

# The importance of the International Conference of the Red Cross and Red Crescent to National Societies: fundamental in theory and in practice

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## **Abstract**

*The International Conference is based in particular on the long-established National Society auxiliary role and partnership with States. The importance of the Conference is clear from the Movement's Statutes. In practice, not all National Societies have taken full advantage of the opportunities provided by the International Conference for interaction and relationship-building with their own authorities. Practical ways are suggested to help National Societies participate more actively in the Conference and to use it to good benefit before and afterwards. The International Conference itself could increase its relevance by making more of its specific function with respect to international humanitarian law.*



\* The views expressed in this article are those of the author and do not necessarily reflect those of the British Red Cross.

The fundamental importance of the International Conference of the Red Cross and Red Crescent to National Societies<sup>1</sup> is clear from any reading of the Statutes of the International Red Cross and Red Crescent Movement. The International Conference is ‘the supreme deliberative body for the Movement’. It includes delegations from the States Parties to the 1949 Geneva Conventions. National Societies are not only components of the Movement, but they are also full members of the International Conference, with equal rights to the State delegations (and to the delegations from the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies). The importance of the International Conference to National Societies should therefore be axiomatic.

However, as in other areas of human endeavour, legal theory is not always borne out in practice, and the attitudes of National Societies towards the International Conference, and the ways they have interacted with it, have differed significantly.

It is the aim of this article to show why the International Conference is important to National Societies. Some suggestions of practical ways in which a National Society could best make use of the Conference will be outlined, explaining why it is in the interests of a National Society to try to do so.

It would be presumptuous, and beyond the author’s knowledge and experience, to seek to represent the totality of National Societies. Each of the 186 recognized National Societies works in its own national context and has its own significant experiences. However, there are certain common features connected with the International Conference which are of relevance and of potential use to all National Societies. The author’s experience of working with the British Red Cross for over a quarter of a century will necessarily inform the views in this article, and where appropriate, this experience will be drawn upon directly in the subsequent discussions. The author also hopes to show that without the International Conference, the interests of his own National Society would not be best served.

## **Historic importance: addressing humanitarian concerns through public–private partnership**

The basic concept of the International Conference – namely, a meeting between State representatives and representatives of relevant private organizations to

1 References in this article to ‘National Societies’ refer to the recognized National Red Cross and National Red Crescent Societies, and the Israeli National Society, the Magen David Adom. There are presently 186 recognized National Societies, found in every region of the world. There are also a number of unrecognized National Societies, sometimes referred to as ‘National Societies in formation’. The International Conference will be relevant to them as well. As illustrations, the conditions for recognition of National Societies were approved by the International Conference, and as a requirement for recognition by the International Committee of the Red Cross and admission to the International Federation of Red Cross and Red Crescent Societies, a National Society must agree to abide by the policies, decisions and rules adopted by the International Conference (e.g. see the Constitution of the International Federation of Red Cross and Red Crescent Societies, Article 8(1)(B)(c), and the related Rules of Procedure, Rule 2.2.d).

consider and decide upon practical matters of mutual humanitarian concern – is at the origin of the International Red Cross and Red Crescent Movement. Indeed it was the vehicle used by the founders of what became the International Committee of the Red Cross to adopt the proposals contained in Henry Dunant's book *A Memory of Solferino*.<sup>2</sup> The International Conference held in Geneva in October 1863 was attended by representatives of 16 governments, as well as by representatives of four private philanthropic organizations and individuals attending in a private capacity.<sup>3</sup> It was the founding Conference of the Movement and its recommendations included, in effect, the holding of International Conferences of the Red Cross and Red Crescent.<sup>4</sup> The Geneva International Conference of 1863 also provided the momentum for the subsequent Diplomatic Conference, once again held in Geneva in August of the following year, which adopted the Convention for the amelioration of the condition of the wounded in armies in the field.

The mixture of public and private participation at the founding International Conference of the Movement was seen as quite logical.<sup>5</sup> The support of governments was required if the private relief societies were to be able to carry out their intended functions. This was primarily the supply of voluntary medical personnel to work with their country's military authorities on the battlefield. All subsequent International Conferences have had the same mixed or hybrid composition. All have been attended by representatives of both the private relief societies, now called National Societies, as well as by government representatives, that is, of the States Parties to the original Geneva Convention and its later elaborations.<sup>6</sup>

## Statutory importance: the International Conference in legal theory

### The general context

The composition of the International Conference of the Red Cross and Red Crescent is enshrined in the current Statutes of the International Red Cross and

2 For an account of the foundation of what has become the International Red Cross and Red Crescent Movement, see Pierre Boissier, *History of the International Committee of the Red Cross: From Solferino to Tsushima*, Henry Dunant Institute, Geneva, 1985, pp. 7–83.

3 *Ibid.*, p. 70. Exact numbers of representatives vary according to author.

4 Article 9 of the Resolutions of the Geneva International Conference might be interpreted in this way. The 1863 Conference was not itself an International Conference of the Red Cross and Red Crescent; the first such International Conference, then called the International Conference of the Red Cross, was held in Paris in 1867.

5 François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, Macmillan, Oxford, 2003, p. 16.

6 The International Committee of the Red Cross has also attended all these International Conferences and following its establishment in 1919, the then League of Red Cross Societies, now the International Federation of Red Cross and Red Crescent Societies, has been represented as well.

Red Crescent Movement.<sup>7</sup> The relationship between States and the components of the Movement (including National Societies)<sup>8</sup> is so fundamental, as is the role of the International Conference in this interplay, that both are included in the definition of the Movement in Article 1 of the Statutes. This states that: ‘The components of the Movement meet at the International Conference... with the States Parties to the Geneva Conventions ... of 12 August 1949’.<sup>9</sup> The linking of the States Parties to the Geneva Conventions with the Movement in the definition article illustrates the importance of the relationship both to States (which participated in the adoption of the Statutes) and to the Movement’s components; co-operation is essential to both. There is thus an institutional link between States and the Movement, and this is shown by States’ participation in the highest statutory body of the Movement, the International Conference.

This institutional link at the international level is replicated and strengthened at the national level where, as a condition for recognition, a National Society must be recognized by the legal government of its country as a voluntary aid society, auxiliary to the public authorities in the humanitarian field.<sup>10</sup> This may be done through a government decree or by legislation.<sup>11</sup>

Article 2 of the Statutes deals with relations between States and components of the Movement. It is relevant to our consideration of the importance of the International Conference for National Societies for two main reasons. First, it sets out the basis for States’ co-operation with components of the Movement, which includes resolutions of the International Conference.<sup>12</sup> More generally, Article 2 is referred to in Article 8 of the Statutes of the Movement, where it helps to define why States participate in the International Conference. The relevant part of Article 8 provides: ‘At the International Conference, representatives of the components of the Movement meet with representatives of the States Parties to the Geneva Conventions, the latter in exercise of their responsibilities under those Conventions and in support of the overall work of the Movement in terms of Article 2. ...’ In

7 Article 9. The most recent Statutes were adopted by the 25th International Conference of the Red Cross in 1986. These Statutes changed the name of the International Conference from ‘International Conference of the Red Cross’ to ‘International Conference of the Red Cross and Red Crescent’. The Statutes were subsequently amended by the 26th International Conference of the Red Cross and Red Crescent in 1995 and by the 29th International Conference in 2006. A copy is available at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/statutes-movement-220506?opendocument> (visited 13 October 2009).

8 The International Red Cross and Red Crescent Movement consists of three components: the recognized National Societies, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

9 Article 1(3). All States are parties to the 1949 Geneva Conventions, which thus enjoy universal acceptance. It also means that all States are entitled to participate in the International Conference of the Red Cross and Red Crescent.

10 *Ibid.*, Article 4(3).

11 In States with a common law legal tradition, and also in some other States, a National Society is often established by legislation referred to as a Red Cross or Red Crescent Act, or Law of Recognition. Examples are the Brunei Red Crescent Society (Incorporation Act) 1983, the Jamaica Red Cross Society Act 1964, and the South African Red Cross Society and Legal Protection of Certain Emblems Act 2007.

12 Statutes of the International Red Cross and Red Crescent Movement, Article 2(1).

connection with the final part of the preceding quotation, that is, ‘in support of the overall work of the Movement in terms of Article 2’, it is worth noting – from a National Society perspective – that Article 2 enjoins each State to promote the establishment of a National Society on its territory and to encourage its development.<sup>13</sup> This means, for example, that a National Society can request the assistance of the State in its development, whether in terms of its operational capacity or in creating a climate conducive to developing its legal base, and such matters should inform States’ considerations when attending the International Conference.

States and National Societies, when participating in the International Conference, also need to keep in mind additional provisions of Article 2. Article 2(3) provides for mutual support between States and components of the Movement: ‘The States, in particular those which have recognized the National Society constituted on their territory, support, whenever possible, the work of the components of the Movement. The same components, in their turn and in accordance with their respective statutes, support as far as possible the humanitarian activities of the States.’ In practical terms, the support given by a State to the National Society constituted on its territory will be different from that provided to other National Societies, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies. It is a different relationship. Thus the National Society of the country, in its auxiliary role, supports the humanitarian activities of its State and the public authorities may assign the Society appropriate mandates. Support from a State to its National Society may include the granting of certain privileges or subsidies or other measures to help its work, both within the country and, resources permitting, internationally. Mutual support between a State and other components of the Movement will be less regular and may depend on events which require their services. It is also likely to be voluntary, on both sides. Such support may be said to include support for co-ordination of activities involving components of the Movement and those of the State. Finally, Article 2(4) stipulates: ‘The States shall at all times respect the adherence by all the components of the Movement to the Fundamental Principles.’

### Specific provisions

The Statutes of the Movement contain important provisions setting out the definition, composition, functions and procedure of the International Conference. From the perspective of National Societies, the following points may be of particular interest.

As noted initially, Article 8 defines the International Conference as ‘the supreme deliberative body for the Movement’. National Societies, being part of the Movement, have a logical interest in the Movement’s supreme body. At this

13 *Ibid.*, Article 2(2). This builds upon the Covenant of the League of Nations, Article 25, signed in 1919, and Resolution 55(1) of the United Nations General Assembly, adopted on 19 November 1946.

important statutory meeting, National Society representatives<sup>14</sup> have the opportunity to meet with State representatives to ‘examine and decide upon humanitarian matters of common concern and any other related matter.’ This is a privilege for National Societies. However, it should be stressed that not just any humanitarian matter may be decided upon in this forum: it needs to be of common concern both to States and to components of the Movement. This means that the matter cannot be of interest only to a limited number of States and National Societies, or of interest only to States or only to Societies. It must be of a significant degree of importance to both States and National Societies.

Matters considered relevant for consideration at International Conferences normally relate to improving the situation of victims in three broad areas – armed conflict, disaster and disease. Under these general areas, specific issues are addressed, always from a humanitarian perspective.<sup>15</sup> However, humanitarian issues outside these three areas may also be examined.<sup>16</sup> In practice, the reference to ‘any other related matter’ has often involved support for humanitarian work, notably financial or other assistance to National Societies.<sup>17</sup>

For many National Societies, the matters addressed at the International Conference may require raising their sights from day-to-day concerns, as important as these are likely to be, and considering humanitarian issues from a more global perspective, including some issues with which they may be less familiar. For States, because they participate in the International Conference ‘in the exercise of their responsibilities under [the Geneva] Conventions and in support of the overall work of the Movement in terms of Article 2’, it may also mean adopting a different approach to issues or adapting their usual approach to take account of the humanitarian character of the International Conference and for the duration of the proceedings of the Conference, respecting the Movement’s Fundamental Principles.

- 14 Representatives of the International Committee of the Red Cross and of the International Federation of Red Cross and Red Crescent Societies also participate in these deliberations.
- 15 As an example, at the 28th International Conference held in Geneva in 2003, an Agenda for Humanitarian Action was adopted which set out specific and measurable action-oriented goals with respect to four then topical issues: persons missing in connection with armed conflicts and other situations of violence; the human costs of the availability, use and misuse of weapons in armed conflicts; disaster risk reduction and improved disaster preparedness and response mechanisms; reduction in the risk and impact of HIV/AIDS and other infectious diseases with regard to vulnerable people. The text was published by the ICRC and the International Federation of Red Cross and Red Crescent Societies, Geneva, 2004, p. 11.
- 16 At the 30th International Conference, States and National Societies acknowledged the then current and still continuing humanitarian concerns generated by international migration and by violence, in particular in urban settings, and affirmed their commitment to work together and with other organizations to address them: Declaration ‘Together for humanity’, adopted in Resolution 1, also entitled ‘Together for humanity’, Geneva, 2007. The text was published by the ICRC and the International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 73.
- 17 As an illustration, see the 26th International Conference of the Red Cross and Red Crescent, Resolution 5, ‘Strengthening national capacity to provide humanitarian and development assistance and protection to the most vulnerable’.

Article 9 concerns the composition of the International Conference. As already noted, uniquely, the members of the Conference include delegations from the States Parties to the Geneva Conventions as well as delegations from National Societies and the other components of the Movement. Moreover, '[e]ach of these delegations shall have equal rights expressed by a single vote'.<sup>18</sup> Thus every National Society delegation has equal rights to all other delegations in the International Conference, be they States or other components of the Movement. A small delegation has the exact same voting rights as that of a large delegation representing a powerful country or a wealthy National Society. This is also unique and gives all National Societies an important influence. In terms of rights at the International Conference, there is a level playing field.

The uniqueness of the International Conference may be illustrated by reference to the constitutional structure of non-governmental organizations. The term non-governmental organisation ('NGO') covers a wide range of organizations with no participation or representation of any government, even if a number of NGOs obtain government funding. Some NGOs are large and have offices in different countries, e.g. Oxfam and Save the Children, whereas others are very small local bodies. Unlike National Red Cross and Red Crescent Societies, NGOs are not specifically established by the State, recognized as an auxiliary to the public authorities and entrusted with specific statutory tasks. Their legal form varies according to national laws and practices. Many NGOs wish to keep governments at arm's length. Some may welcome dialogue with the authorities, and from time to time they may agree on certain texts. However, there is no requirement for States to meet with NGOs on a regular basis and when they do meet, it is not normally on a basis of equality. In contrast, States and National Societies have a mutual commitment to meet on a regular basis, for both statutory and practical reasons. National Societies have the opportunity to interact with their own and with other States as equal partners.

For National Societies, it may be important to note the final provisions on representation at the International Conference. Article 9(3) states that '[a] delegate shall belong to only one delegation.' This helps to ensure respect for the Fundamental Principle of Independence, for example, by preventing a delegate from representing both the government and the National Society of the same country. It may also help to maintain a National Society's independence vis-à-vis other components of the Movement. Similarly, Article 9(4) prohibits one delegation being represented by another, or by a member of another delegation. Like Article 9(3), this seems essential in order to uphold the independence of delegations. However it may cause difficulty for smaller National Societies (and States).

18 Article 9(2), Statutes of the International Red Cross and Red Crescent Movement.

## Functions of particular note to National Societies

Article 10 sets out the functions of the International Conference. A number of these are matters of direct importance for National Societies. These include two general functions of the International Conference: to contribute to the unity of the Movement and to contribute to the achievement of the Movement's mission 'in full respect of the Fundamental Principles' (Article 10(1)). Both of these must be an abiding concern for National Societies as well as for the other components of the Movement. The fact that these matters – the unity of the Movement and the achievement of its mission – are considered to be of common interest to States as well as to components of the Movement again shows the value given by States to the Movement and to the International Conference.

The first specific function of the International Conference listed refers to international humanitarian law. Under Article 10(2), '[t]he International Conference contributes to the respect for and development of international humanitarian law and other international conventions of particular interest to the Movement.' This provision gives National Societies a special standing and opportunity equal with States to contribute to respect for and development of an important body of public international law. Many other organizations outside government would relish having such a privilege in their respective field of interest, from human rights to development to the environment, but none does so. National Societies have this advantage because their origin and continuing *raison d'être* are interlinked with international humanitarian law; this fact is one of the underlying and unique features of Societies.<sup>19</sup> International humanitarian law is fundamental to each National Society and critical to its humanitarian work. As will be mentioned later, this aspect of the International Conference could be studied and perhaps utilized more than it has been in recent decades, to the potential benefit of the victims of armed conflicts as well as to the potential benefit of National Societies, States and others concerned. It might also have the benefit of increasing the relevance of the International Conference itself.

19 As noted earlier in the text, the founding Conference of the Movement in 1863 led to the Diplomatic Conference held in 1864, which adopted what may be considered to be the first treaty of contemporary international humanitarian law, the original Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. National Societies have featured in subsequent international humanitarian law treaties and contributed to their promotion and negotiation. The conditions for recognition of National Societies contain a number of elements related to international humanitarian law. These include official recognition by the legal government of the National Society's country as a voluntary aid society, in the sense that this term is used in the Geneva Conventions, and the stipulation that the Society must be guided in its work by the principles of international humanitarian law (Statutes of the Movement, Article 4). In addition, National Societies have statutory commitments to provide assistance to victims of armed conflicts as provided in the 1949 Geneva Conventions as well as to assist their respective governments in disseminating and implementing international humanitarian law (*ibid.*, Article 3). Recent resolutions have expanded this auxiliary commitment of the Society to its State to include promotion of the law (e.g. see UN General Assembly Resolution 63/125, UN Doc. A/RES/63/125 (2009), preambular paragraph 17).



This article of the Statutes of the Movement also gives National Societies and the other components a standing to work with States on respect for and development of other international conventions (treaties) of particular interest to the Movement.<sup>20</sup> Although the mission of the Movement is very broad and the work of National Societies varies significantly according to the needs of the local population, nevertheless, there are core areas of work. The increase of international legislation touching many aspects of daily interactions, domestically as well as internationally, makes it inevitable that there will be international conventions outside the field of international humanitarian law which may be of particular interest to the Movement. This provision may ultimately be relevant, for example, to the work of the International Federation of Red Cross and Red Crescent Societies and of National Societies in the evolving area of international disaster response laws, rules and principles (IDRL).<sup>21</sup>

The International Conference has the sole competence in three important areas. Firstly, the Conference has the competence to amend the Movement's Statutes and Rules of Procedure.<sup>22</sup> Secondly, at the request of any member of the International Conference, it takes the final decision on any difference of opinion as to the interpretation and application of the Statutes and Rules of Procedure. Finally, the International Conference will decide on any question which may be submitted to it by the Standing Commission, the ICRC and the International Federation. In the specific terms of the relevant article (Article 10(3)(c)), this means deciding on differences between the ICRC and the International Federation.<sup>23</sup> All of the above will be of interest to National Societies. To differing extents, all illustrate the importance of the International Conference in contributing to the Movement's unity.

The International Conference elects the five National Society members of the Standing Commission. The Standing Commission is a very important body for National Societies. Not only does it have its statutory functions, notably as a trustee

20 The previous version of the Statutes of the Movement contained somewhat similar wording (Statutes of the International Red Cross, adopted by the 13th International Conference of the Red Cross at The Hague in 1928 and revised at the 18th International Conference at Toronto in 1952, Article 2(3), *International Red Cross Handbook*, 11th edition, ICRC/League of Red Cross Societies, Geneva, 1971, p. 274). The present text is wider since it includes respect for existing international law.

21 To date, the engagement of the International Conference on the topic of IDRL may be said to rest on its general function to contribute to the achievement of the mission of the Movement (Article 10(1) of the Statutes of the Movement). So far, States have resisted the notion of a need for a general convention on IDRL, and the International Federation is not calling for such a convention. The IDRL programme has shown the existence of legal, administrative and other barriers to effective international disaster relief and recovery assistance. These are barriers to achieving the mission of the Movement, and the 30th International Conference adopted Guidelines to help in addressing them: Resolution 4, 'Adoption of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance', ICRC/International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 88.

22 The amendment procedure is set out in Article 20 of the Statutes and Rule 32 of the Rules of Procedure.

23 In making such a ruling, the International Conference must respect the independence and statutes of the two institutions.

body between International Conferences,<sup>24</sup> but particularly in the past 13 years, it has provided a voice for National Societies in between the ICRC and the International Federation. The Standing Commission, through the use of working groups, has ensured that National Society views are represented in the preparation of the International Conference as well as of the Council of Delegates, also, in the consideration of specific issues or topics of importance to the Movement, such as the Strategy for the Movement, the co-ordination measures set out in the Seville Agreement and previously, on the long-standing question of an additional emblem.

In electing the five National Society members of the Standing Commission, the International Conference must take into account the personal qualities of the candidates and the principle of fair geographical distribution (Article 10(4)). These criteria are important for all members of the International Conference to bear in mind and should help to ensure wider representation of National Societies on the Standing Commission.

The other functions set out in Article 10 of the Statutes of the Movement are also significant for National Societies. However, they are more of a technical nature and will not be examined here.

## Procedure – aspects of note for National Societies

National Societies should also be aware of particular aspects of the procedure of the International Conference.

First, the International Conference is mandated to meet every four years (Article 11(1)).<sup>25</sup> It is an advantage that the International Conference is required to take place at regular intervals. This provides a permanent framework for contacts between National Societies and their governments. Further, the International Conference may mandate a National Society to host the next session of the Conference. This is normally on the basis of offers made during the previous session. Since 1986, for practical reasons (including costs), the International Conference has been held in Geneva, with the ICRC and the International Federation as co-hosts.

All participants at the International Conference – including National Societies and States – are required to respect the Fundamental Principles. All documents presented must equally comply with the Principles (Article 11(4)). States are not normally bound by the Movement's Fundamental Principles, but they must respect them when taking part in the International Conference. In order that the debates maintain the confidence of all, the presiding officer 'shall ensure that none of the speakers at any time engages in controversies of a political, racial, religious or ideological nature.' This wording reflects the Movement's Fundamental Principle of Neutrality.

24 Statutes of the Movement, Article 16.

25 A different interval may be decided by the International Conference (Article 11(1)) or by the Standing Commission (Article 11(2)).

Observers may attend meetings of the Conference, unless the Conference decides otherwise (Article 11(5)). These may and do include organizations with which National Societies have relations, including major non-governmental organizations (NGOs), UN agencies and regional organizations. The presence of these external partners at meetings of the International Conference may serve to increase their understanding of National Societies and of the Movement, and contribute to the smooth functioning of National Society operations.

The International Conference is required to make efforts to adopt its resolutions by consensus (Article 11(7)). This means that resolutions of the International Conference are normally adopted without a formal vote. Consensus reflects the nature of the Movement, which acts on the basis of co-operation, including between States and National Societies. Also, one of the Conference's general functions is to contribute to the unity of the Movement – consensus supports this aim by, for example, avoiding imposing the will of the majority on a significant minority and by encouraging compromise. Further, consensus enhances the impact of International Conference resolutions. Nevertheless, it is not always possible to reach a consensus, and the Rules of Procedure of the Movement provide a voting procedure which may be used if required.<sup>26</sup>

## **The International Conference – possible challenges for National Societies**

The above overview has illustrated that, from the formal perspective of the Statutes of the Movement, the importance of the International Conference to National Societies is beyond question. The fact that not all National Societies have regarded the International Conference in such a way may be for various reasons, some of which are suggested below.

First, and understandably, many National Societies have a domestic focus. International work is less relevant to their day-to-day concerns. The International Conference generally avoids dealing with domestic matters, as States are reluctant to involve the Movement or other States in their domestic affairs.

Second, the conduct of business at the International Conference is undertaken in ways which National Society delegates find new and even intimidating. In contrast, State representatives will be very accustomed to working in a drafting committee and large commissions; this is how they normally do business.

Third, the fact that Geneva has been the venue of recent International Conferences, although practical from some important perspectives, has had two main drawbacks. First, it has meant that the same diplomats who are engaged in negotiations in United Nations and other fora in Geneva often also attend the International Conference and may bring with them attitudes and behaviours from

26 Rules of Procedure of the International Red Cross and Red Crescent Movement, Rule 20. Rule 19 defines consensus.

those other meetings which are unhelpful at the International Conference, given its special composition, functions and neutral humanitarian character.

The venue of Geneva also means that it has been nearly 30 years since a National Society was last host to an International Conference. National Societies – and States – may now have forgotten the prestige and other benefits of acting as host to the International Conference. It provided a way for all Conference participants – government and Movement – to see the Movement in action in different regions of the world, thus promoting a sense of its universal character and providing a new or different environment for debates.

There are also a number of practical reasons why National Societies may regard the International Conference as a burden, rather than an opportunity. National Society delegations will often have already participated at previous international meetings held directly before the Conference, namely the General Assembly of the International Federation of Red Cross and Red Crescent Societies and the Movement's Council of Delegates. They will be both tired and accustomed to meetings held within the Red Cross and Red Crescent family. In contrast, State delegations will be arriving fresh; they will not have already had approximately one week of meetings before the International Conference starts.

Time and resource constraints are additional practical considerations. The agenda of the International Conference requires preparation.<sup>27</sup> Many National Societies will not have the staff support or other resources to consider the different items and come to a considered view in advance of the Conference. At the Conference itself, some National Society delegations – normally composed of the volunteer and salaried leadership of the Society – will be too small to be able to be represented at the different meetings. They may also not be accompanied by other senior volunteers and/or staff with specialist knowledge of the subject matters to be dealt with at the International Conference.<sup>28</sup>

There is also a great deal of turnover of personnel within the Movement, and National Societies may not have sufficient institutional memory of the benefits of the International Conference. More could also be done to make all National Societies aware of the Conference's potential benefits.

## **Essential link with the auxiliary status and role of National Societies**

A main reason why the International Conference has not been perceived as important by some National Societies is because, until recently, insufficient attention

27 The author estimates that 16–17 working days are required to prepare for the International Conference. This includes co-ordination and preparation of briefs and speaking notes, meetings and dealing with the administrative arrangements. However, it is also possible to devote less time to preparations and still contribute to and benefit from the Conference.

28 Such constraints may also affect a National Society's ability to follow up the decisions of International Conferences.

has been paid to the essential link between the Conference and the relationship between National Societies and States. As explained above, the International Conference, from its inception, was linked with the role of National Societies as auxiliaries to their respective country's public authorities in the humanitarian field. It is the glue that underpins the Conference. Originally the auxiliary or support function of National Societies was connected with Army Medical Services. Over time the auxiliary role has expanded and may now include, for example, peacetime disaster assistance, public health and/or social welfare services. In turn, National Societies' auxiliary status has grown to cover humanitarian assistance to the public authorities of their respective countries as a whole. Whatever the auxiliary role of a National Society – and this will vary according to country – the auxiliary status remains a permanent feature and commitment of all National Societies. Indeed, it is one of the conditions for recognition as a National Society.<sup>29</sup>

The auxiliary status of National Societies helps to give them a unique position. National Societies are private organizations with certain recognized public functions – therefore, they are neither part of government nor are they non-governmental organizations. Their legal status is genuinely *sui generis*.<sup>30</sup>

The auxiliary status and role are a National Society's standing invitation to participate in public humanitarian services; they provide an automatic relationship between a National Society and its government. However, a National Society still needs the appropriate capacity to be able to fulfil the auxiliary role in a meaningful way.

At the 30th International Conference in 2007, the Conference adopted a resolution which clarifies the specific role of National Societies as auxiliaries to their respective country's public authorities in the humanitarian field.<sup>31</sup> As with other International Conference resolutions, it is up to National Societies and to States to give effect to its terms. These include 'consolidate[ing] a balanced relationship with clear and reciprocal responsibilities, maintaining and enhancing a permanent dialogue at all levels within the agreed framework for humanitarian action' (operative paragraph 2).

## Ways to enhance the relevance of the International Conference to National Societies

The challenges posed in the preceding sections, notably that entitled 'The International Conference – possible challenges for National Societies', may suggest their own possible solutions.

29 Statutes of the International Red Cross and Red Crescent Movement, Article 4(3).

30 See, for example, Jean Pictet, *Fundamental Principles of the Red Cross: Commentary*, Henry Dunant Institute, Geneva, 1979, p. 63.

31 30th International Conference of the Red Cross and Red Crescent, Geneva, 26–30 November 2007, Resolution 2, 'Specific nature of the International Red Cross and Red Crescent Movement in action and partnerships and the role of National Societies as auxiliaries to the public authorities in the humanitarian field', ICRC/International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 78.

The first involves increasing awareness and understanding of the special nature of National Societies and of their place within the Movement, including the Statutes of the Movement and the International Conference. National Societies not only have domestic responsibilities, they also have international ones.<sup>32</sup> Such learning may be acquired in a variety of ways, including through the provision of training for National Society leaders, that is, those who are most likely to attend International Conferences.

Briefings may be undertaken at regional, sub-regional and country level to familiarize National Society personnel with the procedure of the International Conference and the specific agenda items. It is important to understand how the system operates: that, for example, the role of the Drafting Committee is to put the text into order, not to re-negotiate its terms. If useful, role plays may be undertaken, but the important thing is to inform the intended delegates as to what they can expect and as far as possible, to give them practical tools to enable them to make a meaningful contribution during the proceedings.

Financial and security considerations may make it very difficult to hold an International Conference outside Geneva. However, these factors are not insurmountable, particularly if a number of States and National Societies were willing to pool resources to enable the Conference to be held in different parts of the world.

There are both practical and statutory reasons why the International Conference must be held after sessions of the General Assembly of the International Federation and the Council of Delegates.<sup>33</sup> There is little one can do about natural fatigue, and there is normally a break before the International Conference starts to give delegates a chance to rest. However, the psychological ‘meeting fatigue’ may be helped by individuals’ viewing the International Conference as an exciting and important opportunity to participate in the Movement’s supreme deliberative body and, for example, to interact with one’s own government representatives and others, rather than as a quadrennial chore to be endured.

Each International Conference is a statutory and historic landmark. It sets the direction of the Movement for the next four-year period. It can and should be viewed as a process: what happens in between Conferences is often as important as what happens during their proceedings. This is particularly true for National Societies. They have a special opportunity to follow up the resolutions of each International Conference with their government. This can help give meaning to their auxiliary role, and there is real reason to do so on the part of both parties because both the State and the National Society will need to report upon the measures they have taken to give effect to resolutions in advance of the next International Conference.

Moreover, the preparations for the next International Conference can also be used to the advantage of National Societies. Whereas the dialogue on follow-up

32 See Richard Perruchoud, *International Responsibilities of National Red Cross and Red Crescent Societies*, Henry Dunant Institute, Geneva, 1982.

33 For example, see Statutes of the Movement, Article 15(1); Constitution of the International Federation of Red Cross and Red Crescent Societies 2007, Articles 18(2) and 18(4).

measures to International Conference resolutions will be quite specific, as will discussions between the National Societies and public authorities on day-to-day matters, the discussions between the Society and the government before the International Conference may be used to address strategic issues. Such discussions may be a tool for getting governments and National Societies on a similar progressive page.

Many of the above points are borne out in the author's own experience at the British Red Cross. The International Conference acts as an umbilical cord which maintains contact between the United Kingdom Foreign and Commonwealth Office and other government departments, and our National Society, before, during and after the proceedings. The pledges made by the United Kingdom are a standing item on the agenda of the UK National Committee on International Humanitarian Law.<sup>34</sup> Indeed, the United Kingdom decided to establish such a body in part because the International Conference endorsed the Intergovernmental Group of Experts' recommendation encouraging States to create such committees with the possible support of National Societies.<sup>35</sup> The completion of the quadrennial questionnaires on follow-up to the decisions of the previous International Conference, and agreement on joint pledges for the next International Conference, have necessarily involved much communication between the UK authorities and the British Red Cross. The International Conference provides more than an excuse for such contacts: it provides a significant reason for continuous access to officials because of the joint interest.

The International Conference has also had positive effects for the British Red Cross internally. It helps to set a policy direction in common with the remainder of the Movement, ensuring that the British Red Cross remains cognisant of issues that may not be of direct concern in its own national context. Where resources are available, the British Red Cross may also contribute to programmes or projects seeking to address these issues. Following each International Conference, the decisions are analysed with a view to noting the commitments incumbent on National Societies. These are then set out in a schedule, called an 'Action Sheet', which lists the decisions requiring follow-up action, explaining the required action in the simplest language possible. The schedule then notes the staff member responsible for follow-up, together with other staff members who might have an interest in the matter, and also indicates any time deadline. This process is a good discipline for the Society, and helps to keep it focused. It also makes it easier

34 As at 30 June 2009, 91 States had such Committees or other national bodies on international humanitarian law – see ICRC Advisory Service on International Humanitarian Law, *Table of National Committees and other National Bodies on International Humanitarian Law*, 30 June 2009, available at <http://www.icrc.org/web/eng/siteeng0.nsf/html/table-national-committees> (visited 13 October 2009). The formal name of the UK body is the Inter-departmental Committee on International Humanitarian Law. The British Red Cross is the only organization outside government represented on the Committee. This is because of its auxiliary role and its expertise in international humanitarian law.

35 26th International Conference of the Red Cross and Red Crescent, Geneva, 1995, Resolution 1, 'International humanitarian law: From law to action – Report on the follow-up to the International Conference for the Protection of War Victims', operative paragraph 4.

to include relevant International Conference decisions in planning and eventually, to complete the four-yearly reporting requirements.

At the root of much of this is the auxiliary relationship between a National Society and the State. This relationship should be based on a co-operative, partnership approach. Where it is, the public authorities will be more willing to spend the time to engage with the National Society. The International Conference may be said to represent the auxiliary relationship at the international level. Without it, there would be no need for the International Conference to exist at all. States would soon lose interest and begin to question why they should meet with National Societies when they do not have a similar commitment to meet with other organizations outside government.

## Ways to promote the relevance of the International Conference

The author wishes to conclude with the following remarks and suggestions.

Firstly, it is recommended that a study be undertaken of recent International Conferences, assessing them from different perspectives, including an assessment of their results.<sup>36</sup> To demonstrate briefly the value of the International Conference to National Societies, one recent Conference has been selected at random: the 27th International Conference held in Geneva in 1999. This Conference adopted a Plan of Action for the years 2000–2003. Similar to other International Conference texts, this Plan of Action gives National Societies a status and role in the development of national policies and a right to speak, suggest and influence.<sup>37</sup> It also commits States to helping their National Society, thus giving substance to the requirements set out in the Statutes of the Movement.<sup>38</sup> In this specific instance, the Plan of Action provides that States will help, as appropriate, National Societies in accessing international funding.<sup>39</sup> This is as important to the smaller National Societies as to others.

The ICRC's Study on Customary International Humanitarian Law was a major outcome of the International Conference which has affected the entire Movement.<sup>40</sup> All National Societies have an obligation to disseminate knowledge of

36 This could update the study by Richard Perruchoud, *Les Résolutions des Conférences internationales de la Croix-Rouge*, Henry Dunant Institute, Geneva, 1979, but also go beyond it to cover other matters, such as the harmony of the proceedings at each International Conference.

37 27th International Conference of the Red Cross and Red Crescent, Geneva, 1999, 'Plan of Action for the Years 2000–2003', Final Goal 2.1, paragraph 1(a). The Plan of Action is published in the *International Review of the Red Cross*, No. 836, 1999, pp. 880–895.

38 Article 2. See the earlier section of this paper, entitled 'Statutory importance: The International Conference in legal theory', 'The general context', for an explanation.

39 27th International Conference of the Red Cross and Red Crescent, 'Plan of Action for the Years 2000–2003', above note 37, Final Goal 2.1, paragraph 1(c).

40 26th International Conference of the Red Cross and Red Crescent, Geneva, 1995, Resolution 1, 'International humanitarian law: From law to action – Report on the follow-up to the International Conference for the Protection of War Victims', operative paragraph 4. Also see 30th International Conference of the Red Cross and Red Crescent, Geneva, 26–30 November 2007, Resolution 1, 'Together



international humanitarian law – this Study is a major tool, both in terms of the substance of the rules and particularly in the wealth of resource material contained in Volume 2.

Two functions of the Conference will now be commented on: namely, to contribute to the unity of the Movement, and to contribute to respect for and development of international humanitarian law.

The general function of the International Conference to contribute to the unity of the Movement has been tested over the years, most recently in matters related to the Middle East. It might be considered that, at the 25th International Conference of the Red Cross in 1986, the decision to suspend the participation of the government delegation of the Republic of South Africa neither contributed to the unity of the Movement (e.g. the ICRC and a number of National Societies did not participate in the vote) nor helped the Movement in the accomplishment of its mission (e.g. the South African authorities informed the ICRC that its delegates would need to leave South African territory – however, this decision was later reversed).<sup>41</sup> One of the effects of this unsettling experience may be said to have been that the next International Conference was unable to take place until almost 10 years later, in significant part because of concern regarding participation problems (although involving a different party, the Palestine Liberation Organisation). At the 29th International Conference of the Red Cross and Red Crescent in 2006, National Society delegations, by their interventions and by their votes, reaffirmed the need to put aside political considerations at the International Conference and to encourage the unity and the universal humanitarian mission of the Movement. Decisions were taken which ultimately led to the recognition of the Israeli and Palestinian National Societies.

At the 30th International Conference in 2007, the implementation of the Memorandum of Understanding between these two National Societies was a source of controversy but a way was found to deal with the matter in a constructive manner. This solution was based largely on a resolution adopted at the meeting of the Movement's Council of Delegates held immediately before the International Conference. This demonstrated the influence National Societies can and do have on the International Conference, its harmony and outcomes.<sup>42</sup> One must be careful not to underestimate the influence of State delegations at the International Conference. However, one might also see a trend of increasing National Society

for humanity', operative paragraph 8. The Study itself can be found at: Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law*, 2 Volumes, Volume I: Rules, Volume II: Practice (2 Parts), Cambridge University Press and ICRC, 2005.

- 41 For details, see Jacques Moreillon, 'Suspension of the government delegation of the Republic of South Africa at the Twenty-Fifth International Conference of the Red Cross (Geneva, 1986) – Different perceptions of the same event', *International Review of the Red Cross*, Vol. 257, March–April 1987, p. 133.
- 42 30th International Conference of the Red Cross and Red Crescent, Geneva, 2007, Resolution 5, 'Follow-up to the implementation of the Memorandum of Understanding of 28 November 2005 between the Palestine Red Crescent Society and the Magen David Adom in Israel', ICRC/International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 105.

participation in the proceedings, certainly on basic matters such as respect for the Fundamental Principles, which is heartening.

A not unrelated matter is that a fundamental strength of the Movement, and of the International Conference, is its consensual approach. Traditionally the formation of international humanitarian law itself has been on a consensual basis, although in recent years there have been notable exceptions.<sup>43</sup>

A review of the resolutions adopted at successive International Conferences over many decades illustrate the importance given to international humanitarian law in the work of the Conference. In recent years, emphasis has been given to contributing to respect for the law, often by referring to topical or general problems of application and recalling and reaffirming existing obligations.<sup>44</sup> Plans of action have followed this pattern, identifying specific issues of application (such as missing persons), referring to existing obligations, and specifying concrete measures to help fulfil these obligations.<sup>45</sup> This general approach to contributing to respect for international humanitarian law has been the only way to achieve consensus and to avoid engaging in political or other controversies. At the 24th International Conference in 1981, resolutions did refer to specific conflicts. However, these texts could be considered to look out of place and their adoption did not necessarily help achieve improved respect for the law or the work of the ICRC in the situations named.<sup>46</sup>

Before the negotiation of the 1977 Additional Protocols to the 1949 Geneva Conventions, the International Conference did play a role in the development of international humanitarian law.<sup>47</sup> Since then, although specific provisions

43 The processes for the adoption of the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, and for the adoption of the 2008 Oslo Convention on Cluster Munitions are examples of a different approach. The adoption of the Third Additional Protocol to the 1949 Geneva Conventions, relating to the red crystal emblem, was done by vote. However, the process sought to be consensual.

44 As examples, see 26th International Conference of the Red Cross and Red Crescent, Geneva, 1995, Resolution 2, 'Protection of the civilian population in period of armed conflict', and 30th International Conference of the Red Cross and Red Crescent, Geneva, 26–30 November 2007, Resolution 3, 'Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict', ICRC/International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 81.

45 28th International Conference of the Red Cross and Red Crescent, Geneva, 2–6 December 2003, Agenda for Humanitarian Action, 'Enhancing Protection in Armed Conflicts and other situations of armed violence,' General objective 1, ICRC/International Federation of Red Cross and Red Crescent Societies, Geneva, 2004, pp. 12–15.

46 24th International Conference of the Red Cross, Manila, 1981, Resolution III, 'Application of the Fourth Geneva Convention of 12 August 1949', and Resolution IV, 'Humanitarian activities of the International Committee of the Red Cross for the benefit of victims of armed conflicts'.

47 20th International Conference of the Red Cross, Vienna, 1965, Resolution XXV, 'Application of the Geneva Conventions by the United Nations emergency forces', and Resolution XXVIII, 'Protection of the civilian population against the dangers of indiscriminate warfare'. Resolution III, 'The Geneva Conventions and the Additional Protocols', adopted at the 23rd International Conference held in Bucharest in 1977, indicates that the two previous International Conferences had adopted resolutions supporting the negotiations which led to the adoption of the 1977 Additional Protocols to the 1949 Geneva Conventions.

of resolutions and plans of action have encouraged or referred to developments, the International Conference has not had a significant role in that respect.

At present there seems to be a consensus in the international community that the biggest challenge to international humanitarian law is on how to make the existing law effective, that, with the possible exception of the field of weaponry, what is needed is greater compliance with the current rules rather than new law. At the same time, as we observe the 60th anniversary of the adoption of the Geneva Conventions, it is clear that there are certain matters that could benefit from an agreed modern interpretation of the 1949 treaty texts. Some examples are: use of defensive weapons on military ambulances<sup>48</sup> and on hospital ships;<sup>49</sup> use of cryptographic equipment on hospital ships,<sup>50</sup> the requirements to protect prisoners of war<sup>51</sup> and civilian security internees<sup>52</sup> against insults and public curiosity.

The International Conference of the Red Cross and Red Crescent, given its special composition, character and responsibility for international humanitarian law, could be used to help achieve an agreed up-to-date and practical interpretation of one or more such issues. This would be of real practical benefit to the victims of armed conflicts as well as to those who apply the law. It would reinforce the relevance and value of the International Conference as an appropriate decision-making body on international humanitarian law issues. It could also stimulate National Societies to reaffirm their special role and responsibility in the international humanitarian law field, both as auxiliaries to their respective public authorities and in their own right.

## Conclusion – *carpe diem*

The International Conference of the Red Cross and Red Crescent is nothing short of monumental. In an age of hype, it remains genuinely unique, as it has always been. It rests in particular on the auxiliary relationship between National Societies and their States. Without the National Societies' auxiliary status, the International Conference would not involve States, and without States, the International Conference would have less impact and be just another forum of a private association.

The character of the International Conference affects – and is affected by – the character of the Movement: it is based on co-operation and partnership. This will mean that it operates on the basis of consensus which will necessarily limit

48 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Article 22.

49 1949 Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked of Armed Forces at Sea, Article 35.

50 1949 Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked of Armed Forces at Sea, Article 34.

51 1949 Geneva Convention relative to the Treatment of Prisoners of War, Article 13.

52 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, Article 27.

what it is able to achieve; but what it has achieved – and can continue to achieve – remains of value. Although it is important to have realistic expectations, with creativity, careful planning and persistence, the International Conference could do more, for example, in the area of international humanitarian law.

National Societies need a greater understanding of the functioning and potential of the International Conference. The International Conference was conceived to be a forum for shared ideas and problem-solving between governments and National Societies. This it continues to be. The Conference could be seen as so intertwined in the relationship between States and the Movement that one cannot comment on the relevance of the International Conference to National Societies without considering and commenting upon the relevance of National Societies to States.

Many NGOs – whether or not they would say so publicly – would give their eye-teeth to have the possibility to meet with States as equal participants on a regular basis; to discuss matters of common concern, with a view to agreeing common texts to which both parties are committed.

It is up to National Societies, using the mechanisms of the Movement and their own interaction with States, to use the International Conference to best advantage, individually and collectively. They can seek to do so in three basic ways: by preparing for the Conference, by playing a part in its proceedings and by following-up afterwards. If they do not do so, they are not taking advantage of their special status and role; in practical terms, they are missing a trick.