

APROPOS THE NEW CONSTITUTION OF THE LEAGUE OF RED CROSS SOCIETIES

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INTRODUCTION

The idea of making an overall revision of the Constitution and Bye-Laws of the League occurred in the context of a major evolution in the activities of the institution, corresponding to the changing needs of its members and of peoples, as a result of the rapid transformations of the modern world.

Although the official legal texts governing the objectives, functions, structure and relationships of the League had undergone several partial revisions since 1919, they had been the subject of only one comprehensive revision up to 1973; this was made in 1938 when the League had only 56 members, including only 2 in Africa and 6 in Asia. It became obvious in the early 1970's that the League Constitution then in force no longer reflected adequately the activities of the federation and its members nor the responsibilities assigned to them by the League's statutory bodies. In addition, it was becoming urgent to re-examine certain out-dated provisions, to fill in certain gaps which experience had brought to light and to adapt the Constitution to the requirements of a modern and dynamic international non-governmental institution.

In 1973, the Board of Governors, at its XXXIInd Session, recognizing the need for a general examination of the Constitution and Bye-Laws of the League, instructed the Chairman of the Board of Governors to establish a group of experts to draft proposals for revision of the Constitution and Bye-Laws.¹

This group, the "Constitution Revision Commission", consisting of 14 members, held ten meetings between 1974 and 1977 at which it drafted the proposals for the new Constitution and Rules of Procedure which were finally adopted by the Board of Governors at an Extraordinary Session at Geneva in 1976, and at its XXXIVth Session (Bucharest, October 1977).²

¹ Resolution 15/73 of the XXXIInd session of the Board of Governors. The mandate of the group was re-affirmed and renewed by Resolution 9/75 of the XXXIIIrd session of the Board of Governors and again by decision 3/76 of the extraordinary session of the Board of Governors.

² The Constitution Revision Commission comprised Mr. A. Alcantara (Senegal), President; Mr. F. Wendl (Austria), Secretary; Mr. E. Boeri (Monaco), Assistant Secretary—these three members constituting the Bureau of the Commission—and representatives of the National Societies of Australia, Bulgaria, Canada, France, India, Kuwait, Nigeria, Philippines, Switzerland, United Kingdom and Yugoslavia.

Three categories of principles guided the Commission throughout all of its work.

First of all, it was concerned to supply the League with a legal instrument as precise and complete as possible, reflecting the humanitarian activities of the National Societies and their federation and also taking into account the new needs and prospects for development of the League and its members, at a time when the mission and functions of the Red Cross were the subject of a global re-appraisal.³

This was followed by the need to carry out a general and profound study of fundamental questions relating to the different fields in the structure and activities of the League, in the spirit of Resolution No. 15 of the Board of Governors at Teheran, prior to the drafting of the final versions of the legal texts. These fundamental questions dealt with the object and functions of the League, the principal and subsidiary bodies of the League, the members of the League, relations between the League and other institutions of the International Red Cross and other international organizations, and with the finances and management of the League.

Finally, and above all, it was important to enable the National Societies to express their views on the revision of the statutory texts and to make their suggestions so that the work should truly be the expression of effective participation by all the members of the federation in the drafting of the Constitution which was of concern to all of them⁴.

The Constitution Revision Commission and the staff for the Re-appraisal of the Role of the Red Cross kept each other constantly informed about their respective work concerning legal questions of interest to the League. On many subjects, the proposals of these two bodies were in agreement. There was also close co-operation between the ICRC and the Constitution Revision Commission with regard to the study of texts concerning the functions of the League and co-operation between the ICRC and the League.

The President of the League appointed Prof. H. Haug (Switzerland) as Liaison Officer between the Commission and the Committee of the Chairman and Vice-Chairmen. He also appointed Prof. J. Patrnogic, former Secretary General of the Yugoslav Red Cross, as legal consultant to the Commission.

³ See *An Agenda for Red Cross*, 1975 (hereinafter referred to as the Tansley Report), a re-appraisal of the role of the Red Cross assigned to Mr. Tansley by the Board of Governors (Resolution No. 2) in 1971.

⁴ National Societies were five times invited to submit their comments and suggestions on the revision of the Constitution (May 1974) and on successive drafts of the Constitution and of the Rules of Procedure worked out by the Commission (October 1974, April 1975, March 1976, October 1976 and August 1977).

I. STRUCTURE, OBJECT AND FUNCTIONS OF THE LEAGUE

The principles governing the structure, object and functions of the League are referred to in the International Red Cross Statutes, adopted by the International Red Cross Conference in 1928 and revised in 1952.

From the outset of its work, the Constitution Revision Commission, recognizing the interdependence between the International Red Cross Statutes and the Constitution of the League, applied itself to examining the various provisions of the Statutes of the International Red Cross insofar as these related to the structure of the League, that is to say, the status of the League as the international federation of the National Societies of the Red Cross, Red Crescent, Red Lion and Sun, the object and functions of the League and relations between the League and the ICRC.

The question arose as to whether it was possible to develop the structure, object and functions of the League, as these were defined by the Statutes of the International Red Cross in Article 7, paragraphs 1, 2 and 3, and repeated in Articles 1, 3, 4, 5 and 6 of the Constitution of the League as adopted in 1969.

Several explanatory and interpretative studies of these provisions showed that both the ICRC and the League could change their respective fundamental legal instruments, under the express condition that such alterations should not be contradictory to the Statutes of the International Red Cross.

It is useful to recall that prior to the adoption of the Statutes of the International Red Cross in 1928, ICRC President Max Huber stated, in a comment on Article 8 of these Statutes, relating to co-operation between the ICRC and the League, that it was not possible to establish a rigid and comprehensive division between the respective domains of the International Committee and the League. While maintaining their own responsibilities, these two institutions were committed to close co-operation in fields affecting the activities of both. In view of the multiplicity of the tasks of the Red Cross and the moral status it had in international affairs, it was dangerous to crystallize into rigid definitions activities which, to preserve their full value, had to be adapted to circumstances.⁵

⁵ Max Huber, at the Thirteenth International Red Cross Conference (The Hague, October 1928). *Compte rendu de la Conférence*, pp. 102-103.

These remarks and commentaries by Max Huber, author of the first draft of the Statutes of the International Red Cross, have not only maintained their full original force, but have also been confirmed by the practical experience of all members of the International Red Cross.

Modifications of the International Red Cross Statutes, adopted by the Eighteenth International Red Cross Conference in 1952, maintained intact not only the "fictional structure" of the International Red Cross, but also the authority of the International Red Cross Conference. Furthermore, the revisions fully respected the independence of the institutions of the International Red Cross.

As Max Huber explained, it was not a matter of creating a new and highly structured international organization which, logically, could impose itself upon the three principal components of the Red Cross, that is, the National Societies, the ICRC and the League. What did matter was "to preserve intact and to affirm the elements already in existence" and to find a formula for complete harmonization of the activities of these elements, while respecting their complete independence.

In addition, it is essential to bear in mind that the International Red Cross Conference, the highest deliberative authority of the International Red Cross, cannot change either the fundamental legal instruments of the ICRC or those of the League, and that neither the ICRC nor the League can take any decision contrary to the Statutes of the International Red Cross or to the Resolutions of the Conference.⁶ Furthermore, Article 4, paragraph 4 of the International Red Cross Statutes specifies that "The Constitution and the powers of the Board of Governors are laid down in the Constitution of the League". In other words, only the Constitution of the League can establish the powers of the supreme organ of the League.

In the same way, the 1951 Agreement between the ICRC and the League, revised in 1969, specifies clearly in its Preamble that the respective functions of the ICRC and of the League "are, in their principles, established by Articles VI (for the International Committee) and VII (for the League) of the Statutes of the International Red Cross".

The Constitution Revision Commission thus reached the conclusion that the contradiction between Article 7, paragraph 2, of the International Red Cross Statutes, which defines the status, object and functions of the League, and Article 7, paragraph 1, which specifies that the League "is governed by its own Constitution" is only an apparent

⁶ *Statutes of the International Red Cross*, Art. 2 (6).

contradiction and that in reality Articles 6 and 7 of the International Red Cross Statutes lay down the framework and principles of ICRC and League activities, while the objects and functions of the two institutions are formulated in a more detailed manner in their respective legal instruments and can be developed by new rules adapted to new conditions.

The principles set forth in Article 7 of the International Red Cross Statutes are repeated in the revised Constitution, but, to the extent necessary, the enumeration of the functions of the League has been supplemented and specified, even though certain of these functions are not mentioned in the International Red Cross Statutes. The decision to this effect met the wishes of many National Societies which had expressed themselves in favour of the adaptation and extension of both the object and functions of the League.

Fundamental Principles and mottos

The Preamble to the Constitution of the League includes both the Fundamental Principles upon which Red Cross action depends and a kind of guide for the humanitarian activities of members of the federation as implied in the two mottos of the International Red Cross.

Since the League is a constituent part of the International Red Cross, whose highest deliberative body, the International Conference, at its twentieth session, proclaimed the Fundamental Principles upon which the action of the Red Cross depends, it was considered necessary for the League to affirm in its Constitution the adherence of its members to these Principles.⁷

Taking into account suggestions made by certain National Societies and referring to the decision of the Board of Governors, adopted at its XXVIth session at Prague (1961) and formulated in Resolution XLIV, the Constitution Revision Commission introduced into the Preamble the mottos "Inter Arma Caritas" and "Per Humanitatem ad Pacem" which express the ideal of the Red Cross movement as a whole.

⁷ The Constitution Revision Commission did not consider suggestions made by some Societies for the review or revision of the Principles, which only the International Red Cross Conference is empowered to do. Nor did the Commission analyze the legal validity of the Fundamental Red Cross Principles adopted by the Board of Governors at its XIXth session at Oxford in 1946 and amended at its XXth session in Stockholm in 1948. These principles were re-affirmed by the 18th International Red Cross Conference.

Status of the organization

The new Constitution of the League reaffirms the status of the organization as the international federation of the National Red Cross, Red Crescent and Red Lion and Sun Societies, a corporate body and a constituent part of the International Red Cross.

Difficulties arose when the Commission considered changing the name of the organization. A certain tendency manifested itself in favour of a name expressing the nature of the institution, i.e. "The World Federation of National Societies of the Red Cross, Red Crescent and Red Lion and Sun". Other opinions gave emphasis, as had Mr. Tansley in his report,⁸ to the fact that the name "League of Red Cross Societies" during the 57-year existence of the institution had acquired a historic and moral force which it would be dangerous to bring into question.⁹ The latter view finally prevailed, although it was decided that the letter-heads and publications of the League would henceforth have, in addition to the official title, "The League of Red Cross Societies", and the three symbols, the words "International Federation of National Red Cross, Red Crescent and Red Lion and Sun Societies".¹⁰

General object

The fundamental rule concerning the object of the League is formulated in a general and flexible manner in the International Red Cross Statutes. The same formulation of the object of the League was also introduced into the Constitution of the League in 1969.¹¹

It was regarded as essential to develop this fundamental rule in the new Constitution of the League, in a form which would reflect the dynamic adaptation of the League to new requirements and would take into account the practices of the federation and the National Societies and their experience in recent years.

The new article devoted to the general object reads as follows:

"The general object of the League is to inspire, encourage, facilitate and promote at all times all forms of humanitarian activities by the

⁸ Tansley Report, p. 102.

⁹ It was pointed out also that the name of the League had been officially introduced into the June 1977 Protocols additional to the Geneva Conventions.

¹⁰ *Rules of Procedure*, Rule 1.3.

¹¹ *Statutes of the International Red Cross*, Art. 7(2) and the 1969 *Constitution of the League*, Art. 3.

National Societies with a view to preventing and alleviating human suffering and thereby contributing to the maintenance and the promotion of peace in the world.”

This provision gives emphasis at the outset to the fundamental object pursued by the League, “to inspire, encourage, facilitate and promote at all times all forms of humanitarian activities by the National Societies”. It gives this a further dimension insofar as this humanitarian action, with the aim of preventing and alleviating human suffering, corresponds to the Fundamental Red Cross Principle of Humanity. As proposed by many National Societies, the wording of the general object of the League gives emphasis to the institution’s contribution to the maintenance and promotion of peace in the world as an obvious consequence of the humanitarian action of the National Societies and their federation.

Functions

The provisions in the 1969 Constitution relating to the fundamental functions of the League were incomplete. It was essential not only to supplement and specify these functions but also to develop them by taking into account the new necessities and new perspectives for League development. It also appeared necessary to systematize the presentation of these functions and study them in a logical order.

Meeting the desires of National Societies, the new provisions, in Article 5 of the Constitution, first give emphasis to the fundamental functions of the League, specific to the federation, listed in Article 7, paragraph 3, of the Statutes of the International Red Cross:

- “to act as the permanent organ of liaison, coordination and study between the National Societies and to give them any assistance they might request;
- “to encourage and promote in every country the establishment and development of an independent and duly recognized National Red Cross Society.”

They then add the federation’s relief obligations, which were not referred to in the previous Constitution:

- “to bring relief by all available means to all disaster victims;
- “to assist the National Societies in their disaster relief preparedness, in the organization of their relief actions and in the relief operations themselves;

- “to organize, co-ordinate and direct international relief actions in accordance with the Principles and Rules adopted by the International Conference of the Red Cross;
- “to bring help to victims of armed conflicts within the framework of the agreed functions of the League as a member of the International Red Cross, in accordance with the agreements concluded with the International Committee of the Red Cross (ICRC).”

With regard to the latter provision, the expression “in accordance with the agreements concluded with the ICRC” was added after consultation with the ICRC. This constitutes a reference to the ICRC-League Agreement of 1951, renewed in 1969, which specifies that “where there is an international war, civil war, blockade or military occupation . . . when the intervention of a neutral intermediary is not or is no longer necessary, the ICRC shall reach agreement with the League with a view to associating it with the relief action or even handing over to it the entire responsibility”.¹²

The importance of these functions increases the scope of Article 4 of the Constitution, “General Object”, in which it is specified that the League must “. . . facilitate and promote at all times all forms of humanitarian activities by the National Societies.” A broad interpretation of this article provides in all cases for relief to victims of armed conflicts as well as to those of natural disasters.

The other functions deal mainly with the action of the League on behalf of National Societies to enable them to participate in activities to protect the health of the population and promote social welfare, in co-operation with the responsible national authorities.

The League also had the responsibility to encourage and co-ordinate between National Societies the exchange of ideas designed to inculcate humanitarian ideals in children and young people and to develop friendly relations between young people of all countries. It will also assist National Societies to recruit members from the population as a whole and to inculcate among them the Principles and ideals of the Red Cross.

There is in addition a provision for the League to assist the ICRC in the promotion and development of international humanitarian law and collaborate with it in the dissemination of knowledge of this law and of the Fundamental Principles of the Red Cross among the National Societies.

¹² ICRC-League Agreement, 1951 (renewed in 1969), Section I, Art. 2.

This provision respects the traditional role of the ICRC, which is reaffirmed by the Geneva Conventions and by the ICRC-League Agreement of 1951/1969, but it also corresponds to the desire of National Societies to have the federation take a greater part in the promotion of humanitarian law, which is in complete conformity with resolutions adopted by International Red Cross Conferences and by the Board of Governors.¹³

II. CO-OPERATION WITH THE ICRC

All of the legal texts in force, the Statutes of the International Red Cross, the Statutes of the International Committee of the Red Cross, the Constitution of the League and the Agreement between the ICRC and the League of 1951/1969, call for regular liaison between the ICRC and the League to co-ordinate and harmonize their respective activities.

Accordingly, and to comply with the wishes of National Societies, the new Constitution contains an article which reaffirms the provisions of Article 8 of the Statutes of the International Red Cross.¹⁴ There is, in addition, provision for meetings between representatives of the two organizations at least once a month.¹⁵

This article also develops the provisions of the Statutes of the International Red Cross to the extent to which the League maintains "privileged relations" with the ICRC, recognizing it as an observer entitled to participate in meetings of the Assembly. This legal provision is more specific than is provided for in Article 7 (XIV) of the Agreement between the ICRC and the League which states: "As a complement to Article VIII of the Statutes of the International Red Cross it is anticipated that

¹³ Resolution VII of the Twenty-third International Red Cross Conference (Bucharest, October 1977),

"2. invites National Societies to intensify their efforts, in collaboration with their governments, for the dissemination of knowledge of international humanitarian law and of its principles as widely as possible among the population and especially among youth".

It also requests

"3. the ICRC and the League to lay down guidelines for their cooperation in this sphere of dissemination in order to give more effective help to National Societies in drawing up programmes of activities concerning the dissemination of knowledge of international humanitarian law and the training of national officers in this field".

¹⁴ "The International Committee of the Red Cross and the League of Red Cross Societies shall maintain contact with one another in order to co-ordinate their activities as far as possible and avoid overlapping."

¹⁵ *League Constitution*, Art. 32.3.

representatives of each Institution should be invited to meetings of the governing bodies of the other whenever a question of common interest is being discussed. Representatives so invited may take part in the discussions, but shall not be entitled to vote."

In addition, at the suggestion of the ICRC, this article contains a clause to the effect that "The League shall conclude with the ICRC the agreements required to ensure a harmonious development of their respective activities."

This refers not only to the Agreement of 1951/1969 but also to numerous special arrangements made by the ICRC and the League to deal with various situations of armed conflicts.

The new Rules of Procedure also contain certain provisions concerning co-operation with the ICRC, authorizing the Secretary General to maintain permanent liaison between the Secretariats of the League and of the ICRC.

It should be noted as well that the new Constitution has a provision under which the League shall maintain such relations as it deems appropriate with international governmental and non-governmental organizations.

III. MEMBERS OF THE LEAGUE

Provisions concerning the qualifications of National Societies as members of the League, their admission and suspension, as contained in the 1969 Constitution, had to be made more specific.

Some views were expressed to the effect that the problem of membership in the federation could be resolved independently of the Statutes of the International Red Cross, which would mean that recognition of a National Society by the ICRC would not be a necessary condition for admission to membership in the League. Others insisted that recognition by the ICRC was a necessary condition for admission.

In view of the complex character of the subject, involving not only the ICRC but also the Statutes of the International Committee of the Red Cross, it was decided to maintain the *status quo*, while specifying in the Constitution and Rules of Procedure the conditions for membership and the procedure for admission of a National Society. The decision finally reached shows that in this particular case a pragmatic solution, based on common experience for many years, took precedence over a purely legal solution.

The Constitution has a provision enumerating the fundamental conditions under which a National Society becomes a member of the

League. The National Society must be officially recognized by the government of its country, must undertake to respect the Fundamental Principles of the Red Cross and act in accordance with those Principles; it must belong to a country in which there is no other National Society and its activity shall cover the whole country; it must undertake to respect the provisions of the Constitution.

The process involved in recognition and admission of a National Society, one which was recommended by the Tansley Report,¹⁶ had already been provided for in the ICRC-League Agreement of 1951/1969.¹⁷ It has now been codified in the League's Rules of Procedure which not only specify the procedure for applications for admission by National Societies but also define the procedures for examination by the ICRC and the League of applications for recognition and admission. The Secretary General, in conjunction with the competent representatives of the ICRC, examines the documents submitted by the applicant Society to determine whether the conditions for recognition and admission are satisfied.¹⁸

The suspension and exclusion of member Societies presented a difficult problem. Recognizing that these measures would necessarily be exceptional, the Constitution Revision Commission adopted the point of view of Mr. Tansley who considered that "suspension should be an adequate penalty which at the same time offers the offending Society an incentive to return to a normal status".¹⁹

The new Constitution no longer refers to expulsion but specifies the criteria and consequences of suspension and introduces procedures for reinstatement.

The introduction of an article on the rights and duties of National Societies constitutes an important innovation. It deals with the most important rights and duties of the National Societies, members of the federation, while recognizing that other rights and duties of the member Societies are provided for in several articles of the Constitution which regulate the functioning of the bodies and the activities of the federation.

With regard to the duties of the Societies, it is necessary to stress the distinction between the decisions taken by the General Assembly, which must be applied by the member Societies, and recommendations adopted

¹⁶ Tansley Report, p. 96.

¹⁷ ICRC-League Agreement, art. 7/VIII.

¹⁸ *Rules of Procedure*, Rule 21.2.

¹⁹ Tansley Report, p. 103.

by the General Assembly and by other organs of the League. While the decisions of the Assembly and of the Executive Council have an obligatory character, the National Societies did not approve Mr. Tansley's suggestion for a special category of resolutions, in order to strengthen the position of the League on certain questions. ²⁰

(To be continued)

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²⁰ Tansley Report, p. 101.