

# Resolutions of International Red Cross Conferences and their implementation by the National Societies <sup>1</sup>

by Richard Perruchoud

## I. A REVIEW OF THE QUESTION

Two ideas generally current in the Red Cross on the question of implementation, by the National Societies, of the resolutions adopted during the International Red Cross Conferences are:

1. the resolutions are not binding;
2. the National Societies apply the resolutions voluntarily and in a satisfactory way.

Our purpose here is to examine the exactitude of these two opinions.

### 1. The resolutions are not binding

In general, the resolutions adopted by international intergovernmental or non-governmental organizations are not binding; only the contrary intent manifested by the parties can decide otherwise. This basic principle is unanimously accepted.

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<sup>1</sup> Address at the *Introductory Course to International Red Cross Activities*, at the Henry Dunant Institute in May 1980. Richard Perruchoud is the author of *Les résolutions des Conférences internationales de la Croix-Rouge*, Henry Dunant Institute, Geneva, 1979, 470 pp. (available in French only). At the request of English-speaking readers and particularly of National Red Cross Societies, Richard Perruchoud has written another book, inspired by the first, entitled *International Responsibilities of National Red Cross and Red Crescent Societies*, Henry Dunant Institute, Geneva, 1982, 94 pp. (in English only).

The resolutions of the International Red Cross Conferences cannot by-pass this rule. However, important exceptions do exist. Here are the main ones:

a) *The resolutions of the 1863 Conference* establish the basis of the Red Cross and their binding nature has never been questioned.

b) *The Red Cross statutes of 1928/1952* are binding since they constitute the social compact which links the members of the Red Cross, defines their rights and duties and determines the powers of the various bodies.

c) *The fundamental principles of the Red Cross of 1965* give the Red Cross its *raison d'être* and its own identity; they define the basic nature of the movement, the aims that it strives to attain and the general rules which, in the course of their action, all members must respect.

While the binding nature of the principles is not questioned, it must be remembered that these principles are the guide-lines one must try and follow and not legal standards requiring direct application. Hence these are programmatic standards and their execution or inexecution can only be verified in a given situation, especially one where the resolutions, which themselves are of an exhortative nature, are applied.

Finally, it must be mentioned that the tenth condition for recognition of the National Societies prescribes that the National Societies adhere to the basic principles.

d) *The conditions for recognition of the National Societies* were the subject of Resolution XI adopted at the Conference in Stockholm (1948). The binding nature of this resolution is obvious; National Societies can become full-fledged members of the Red Cross once they fulfil the ten conditions for recognition.

Problems arise when checking whether these conditions are being respected. This can be a dual check :

— to check any statutory changes

— to check whether the activity of the National Societies is in keeping with the conditions for recognition, and especially whether the basic principles are respected.

The control of statutory changes was brought up in Teheran in 1973 and it was decided that if the statutes of a National Society were no longer in conformity with the conditions for recognition, that Society “would lay itself open to question”. Moreover, it was decided that if a National Society wished to change its statutes on points relating to the conditions

for recognition, it had to submit such changes to the ICRC and the League and take their recommendations into account (Resolution VI, Teheran, 1973).

The second check is not provided for anywhere; a National Society can easily include in its statutes an article agreeing to adhere to the conditions for recognition and the fundamental principles, and then drift away from these in its daily work.

e) *The principles and rules governing Red Cross relief action in the event of disasters, 1969/1977.* The binding nature of these provisions is sometimes the object of controversy. Nevertheless, let us recall that decisions were made in 1973 and in 1977 whereby these principles were modified. After all, their binding nature is based mainly on their contents and aim. A code of conduct had to be laid down for the members of the Red Cross, i.e. basic rules to be observed in order to ensure the effective working of international relief action. These rules lay down the minimum expected of the Societies.

f) Without pretending to be exhaustive, it must finally be mentioned that *certain resolutions relating to relief work in the event of armed conflicts* are binding. We are referring particularly to those relating to the distribution of relief supplies: these resolutions determine the respective competence of the ICRC and the National Societies in these matters (see especially resolution XIV of 1921).

These few examples suffice to show that resolutions of prime importance do exist and bind the National Societies. This fact must be kept in mind when making a general statement that the resolutions of Red Cross Conferences are not binding on the National Societies.

## **2. The implementation of the resolutions by the National Societies**

It is often claimed that the resolutions are applied by the National Societies. This statement is difficult to verify since the National Societies do not usually present a report to the Conferences on the implementation of the resolutions, as do the ICRC and the League. Nevertheless, a close study of the ICRC and League reports shows that the situation is hardly satisfactory. Here are a few examples of well-known cases of inexecution of the resolutions by the National Societies.

### *a) The financing of the ICRC*

In 1969, 32 National Societies had not made a single payment, even a symbolic one, to the ICRC. In 1973, it was even said that the ICRC

would be ill-advised to suggest compulsory contributions whereas there is no obligation even to make voluntary contributions! This sort of reasoning is in itself a revelation of a reluctance to pay more than lip service.

b) *The Junior Red Cross*

Numerous resolutions recommend that young people be associated with the planning, application and evaluation of their own activities and even those of the National Society. In 1973, out of the 97 National Societies with a Junior Red Cross section, only 18 included their Juniors in the national committees.

c) *The principles and rules governing Red Cross relief action in the event of disaster.*

These principles are not applied in a regular and uniform manner. The most striking cases of inexecution are those concerning the drawing up and auditing of accounts. In 1974, for example, out of 24 National Societies only 6 had fulfilled their obligations. Similarly, the right of the League liaison officer to see how the donations received were used, is sometimes not appreciated; the appropriation of the remainder of the supplies or the funds is not in conformity with article 26. Finally, the transfer and channeling of relief supplies are not always in conformity with the conditions laid down in article 27. As we can see, it is above all the National Societies receiving international aid which do not respect the principles and rules.

d) *Respecting the conditions for recognition*

This point leaves much to be desired. A recent study showed that nearly one-third of the National Societies examined—7 out of 23—no longer fulfilled one or other of these conditions, for reasons closely or remotely affecting the observance of the fundamental principles of the Red Cross.

### **3. Observations**

a) The cases of inexecution which we have mentioned, must not make us forget that from the beginning until 1928, the National Societies regularly presented complete reports on their activities and supplied useful information on the application of the resolutions. As a rule, at that time, the resolutions were applied to a great extent; the non-application of a resolution was an exception. It is true that during that period the resolutions mainly required the National Societies to submit reports on particular questions, to serve as a basis for the delegates'

discussions. Although until 1928 implementation of resolutions was voluntary the National Societies wanted to act in a uniform way and faithfully apply them.

b) After 1928, the National Societies showed their desire for independence more often and their conviction that implementation of the resolutions was voluntary. As a result there was a regression in the implementation of the resolutions as mentioned above. After 1928, the National Societies made fewer reports at the Conference on the application of the resolutions, and even on their overall activity. In 1965, 32 National Societies out of 107 presented a report; in 1969, 42 and in 1973, 48. So, the National Societies no longer inform the other members of the Red Cross of their activities and risk preventing the Conference from accomplishing its task which consists in ensuring the unity of the efforts of the National Societies, the ICRC and the League.

c) On the whole, the many activities of the National Societies are consistent with the aims assigned by the resolutions. This is inevitable, since the terms of the resolutions are often so general that analogies are bound to show up. Moreover, the resolutions contain obligations pertaining to action rather than results. When, for example, a resolution asks the National Societies to increase their efforts concerning blood transfusion, the National Societies, in their reports, will mention their work in this field, thereby giving the impression that the resolution has been carried out.

In fact, this is sometimes a “chance” application. It is carried out almost unconsciously by the National Societies which, moreover, make no further reference in their reports to a specific resolution, as they used to in the past. The resolutions contain few definite injunctions, their general and generous wording gives a great freedom of choice to those applying them. It is consequently obvious that at some point the activity of the National Societies will coincide with the behaviour proposed by the resolutions, which are often merely an illustration of the basic principles and aims of the Red Cross.

The activities of the National Societies hence coincide with the terms of the resolutions, but it would be an exaggeration to believe, owing to this coincidence, that the members have a resolution in mind when carrying out a particular activity. There is often no causal link between a resolution and a National Society activity. This, however, should not make us forget that some resolutions—fundamental principles, principles and rules governing relief actions—act as guide-lines to the members of the Red Cross and direct most of their activities.

## II. CONSEQUENCES OF INEXECUTION OF RESOLUTIONS

After this rapid survey of the implementation of resolutions, it is important to examine what means the Red Cross has to ensure execution of the resolutions. For this, a distinction must be made between legal sanctions and social sanctions.

### 1. Legal sanctions

#### a) *The Red Cross Statutes*

Neither the 1928 Statutes nor those of 1952 give the Conference or any other body any sort of disciplinary power. This, however, does not mean that failure to implement resolutions, binding or even exhortative, goes unheeded.

In fact, in 1973 in Teheran, a draft resolution submitted to the Conference provided that a National Society which no longer fulfilled the conditions for recognition and admission "would risk suspension or loss of membership in the International Red Cross". Finally, the text adopted (Resolution VI) considered that such a National Society "would lay itself open to question". Furthermore, this possibility only applies to the violation of the conditions for recognition, especially the inobservance of the basic principles and the resolutions implementing these.

This resolution is important for two reasons:

The resolution has, according to its authors, statutory value; nevertheless, it did not seem opportune in 1973 to revise the statutes of the Red Cross solely for this reason.

The Conference admitted the possibility of applying legal sanctions, and not only for the inexecution of binding resolutions. In fact, the inobservance of exhortative resolutions which implement the fundamental principles can, in the long run, lead to the application of such sanctions. When a member knowingly, and over a long period of time, disregards the Red Cross resolutions it gradually oversteps the limits of legality and is guilty of disloyalty to the basic aims of the Red Cross.

It must finally be mentioned that the ICRC should be responsible for such sanctions, since its competence covers the recognition of the National Societies.

#### b) *The Constitution of the League*

The new Constitution of the League provides, in article 6, paragraph 6, that a National Society shall be suspended, particularly when it no

longer fulfils the conditions for admission or when it infringes a fundamental principle of the Red Cross. When a National Society infringes the fundamental principles of the Red Cross, the suspension of this Society by the League is a sanction similar to the one analyzed above. In such a case, the League and the ICRC must make a common study of the situation so that this suspension affects the participation of the National Society not only in the activities of the League, but also in those of the Red Cross as a whole.

c) *The Geneva Conventions*

Articles 44 of the First Convention and 63 of the Fourth Geneva Convention of 1949 state that the National Societies may use the name and emblem of the Red Cross for activities in keeping with the Red Cross principles and, in the event of occupation, pursue their activities in accordance with the said principles. Furthermore, article 81, paragraph 2 of Protocol I of 1977 provides that the parties to a conflict shall grant National Societies the facilities necessary for carrying out their humanitarian activities in accordance with the basic principles of the Red Cross.

The National Societies therefore have an international guarantee to assist them in carrying out their activities; but if they infringe the principles, they lose the benefit of that protection.

## 2. Social sanctions

The social sanctions include resolutions conveying a reminder and regret, blame, moral reproach, appeal to public opinion, publicity of the contents and the application of the resolutions, etc. They complement one another and encourage the offending party to act in a specific manner.

a) *Resolutions conveying a reminder and regret*

These resolutions are not very effective because they are forgotten as quickly as the resolutions they wish to recall; the example of ICRC financing is a significant one in this respect. Furthermore their wording is too vague and intentionally overmoderate for the National Societies to feel obliged to make lasting improvements.

b) *The pressure of public opinion*

For the moral reprobation and blame to be connected with the failure to implement a resolution, the resolution must be made public so that the latter can express its opinion and put pressure on the defaulting party, in order to make it act in accordance with the resolution.

It is worth pointing out here that the Conference resolutions are not greatly publicized, especially outside the movement. As for publicity within the Red Cross, the National Societies themselves admit that their diffusion of the resolutions is somewhat limited.

So, there is no “public opinion” of the members of the National Societies which could affect their leaders and even less a “public opinion” of the people to put pressure on the members of the Red Cross or the States. At times, pressure coming from the officers of the National Societies can be noticed on the public authorities, a sort of “public opinion” within the Red Cross. This is therefore a “particularly private public opinion”, whose workings and effects only take place in the Red Cross world.

### **3. Final assessment**

The structure of the Red Cross, the total independence of the constitutive parts and the special nature of the link uniting its members, show right away that legal sanctions, except in extreme cases, are of little use. A system of sanctions is only effective if it succeeds in obtaining the desired behaviour from the party which is either threatened by the sanctions or on which they are inflicted, owing to the strength of the relationship existing between the author and the receiver. Within the Red Cross, only the social sanctions could, as a preventive measure, encourage the National Societies to apply the resolutions. These social sanctions exist, but are rarely used; one could envisage strengthening them.

The question of sanctions has never created a stir within the Red Cross, except when dealing with fundamental problems. This attitude seems reasonable to us. National Societies which do not apply the resolutions often punish themselves. For example, if a relief action is not a success because the principles and rules were not observed, that in itself is a penalty for negligence or ill-will. The success or failure of a mission is in itself the ultimate justification of the implementation or sanction for inexecution of the resolutions. Public opinion, moral reprobation, blame, in short “pressure of shame”, are often inappropriate measures. They can have the opposite effect and aggravate the feelings of the member at fault.

Within the Red Cross, the need for legal or social sanctions is further reduced because of the implications of the moral obligations to which the National Societies are subjected. Awareness of the link and of the duty of solidarity often works far better than any hypothetical

sanctions. We are absolutely convinced that if solidarity exists, sanctions are superfluous, and when it ceases to exist sanctions can in no way restore it.

Even if the National Societies are impervious to all constraint, and despite the above conclusion, sanctions must all the same exist, especially for cases violating the fundamental principles and conditions for recognition. National Societies should nevertheless realize that the voluntary application of the resolutions enables the Red Cross to progress, without being constantly impeded by deadweight which hampers not only their future activity but also that of the entire Red Cross.

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