with the care and relief for the sick and wounded of the belligerent forces. The Conventions however are not the sole basis of Red Cross work. The primary authority for this work is supplied by the Statutes of the National Societies and of the international agencies of the Red Cross, together with the resolutions of the International Conference and the mandates confirmed by it. A proof of this is that the National Societies and the Committee were manifestly able to widen the scope of their activities far beyond what was stipulated in the Conventions.

But although these Conventions are not the sole basis for Red Cross work, they give the strongest reinforcement to that basis by affording legal authority for that work as it touches the Governments, and by protecting this work against acts of war, in that they give neutral status to the executive agents of the Red Cross, and to its establishments and equipment.

Moreover, the Red Cross is not mistress of the Conventions; these are what the Governments wish to make of them. The

Conventions alone should, therefore, not be expected to sanction the development of Red Cross relief work, which is to its greatest credit and has saved millions of human beings.

In the interest of clarity and that all aspects of the problem may be served, the Committee suggests that the wording of the first part of the resolution be amended to read as follows:

"The International Red Cross Conference,

"noting that the activities of the National Red Cross Societies have often gone beyond the frame work of the Conventions now in force,

"holding that the extension to all categories of victims of war both civilian and combatant, of the relief work of the Red Cross, by the original stipulations confined to the sick and wounded of armies in the field, is legitimate,

"that it would be appropriate to sanction it for the future and provide it with as firm a basis as possible,

"invites the National Societies which have not already done so, to make provision in their Statutes for aid to all victims of war, both civilian and combatant, without distinction of nationality, race, religion or political opinion;

"looks forward to recognition by their respective Governments, and, in so far as appropriate by means of the Conventions, of the following activities of the National Red Cross Societies, in addition to care and relief of the wounded and sick in the armies in the field;

"(a) care and relief of civilian victims of war and of prisoners of war;

"(b) care and relief of alien refugees who may be resident in the territory of one of the National Red Cross Societies during hostilities;

"(c) in case of the occupation of a country, or in case of civil war, the Red Cross shall be authorized to extend its care to all sick and wounded, civilian and combatant without distinction of the side to which they may belong".

Other Activities

Although the Preliminary Conference sanctioned the extension of the activities of the National Societies in time of war to all victims of war, it had no wish to limit them to these victims. On the contrary, it left every National Society completely free to undertake all activities covered by their Statutes, and confined itself to stating that "if these activities go beyond the limits fixed by the Conventions, they shall not enjoy the protection afforded by these texts". This phrase appears rather restrictive : it is not so in practice. It is the statement of a self-evident fact.

The adoption of this Resolution would have big consequences. It would permit some National Societies, provided their Statutes sanctioned such a course, to undertake under the Red Cross emblem the most varied activities, some perhaps, very far removed from the true purpose of the Red Cross in time of war, and which might even have the effect of contributing to the war potential of their country. The problem therefore deserves study from every angle. The International Committee wishes to make it quite clear that there is no question of criticizing the National Societies for the activities undertaken by them. Those which were mentioned above, and which were referred to at the Preliminary Conference all fulfilled great purpose, and their service in the field of welfare is beyond question. Moreover, the Societies which undertook them were justified in doing so according to the present wording of the Conventions and by virtue of their own Statutes. It is a question rather of the future. It is one to be examined in the sole interest of the Red Cross, or more exactly in the interests of those whom it has to help, whether the almost unlimited extension of its activities is a good thing or whether it carries with it a risk of being harmful.

The power of the Red Cross lies in its universal character. If the Red Cross was able within a short time to achieve recognition even on the battle-field, it was because it had only one significance, the same for all countries. Will the same hold good in the future if, under this emblem, the National Societies are free to undertake all kinds of work? Would not their work in behalf of victims of war perhaps be weakened, by arousing doubt in the mind of the other side? And would not this weakening of the protective value of the Red Cross react on the work of other Societies which confine themselves solely to the relief of victims of war? To-day, we see the senior officers of one National Red Cross Society treated as suspects and called before a tribunal, on the sole grounds of their being leaders of their Society. This is because this particular National Society, in the opinion of some, is suspected of having supported a political cause. Would there not be a risk of incurring other incidents of this kind, which would end by bringing part of the Red Cross work to a standstill and would perhaps have the effect of hampering the intervention of its international

agencies, by provoking confusion and doubt, even suspicion, over the true significance of the Red Cross?

The Committee proposes that the question should be thoroughly scrutinized, if not at this Conference, in an ad hoc Commission. It does not think it possible to enumerate beforehand the activities which a National Society is justified in undertaking, and those which it should refrain from handling. It considers rather that each specific question should be examined in the light of the general principles of the Red Cross, perhaps even according to criteria which would have to be defined. Meanwhile, the Committee suggests that to avoid setting up dangerous precedents, to which the resolution of 1946 gives an opening, the wording of this resolution should be amended as follows :

"National Red Cross Societies may further undertake all activities specified in their Statutes, on the understanding that such activities shall be in conformity with the principles of the Red Cross. If these activities go beyond the framework of the Geneva Conventions, the National Societies shall not seek to place them under the protection of these Conventions".

2. Activities of National Societies in behalf of Enemy Prisoners of War detained in their Territory.

The Preliminary Conference had made the following recommendation :

"National Societies shall contribute to the relief of enemy prisoners of war and internees on their territory, and this relief shall be granted on the basis of the most complete impartiality".

This activity was brought up for the first time at the International Red Cross Conference of 1902. At the time, a resolution invited the National Societies to consider carefully whether they intended to undertake relief for prisoners of war according to the terms of the Hague Regulations.

The International Red Cross Conference of 1907, noting the offer made by the International Committee to serve as intermediary in the matter, made the recommendation that the National Societies acknowledge their obligation to give relief to prisoners of war in accordance with the stipulations of The Hague Regulations.

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Finally, the Conference of 1912 laid on the ICRC the task of receiving, forwarding and distributing the relief entrusted to it by the National Societies for prisoners of war.

The Commission convened in Geneva by the International Committee and the League in January 1939 to study co-operation with the National Societies in case of war, drew the attention of these Societies to the work they could carry on in behalf of enemy prisoners of war and "recommended that they undertake this work, which is essentially in accordance with the spirit of the Red Cross".

It should be recognized that except in a few instances, all the more creditable because they were rare, this recommendation remained a dead letter during the second World War. In the circumstances, both parties considered relief for enemy prisoners was within the sphere of the Red Cross, and the exclusive concern of the International Committee. The Committee therefore had a kind of de facto monopoly in this particular work. But it does not ask for such a monopoly. It considers it would be the normal course for the National Societies, in going to the help of the enemy sick and wounded, to give care to enemy prisoners of war who are also combatants no longer capable of fighting and who are in distress. This question was therefore raised by the Committee at the Preliminary Conference. It argued, that care for enemy prisoners of war constituted a field of ^{action} of the first importance for the National Societies, in keeping with the ideal of the Red Cross which instills the duty of giving relief to the victims of war without distinction of nationality. It also pointed out that, as the Red Cross Societies were within reach of the prisoners, and as they had, too, close relationship with their Governments, they would be well placed to undertake relief work of this kind, which could be developed on a basis of reciprocity.

Doubtless the service of the International Committee as neutral intermediary continues to be necessary. But the Committee has only limited means in men and material. The superhuman efforts which it had sometimes to exert during and after the war in the field of relief to prisoners might have been considerably eased and its work speeded up and rendered still more effective, if, in each country where prisoners of war were detained, it had been able to count on direct co-operation from the National Red Cross.

The reception which was given by the Preliminary Conference to the suggestions of the Committee and the unanimous adoption of the text of the above resolution with hardly any discussion, make any long explanatory statement by the Committee unnecessary. It trusts there will be the same unanimous vote in Stockholm.

The International Committee therefore proposes the adoption of the Resolution.

To avoid any misunderstanding it should be stated, as it was in the discussion in commission at the Preliminary Conference, that this resolution should not have the effect of substituting the Red Cross for the Government authorities of the Detaining Power, upon whom falls the duty of caring for prisoners of war in conformity with the Convention of 1929.

3. Protests of National Red Cross Societies against alleged violations of the humanitarian Conventions.

The Preliminary Conference of 1946 adopted the following resolution :

"The Commission is of opinion that the International Committee of the Red Cross should continue to undertake the transmission of the protests it may receive concerning violations of the law of nations or of humanity.

"The Commission approves the preliminary conditions expressed by the International Committee in its Report".

The International Committee had reminded the Preliminary Conference that, in virtue of Article VII of the Statutes of the International Red Cross, it had the duty of receiving all protests in regard to alleged violations of the international Conventions.

During the second World War, the Committee did in fact receive protests in regard to violation of the main principles of international law or of human rights (bombing of hospitals and dressing-stations, sinking of hospital ships, bombing of the civilian population) (1). For further details of these protests and on the position of the Committee in regard to them, reference should be made to the Report submitted by the Committee to the XVIIIth Conference on their activities during the second World War, Volume I, Part I, chap. VI (C).

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- (1) These do not include the many complaints alleging non-application of some specific provision of the Conventions, especially in regard to the treatment of prisoners of war. In such cases, the Committee, by appropriate intervention, camp visits, etc., is, as a rule, able to remedy unaided, on a basis of reciprocity, the defects in treatment which are brought to its notice.

When protests of this nature come from a National Red Cross Society, they are transmitted by the Committee to the National Society of the country involved, with a request for a detailed reply and, if need be, with an indication of the gravity of the alleged facts.

This procedure can only serve a useful purpose if the National Societies, exercising their influence with their Governments and through their own impartiality, are able to bring about an objective examination of the facts of the case.

It should be borne in mind that such communications gave but few positive results, even reckoning as a positive result the assurance given that the authorities of the country involved had begun an exhaustive investigation. There were a few exceptional cases, where full replies were sent to the Committee.

Moreover, the Committee cannot itself pronounce on the merits of facts stated unilaterally, and which it is not in a position to verify by investigation. Nor can it adopt an attitude in the matter which would jeopardize the practical work which it has in its hands in the belligerent countries, for in the last resort, the victims of war themselves would suffer from such a course. It can take part in an investigation of facts concerning infringements or in arbitration only on the conditions set out in its Memorandum of September 12, 1939. (Cf. Report of the International Committee, loc. cit.) In short, it could agree to take part in such a procedure only with the formal agreement of all the States concerned.

For the reasons briefly summarized here, the Committee enquired of the Preliminary Conference if in future it should continue to accept the same role, as in the past, in the matter of protests.

It added that if it must continue to render service in this field, then it should be on certain conditions. These provisos are referred to in the Resolution of the Preliminary Conference : (1) that such action should be compatible with the Red Cross principle of impartiality and neutrality and that it should not run the risk of limiting or endangering the practical work of the International Committee; (2) that the National Societies should make every effort to submit each protest to exhaustive and impartial investigation, and that a detailed reply should be sent to the Committee.

The Preliminary Conference adopted the resolution quoted at the head of this Section. It urged that the International

Committee should continue to undertake the transmission of protests, and approved the conditions required by the Committee. The wording of the Resolution is, however, incomplete. If the XVIIth Conference are of the same view as the Preliminary Conference, a Resolution worded as follows might be proposed :

"The Conference considers that the International Committee of the Red Cross should continue to undertake the transmission of the protests it may receive concerning alleged violations of the international Conventions, or of the principles of human rights. It urges upon the National Societies the duty to make every effort to see that each protest is subjected by their respective Governments to exhaustive and impartial investigation, and that a detailed reply be sent to the Committee".

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