



**INTERIM REPORT  
AUXILIARY ROLE PROJECT**

**Revitalizing the Framework  
for Cooperation with  
Public Authorities**

**November 2007**

**Canadian Red Cross**

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Canadian Red Cross / Croix-Rouge canadienne

## **Interim Report – Auxiliary Role Project November 2, 2007**

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# Part I

## Introduction

The Auxiliary Role Project was undertaken in response to a need identified almost ten years ago by the International Red Cross and Red Crescent Movement to better understand and promote the role of National Societies as “auxiliary to public authorities.” In fact, the issue of the “auxiliary role” is one of the principal topics to be addressed at the next International Conference of the Red Cross and Red Crescent in November 2007, in Geneva. At this Conference, States and National Societies will, in the context of the emerging humanitarian challenges, seek to broaden their cooperation in the work undertaken in support of vulnerable populations. The primary purpose of this interim report is to convey what was heard during the public consultation portion of the project that occurred from June – October 2007. It is also intended to inform the discussion among Canadian Red Cross and Canadian Government officials at the International Conference, to raise awareness of the auxiliary role issue, foster an ongoing dialogue and lay the groundwork for the second phase of the project. Recommendations for consideration at the International Conference are included in this interim report. However, it is important to note that a broad range of recommendations for action by public authorities in Canada and the Canadian Red Cross will be included in the Auxiliary Role Project’s final report.

This special and unique partnership that is the auxiliary role is referenced in international law within both the Geneva Conventions and the Statutes of the International Red Cross and Red Crescent Movement. In fact, admission to the International Movement requires that a National Society have “auxiliary status.” This simply means that it must be officially recognized by the State “*as auxiliary to public authorities in the humanitarian field.*” This establishes the legal basis upon which the National Society executes its auxiliary roles. An auxiliary role is the concrete activity (such as emergency management) that a National Society undertakes pursuant to its auxiliary status. Importantly, the issue of the auxiliary role is also contained within the Fundamental Principles of the Movement. These principles were unanimously adopted by States and

National Societies at the XXth International Conference of the Red Cross in Vienna in October 1965. The principle of “Independence” states that: “*The Red Cross is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with Red Cross Principles.*” Over the years, there has been much discussion about this principle. One of the pre-eminent thinkers of the Red Cross, Jean Pictet, offered his view of the subject in 1979 when he wrote:

Even though the auxiliary status of Red Cross Societies is mentioned in the Proclamation only in an incidental manner, noting that the Societies are *auxiliaries in the humanitarian services of their Governments and subject to the laws of their respective countries*, and under a heading which does not use the word “auxiliary,” this auxiliary status nevertheless constitutes one of the fundamental principles of the Red Cross. Because of it, the Red Cross is at one and the same time a private institution and a public service organization. The very nature of the work of the National Red Cross Societies implies co-operation with the authorities, a link with the State. Furthermore, as the Proclamation emphasizes, these Societies are subject to the law of the land; it could not be otherwise.<sup>1</sup>

The auxiliary role has certainly been expanded since the beginnings of the International Red Cross and Red Crescent Movement in the early 1860s. Originally, a National Society’s auxiliary role was confined to assistance to the medical services of armed forces. After the First World War, however, the aims of National Societies were reframed and the auxiliary role enlarged

to provide protection and assistance to victims of armed conflicts and disasters, to prevent and alleviate human suffering, and to work for the improvement of health and prevention of disease anywhere in the world, in accordance with the fundamental principles of the International Red Cross and Red Crescent Movement, the Geneva Conventions and Additional Protocols.

Inasmuch as National Society programs and services have evolved and grown over the course of the 20<sup>th</sup> century, the auxiliary role within the Movement and within governments has been a sketchy concept at best.

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<sup>1</sup> Jean Pictet, *The Fundamental Principles of the Red Cross: Commentary*. Henry Dunant Institute, p. 63.

In recent times, the pace of change has been relentless. In fact, it seems to have accelerated dramatically even in the last 15 years. The end of the Cold War transformed the strategic environment and had many unexpected consequences in terms of new conflicts in various parts of the world that would have been quite unimaginable only a few years ago. The world has experienced large-scale humanitarian crises caused by war and natural disasters and in some unfortunate instances, the two are combined. Layered on top of these challenges are other problems such as climate change, the spread of disease and migrant populations. The severity and complexity of the issues facing the world today has forced States, the UN, non-governmental organizations, the International Red Cross and Red Crescent Movement, and individual National Societies to more closely examine how they work together. What are the respective roles and responsibilities? What are the mechanisms for cooperation and coordination? What instruments and agreements support these working relationships? Understanding that we must “think globally and act locally,” the objective of the Auxiliary Role Project is to improve the “framework for cooperation” between the Canadian Red Cross and Canadian public authorities at all levels.

At its most basic level, the framework for cooperation between the Government of Canada and the Canadian Red Cross exists on a foundation of shared values – respect for human dignity and a shared commitment by both to the humanitarian objectives of the organization. These shared values were expressed in the legislative intent of *The Canadian Red Cross Society Act, 1909*, which, along with the *Letters Patent of 1970* (issued under the Canada Corporations Act), form the principal “instruments of cooperation.” The original framework for humanitarian cooperation was relatively straightforward. The purpose of the Society through its auxiliary role to Canadian authorities was “to aid the sick and wounded in war.” But, as we know, much has changed.

Today, the framework for cooperation and the instruments that are employed to support that framework are considerable. The web of relationships between the Society and public authorities at all levels is extensive and complex. The work of the Canadian Red

Cross touches many departments and agencies at the federal, provincial, territorial and municipal levels. With a budget of \$280 million, 4,800 staff, 30,000 volunteers and branches in over 300 locations, Canadian Red Cross programs and services touch the lives of millions annually. As a consequence, the instruments of cooperation that form the basis of the relationship between the Society and public authorities have also expanded. There are now literally thousands of memoranda of understanding, agreements, standard operating procedures, purchase of service contracts and other arrangements that exist with public authorities.

While the “auxiliary” of the Canadian Red Cross (especially after the First World War) was intended to help broadly define and shape the special partnership that exists in law between the Society and public authorities, the concept remains poorly understood. That lack of understanding about “the fundamentals” of the relationship translates directly into lost opportunities in terms of how well and how closely governments and the Canadian Red Cross are able to work together. A stronger relationship between public authorities and the Society is, it must be remembered, not an end in itself, but rather a means to an end in better addressing the humanitarian needs of the most vulnerable.

It was this desire to improve the framework for cooperation between the Canadian Red Cross and public authorities that prompted the Society to seek the assistance and support of the federal government with a view to re-invigorating the relationship. In August of 2006, Public Safety Canada was approached as a possible lead federal ministry for the Auxiliary Role Project since one of the critical areas of strategic focus for the Canadian Red Cross is emergency management. A proposal and discussion paper entitled “*Toward A Renewed Canadian Red Cross: Forging Stronger Partnerships in Support of a Humanitarian Agenda*” were submitted to the department in the fall of 2006 and on March 29, 2007, the Honourable Stockwell Day, Minister of Public Safety, signed a funding agreement in support of the project. The agreement authorized the Canadian Red Cross to “initiate a wide-ranging public consultation on the status/future of the Recipient as ‘auxiliary to public authorities’ and possible legislative changes to the existing legal framework of The Canadian Red Cross Society in accordance with the work plan.”



## **Project Methodology**

Considerable time and effort was devoted to honing the aims of this consultation and the methodology used to achieve those objectives. Because many potential interlocutors had a “siloed” view of the Red Cross based upon their particular programmatic interface with the organization, it became necessary to inform stakeholders on the broad scope of National Society and International Movement activities before seeking their input on some fairly complex issues. Every effort was made to “prepare the ground” for a productive consultation. The discussion paper mentioned above was made available in hard copy and on the Canadian Red Cross website. Also, before the meetings, all participants were provided with a participant preparatory guide containing basic background information, suggested discussion questions and an executive summary of the discussion paper.<sup>2</sup>

The attempts to encourage a two-way flow of information before, during and after the meetings appear to have met with success. As one senior provincial public servant said after the St. John’s, Newfoundland consultation: *“I was embarrassed about how much I didn’t know about the Canadian Red Cross.”* A representative of a major NGO who works closely with the Society told the Winnipeg meeting: *“I was blown away by the scope of Canadian Red Cross programs and services...and I’m an informed stakeholder!”*

Broadly speaking, the objective of the consultation was to probe a number of issues, including the following:

- perceptions of existing and possible future auxiliary roles for the Canadian Red Cross
- the benefits and drawbacks of these relationships for both the Canadian Red Cross and public authorities
- the relationship of Red Cross Fundamental Principles to the auxiliary role, especially in regard to the principle of “Independence”

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<sup>2</sup> See Appendix A for the executive summary of the discussion paper.

- the characteristics of a “balanced relationship” between a State and its National Society
- recognition of auxiliaryity at the federal, provincial, territorial and municipal levels
- the level of comfort Canadians have with the Fundamental Principles of the Movement as a gauge of public support for Red Cross auxiliaryity
- the shared use of the red cross emblem between the Government of Canada and the Canadian Red Cross and the issue of how best to protect it from misuse
- the need to update the Society’s legal basis as contained in *The Canadian Red Cross Society Act, 1909* and the *Letters Patent, 1970*
- the question of the “working definition” of the auxiliary role which emerged from discussions between National Societies, States and the International Federation earlier this year.

**The Working Definition of the Auxiliary Role as Agreed to by a Select Meeting of States and National Societies in February 2007 in Geneva**

“A privileged/unique partnership, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services. The National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental Principles and with its other obligations under the Statutes of the International Red Cross and Red Crescent Movement as agreed by States in the International Conference of the Red Cross and Red Crescent.”

The consultation was based upon holding external and internal meetings. For the external meetings, the Canadian Red Cross invited stakeholders/partners at the municipal and provincial levels of government in addition to other voluntary organizations, community groups, academics and interested individuals. Emphasis was placed on attracting individuals and organizations involved in the three core areas of strategic focus for the National Society: emergency management, health and injury prevention, and humanitarian issues and international programs. The internal meetings sought the views of volunteers, staff and Canadian Red Cross board members. Again, both the internal and external meetings were intended to promote stakeholder education as well as feedback

and comment. In all, there were 672 participants – 261 from within the Society and 411 external contributors.

The typical format for the three-hour external consultation meeting began with a short introduction by the moderator and words of welcome from a local mayor or city councillor, followed by a presentation to a plenary session from the Special Advisor, Auxiliary Role Project. He provided basic information on the International Red Cross and Red Crescent Movement and the nature and objectives of the Auxiliary Role project. This was followed by a series of up to six presentations from external participants. They provided comments based on their experience with the Canadian Red Cross in their area of expertise (i.e., emergency management, injury prevention, etc.) They also commented on the auxiliary issue. The breadth and depth of these presentations were very impressive and added many new perspectives and ideas for consideration. A brief question period followed.

The plenary session then divided into three or four break-out sessions touching particular themes in the relationship between the auxiliary role and the core areas of strategic focus of the Society. Each “break-out” group was given five questions to answer regarding key areas of policy interest. Both in the initial presentation and within the discussion groups, attention was drawn to the working definition mentioned above. Five questions, which propelled the discussion, were put to participants:

1. In order to be recognized as a National Society by the Movement, the National Society must be recognized by its government as a voluntary aid society, auxiliary to the public authorities in the humanitarian field. The legal framework for the Canadian Red Cross includes such recognition but does not define which activities fall under the auxiliary function. Given the working definition and your experience, what are some of the concrete auxiliary roles that the Canadian Red Cross should continue to play or initiate either in the Canadian context or abroad?
2. The working definition positions the auxiliary role as “*areas in which the National Society supplements or substitutes public humanitarian services.*” What are some of the advantages and disadvantages for the Canadian Red Cross, governments and partners of a clear and strong definition of the auxiliary status and role?
3. In your experience, is there a need to define and enshrine the auxiliary role just at the federal level or at each level of government?

4. According to the Geneva Conventions, the ICRC, International Federation of Red Cross and Red Crescent Societies, National Societies and the medical services of the armed forces are exclusively entitled, in certain conditions, to use the emblems. What do you consider to be the respective roles of the federal government and the Canadian Red Cross regarding emblem protection?
5. How do the Fundamental Principles of the Movement relate to Canadians and to Canadian values?



### **Three Main Emblems International Red Cross and Red Crescent Movement**

Following the break-out sessions, each group selected a rapporteur to report back to the plenary with a summary of the discussions which took place. Additional questions were then put to the various groups on their discussions. The meetings concluded with a short statement of thanks to all participants. Separate internal consultation meetings, which tended to be somewhat less formal, were held at each location except Montreal and Iqaluit. The format was similar, allowing for internal presentations and using the same questions as the external consultations. All external and internal participants were asked to complete feedback forms. This allowed organizers to obtain suggestions on how to improve the process and this was shared with sites yet to hold consultations. Meeting reports were completed for every session held.

The balance of this interim report will address what was said at the consultation meetings – internal and external – organized around the five general thematic questions which were asked. Other relevant remarks on various issues are also included. **It is important to note that (unless otherwise specified) the views expressed within this report by**

**both internal and external participants do not necessarily reflect the official position or policy of the Canadian Red Cross.** The report will conclude with comments and suggestions heard in regard to the issue of legislative change and the specific issue of the recognition of the auxiliary status in Canada.

Below is a schedule of the dates and cities/towns of the various external and internal consultation meetings.

<u>City</u>	<u>Internal</u>	<u>External</u>	<u>City</u>	<u>Internal</u>	<u>External</u>
Ottawa	June 7	June 5	Fredericton	Sept. 10	Sept. 11
Winnipeg	June 19	June 19	Charlottetown	Sept. 12	Sept. 13
Regina	June 21	June 21	Halifax	Sept. 19	Sept. 20
Vancouver	June 27	June 26	St. John's	Sept. 17	Sept. 18
Calgary	June 27	June 28	Iqaluit		Sept. 25
Toronto	Sept. 7	Sept. 6	Montreal		Oct. 2



**Auxiliary Role Consultation Meeting – Iqaluit**



## Part II

### Consultation Meetings: Comments/Recommendations

#### Existing and Future Auxiliary Roles

**Question One: “In order to be recognized as a National Society by the Movement, the National Society must be recognized by its government as a voluntary aid society, auxiliary to the public authorities in the humanitarian field. The legal framework for the Canadian Red Cross includes such recognition but does not define which activities fall under the auxiliary function. Given the working definition and your experience, what are some of the concrete auxiliary roles that Canadian Red Cross should continue to play or initiate either in the Canadian context or abroad?”**

Perhaps the long history of the Canadian Red Cross in emergency management helps to explain why so many see it as the foundation of the Society’s expanded auxiliary role, beyond that which existed with the medical services of the armed forces. The Halifax Explosion in December 1917 was the first major disaster in which the Canadian Red Cross provided assistance. As the Honourable Lorne Clarke, retired Chief Justice of the Nova Scotia Supreme Court, reminded the Halifax consultation meeting, the Canadian Red Cross has a long history of emergency responses in the province, which includes the Springhill and Westray mining disasters and the crash of Swissair Flight 111. He told the meeting: *“After 100 years, the Canadian Red Cross has never lost its relevance...It serves humanity and pays more dividends than the largest corporations. That is why we must care for it and make it a strong and vibrant social organization.”*

But it is not just for historical reasons that emergency management is seen as representing the centrepiece of the auxiliary role of the Canadian Red Cross. The credibility of the Red Cross “brand” and its strong association with emergency response both nationally and internationally also figured prominently in the discussions. A general consensus expressed was that emergency management is and will continue to be a critical auxiliary role for the Canadian Red Cross. This is certainly reinforced in the latest Strategic Plan of

the Canadian Red Cross, covering the period 2003-08. While the organization continues to pursue its three core areas of focus in emergency management, health and injury prevention, humanitarian issues and international programs, there is no doubt that emergency management has assumed a very prominent role in the Society's overall mission.

At many of the meetings, it was evident that a strong *de facto* auxiliary relationship in emergency management was being forged between provincial officials and zone or regional Canadian Red Cross operations. This seemed to be especially the case in Atlantic Canada and Quebec. In the former, for instance, it was noted at the Halifax meeting that a joint federal, provincial, municipal emergency operations centre has been operating in Halifax for some time, where the Canadian Red Cross is the only voluntary organization to have a permanent seat. Another Atlantic Canada example mentioned was the recent creation of nine Canadian Red Cross service centres in Nova Scotia supported by provincial government investments in buildings and vehicles.

Of course, both public authorities and the Canadian Red Cross are continually attempting to adapt to new realities. Chris Lewis, Deputy Commissioner of Field Operations with the Ontario Provincial Police, said his mandate had expanded to include less traditional roles such as pandemic planning and response as well as business continuity planning. He said the OPP was committed to expanding the relationship and strengthening linkages with the Society, including the addition of a Canadian Red Cross representative in its Emergency Management Centre.

In the Montreal meeting, Mr. Denis Landry of the Financial Assistance Management branch of the Quebec Ministry of Public Safety emphasized that one of the reasons for the excellent relations between the Society and his ministry was the Canadian Red Cross's organizational capacity. It was manifested, he said, in the Society's reliability and predictability in emergency and crisis situations. In every disaster the Society has been involved in, cooperation between the two partners has been exceptionally close. It should also be noted that in Quebec, the Canadian Red Cross meets specific needs in the first 72



hours following a disaster, after which the provincial officials may become engaged, depending on the scale and severity of the event. The Society's work helps to fill this critical gap in the early stages and may be required in later stages, depending on the circumstances.

There was also a strong assertion by the provincial and municipal representatives who attended that the "working end" of emergency management (and thus a sizeable portion of the auxiliary role) resides largely at their levels of government. While wary of any federal intrusion into their areas of jurisdiction, they nevertheless recognized that the federal government has an important role to play in emergency management. This includes fostering a close working relationship between Public Safety Canada and the Canadian Red Cross to build upon what has already been accomplished in emergency management and to explore cooperation in other areas.<sup>3</sup> On a broader government-wide level, it was suggested that the care and nurturing of this relationship would require action by the federal government on items such as a modern legislative foundation for the Society, clear recognition of the auxiliary status, more memoranda of understanding, more standard operating procedures, additional joint information programs and the need to promote a wider understanding of the auxiliary role.

As has been noted, there continues to be a lack of knowledge of Red Cross auxiliaryity at all levels of government – federal, provincial, territorial and municipal. One of the common remarks heard from government representatives, especially those involved in emergency management, was: "*We come to you (the Red Cross) because of what you can do, not because of your auxiliary role.*" That view is well recognized by Red Cross staff members at the operational level who, it can be said, have in recent months certainly become more familiar with the auxiliary concept. At the Winnipeg internal meeting, however, the point was made that a better understanding of the nature of the auxiliary relationship between public authorities and the Society has the potential to "*take the*

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<sup>3</sup> Many significant instruments of cooperation involving the Canadian Red Cross and Public Safety Canada are already in place. In May 2006, Public Safety Minister Stockwell Day and Canadian Red Cross Secretary General, Dr. Pierre Duplessis signed a Memorandum of Understanding between the two organizations. (see Appendix B)

*organization to the next level.*” For the Canadian Red Cross, that could mean being seen by governments as a strategic asset, as an organization that can make a contribution to public policy and be fully integrated into system-wide planning for emergency management and pandemics.

The apparent synergies between the current mandate of the Canadian Red Cross and Public Safety Canada were also alluded to by a number of presenters and participants. Mr. Douglas Fraser of the Canadian Institute for Strategic Studies commented on the present reporting relationship in *The Canadian Red Cross Society Act, 1909* between the Society, the Ministry of Militia and the Ministry of Health. In his view, the primary point of contact within the federal government for the Canadian Red Cross should be Public Safety Canada. He added, however, that it was also important to maintain the traditional links with Health and Defence. While this view was popular and resonated well at most consultation meetings, it was by no means unanimous. At least one presenter, Ms. Grace Getty, a Professor of Nursing at the University of New Brunswick, told the Fredericton meeting that the Canadian Red Cross in her view is “a health agency.” She added: “*Do you really want to align yourselves with the government agency responsible for policing?*” Still others indicated that in terms of an “auxiliary reporting relationship” or as an “entry point” for the Society in its relationship with the federal government, it might be wise to have more than one departmental connection.



**Auxiliary Role Consultation Meeting – Regina**

A number of presenters sought to identify specific examples of where the Canadian Red Cross played an auxiliary role in response to a large-scale humanitarian challenge. The internal meeting in Charlottetown, for instance, saw the role the Canadian Red Cross played during the South Asian Tsunami of 2004 as auxiliary in the sense that the Society was an instrument of trust and respect through which both citizens and the federal government (and some provincial governments) channelled their humanitarian impulses to assist. At least one person at the internal meeting in Fredericton thought that during the Tsunami the federal government was using the Canadian Red Cross in an auxiliary fund-raising role. This person asked pointedly: “*Are we the government’s fund raiser?*” Others saw an auxiliary role in the services provided to stranded air travellers by the Society in Atlantic Canada following the attacks of September 11, 2001. Operation Parasol in 1999 was also, they felt, another specific example of auxiliarity, when the federal government asked the Society to be the lead voluntary agency to assist 5,000 Kosovar refugees. At the Hamilton internal meeting, the SARS crisis was cited as an example of where the Society was mandated by provincial authorities as the lead for inter-agency coordination. Still others saw an auxiliary role in the services the Society provided to the Canadians evacuated from Lebanon in the summer of 2006.

The other area of activity where interlocutors seemed to readily identify an auxiliary role was in the promotion of international humanitarian law (IHL) and the Restoring Family Links program. These auxiliary areas were generally well known by academics and internal stakeholders familiar with the history of the International Movement and the link to the Geneva Conventions. Nevertheless, it would be safe to assume that many inside and outside the Society would be unaware of the institutional relationship between the Canadian Red Cross and the Canadian government on IHL that is found with the Canadian National Committee on Humanitarian Law (CNCHL). This committee brings the Society and various federal government departments together for the purposes of “*advising and assisting governments in implementing and disseminating international humanitarian law, while facilitating inter-ministerial and inter-departmental coordination and cooperation.*” Notwithstanding the links between the CNCHL and the

Canadian Red Cross, Mr. Ted Itani,<sup>4</sup> a retired Canadian Forces officer, told the Halifax meeting that the Society should be more proactive in advising the federal government in IHL. He cited as an example the recent issue of the handling of Afghan prisoners. He also urged the federal government to work with the Society to promote humanitarian values and law *“from infancy to adulthood.”*

While the Canadian Red Cross’s work in emergency management and IHL dissemination seems to present clear-cut cases of auxiliary roles, there was somewhat less unanimity around other program activities of the Society. Some wide-ranging discussions occurred, for instance, around the topic of whether all of the Canadian Red Cross’s programs were characterized by some measure of auxiliaryity or whether a more narrow construction should apply. Some participants saw problems in categorizing activities in the Health and Injury Prevention sphere as auxiliary, since fees are charged for programs such as First Aid and Water Safety. Home Care programs found in Ontario, New Brunswick and Nova Scotia are seen by some as being auxiliary, as are the Health/Medical Equipment Loans Programs, which are run in many areas of the country.<sup>5</sup> Because Home Care is a contracted service, many felt the auxiliary role would only apply in certain circumstances where there are gaps in government programs and no other similar service is offered by another agency.

At the internal meeting in Calgary, the example of health equipment loans was raised by one participant: *“Patients can’t leave the hospital without proper equipment, and we’re*

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<sup>4</sup> Mr. Itani has also worked for the Canadian Red Cross, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross. He is currently with the Pearson Peacekeeping Centre, but advised the Halifax meeting he was speaking in a personal capacity.

<sup>5</sup> For more than 70 years, the Canadian Red Cross has been providing in-home community services to help individuals live as independently as possible. First established in Ontario, the services have been expanded to Atlantic Canada. They enhance the well-being and dignity of the frail or elderly, children at risk, people with disabilities or palliative patients. Home care services have taken on a more significant role in Canada’s health care system in recent years. Major hospital restructuring has meant shorter hospital stays for many Canadians, resulting in increased health care at home. Home support – such as meals, transportation and general assistance for seniors – is offered, depending on the needs of a particular community, by many Red Cross branches and regions across Canada. The Canadian Red Cross has been offering its Health Equipment Loan Programs for more than half a century. These programs vary across the country in the types of health and medical equipment provided, length of loan, access procedures and type of service. At the present time the program exists in Atlantic Canada, Ontario, Alberta and British Columbia. Different programs exist for children, seniors and those undergoing palliative treatment. Types of equipment include mobility, bath, toileting and walking aids.

*the only ones who do this.*” There was, however, also a widespread view that in areas where a competitive environment exists, an auxiliary relationship with public authorities should confer no special privileges or consideration on the Society. A good example of this is in the area of First Aid, where St. John Ambulance and the Canadian Red Cross compete for business as a means to fund other humanitarian activities. The same applies to the Red Cross Water Safety program which has competition from the Lifesaving Society. The Canadian Red Cross views competition in these areas as good for consumers in terms of pricing and good for the organizations which have to ensure they have a solid product. Consequently, the Canadian Red Cross accepts and supports the view that the auxiliary role should not confer a competitive advantage on the Society in situations such as those discussed above. As a general observation, it would seem that once other organizations in the voluntary sector understood this, they had little difficulty with the auxiliary concept.

There were many suggestions for possible future auxiliary roles for the Canadian Red Cross. These can be generally divided into three areas: health programming, aboriginal and northern programming, and a coordinating role within the voluntary sector. In health, the issue of more extensive planning for a possible pandemic was mentioned on a number of occasions. But services for an aging population, the disabled and those in remote communities were clearly a priority for many. The Honourable Claudette Bradshaw, a former Minister of Labour, who served as the Chair of the New Brunswick Premier’s Task Force on Non-Profit Organizations, told the Fredericton meeting the Canadian Red Cross should use its position of leadership to play a major role in health care and, more particularly, home care. She remarked on the high quality of training for home care staff and said: *“The Canadian Red Cross should sell it internationally.”* She concluded by cautioning the Society to *“tweak, don’t change what you do as it’s being done well,”* and not to be afraid to seek funding from the government.

A similar view was expressed at the Halifax meeting by Ms. Susan Weagle, Director of Policy and Standards, Ministry of Health, Province of Nova Scotia. She said that currently over 30,000 citizens access continuing care services every year and that,

because Nova Scotia has the second oldest population in Canada, the need for these services is expected to grow. While noting that government cannot meet every need, she said it can fund and support organizations like the Canadian Red Cross, which she described as an agile, innovative and responsive partner. She said the Society has been a leader in Home Support Services in Nova Scotia for more than ten years, with such programs as the Home Equipment Loan Program and Specialized Equipment Program. She added that the government respects the Canadian Red Cross for its strong vision, mission, principles and values, and for its national and international infrastructure which emphasizes best practices, quality assurance, risk management and cost-effective service delivery. *“I believe that the Red Cross is uniquely positioned to respond,”* she said.

In addition to health care, another possible future auxiliary role raised at various meetings was programming for aboriginal and northern communities. A wide range of programs was suggested, touching areas such as building capacity in health, wellness, personal safety, emergency management, and human and social development. Other Canadian Red Cross abuse and violence prevention programs such as RespectEd, Walking the Prevention Circle and Beyond the Hurt were also seen as critical tools. At the Regina meeting, Ron Fortier, Director of Emergency Social Services, Ministry of Family Services and Housing for the Province of Saskatchewan, encouraged the Canadian Red Cross to strengthen relations with all governments, beginning at the national level with the Department of Indian and Northern Affairs Canada, Health Canada – First Nations and Inuit Branch, and the Assembly of First Nations, followed by the provincial level with a variety of government and aboriginal organizations.<sup>6</sup>

The consultation meeting in Iqaluit also produced some interesting areas for future consideration. Local MP Nancy Karetak-Lindell commented on what she felt was the cultural link between the Canadian Red Cross and the Inuit people who, she said, are conditioned from birth to help the less fortunate. The mayor of Iqaluit, Elisapee

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<sup>6</sup> On May 23, 2007, the Canadian Red Cross Secretary General Dr. Pierre Duplessis signed a Memorandum of Understanding (MOU) with Grand Chief Phil Fontaine of the Assembly of First Nations. The agreement formalizes areas of cooperation between the two organizations to help First Nations individuals and communities be better prepared to prevent and respond to emergencies and injuries, and to encourage safe environments.

Sheutiapik, expressed great interest in the RespectEd program and emphasized the need to work together to improve planning for emergencies. She also asked whether or not the Canadian Red Cross signs memoranda of understanding with territorial governments – intimating that perhaps that might be a vehicle to initiate the expansion of the Society’s footprint in the North.

Dr. Isaac Sobel, Chief Medical Officer of Health for Nunavut, was also very interested in the RespectEd program, but was dismayed that there was not better coordination and communication with the Canadian Red Cross. He was concerned that the Society work not just with local communities and organizations such as the Junior Rangers, but also public authorities throughout the territories. He also focussed on the general lack of capacity and coordination for emergency management and pandemic preparedness locally. John Hussey, the Chief Administrative Officer for the City of Iqaluit, echoed this view. He also highlighted the challenges of operating water safety programs at local pools which he considered important to keep vulnerable youth in organized activities and to support self-reliance.



### **The Ceremonial Lighting of the Qulliq at the Iqaluit Consultation Meeting**

The suggestion that the Canadian Red Cross pursue a coordinating and advocacy function within and for the voluntary sector, and serve as a link with governments, prompted some good dialogue. The discussion paper “*Toward a Renewed Canadian Red Cross*” asked whether this type of role might be appropriate for the Society. There was considerable interest in the idea (or variations of it) at both the internal and external meetings. And

while many were warm to the idea, support for the concept could probably not be called conclusive.

Gerry Delorme of the Manitoba Government, for instance, told the Winnipeg meeting he felt the Canadian Red Cross could play such a bridging role between civil society and governments. Mr. Paul Hannon, Executive Director of Mines Action Canada, said the Canadian Red Cross can and should play a coordinating role. He mentioned the promotion of a voluntary code of conduct in humanitarian responses as a positive example of the Society's institutional capacity to facilitate such educational activities. The idea was also broached by John Scoville, Superintendent for Prisons and Provincial Chair of the Crime Prevention Association of Newfoundland and Labrador, who saw opportunities for coordination based upon the large network of volunteers and partners working with the Canadian Red Cross. He felt the Society could play such a role in Newfoundland and Labrador. Others were not so convinced. Grace Getty told the Fredericton meeting that she had floated the idea among NGO's of the Society playing a coordinating role for the voluntary sector and said the response was "*Hell no, we don't need any more bureaucracy.*"

There was a "basket" of other auxiliary roles for the Society suggested by presenters at the various internal and external meetings. At the Ottawa meeting, Doug Fraser of the Canadian Institute for Strategic Studies suggested the Society return to its roots with more involvement with the Canadian Forces, especially in Afghanistan. He said that one way to resolve the problem of insufficient numbers of Canadian Forces medical personnel would be to have the Canadian Red Cross help recruit civilian doctors for temporary placements with the Canadian Forces. He also saw a role for the Canadian Red Cross in "welfare officer" type positions working with the Canadian Forces Personnel Support Agency, noting that: "*If Tim Hortons is there, why not the Canadian Red Cross?*"<sup>7</sup> Speaking at the Halifax meeting, Ted Itani, a retired member of the Canadian Forces, also saw advantages in having the Red Cross involved in recruitment of

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<sup>7</sup> What Mr. Fraser proposed is similar to the role the American Red Cross plays with the U.S. Armed Force Emergency Services, where American Red Cross staff operating on foreign bases facilitate contacts and communications between armed force personnel and their families.



supplementary medical personnel. He said they would benefit from both the training they would receive in IHL and the Fundamental Principles of the Red Cross and the protection they would be afforded under Article 26 of the First Geneva Convention of 1949.<sup>8</sup>

A range of other potential auxiliary roles was raised. At the internal meeting in Vancouver, it was felt that the Canadian Red Cross should strengthen its advocacy in particular areas such as child soldiers, land mines, refugees and new immigrants as well as homelessness. At the Montreal meeting, participants also called for more investments to identify and address the needs of vulnerable populations such as new Canadians and asylum seekers. They also emphasized the necessity of creating a “continuum of commitment” involving various levels of government as well as various cultural communities in Quebec and youth. There were also calls for “First Aid” training in schools.

At the Regina meeting, Mr. Mike Kaminski, President of the Saskatchewan Emergency Planners Association, also saw the need to direct more attention to youth. He lamented what he saw as Canadian Red Cross cutbacks in youth programs which he believed had a negative impact on potential volunteers and donors, adding that: “*Red Cross Youth, founded in Saskatchewan, was literally lost.*”<sup>9</sup> The issue of more programming for youth was a common thread at many of the meetings. In Montreal, it was felt that more work had to be done in disseminating IHL and promoting humanitarian values with youth. At the St. John’s meeting, John Scoville, Superintendent of Prisons and Chairman of the Crime Prevention Association for Newfoundland and Labrador, also raised the idea of more Red Cross involvement in crime prevention and assisting victims of violence. It

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<sup>8</sup> Art. 26. “The staff of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 24, are placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations. Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces.”

<sup>9</sup> It should be noted that in the late 1980’s, the Canadian Red Cross re-structured youth programs to place the focus at the community level. There has recently been more emphasis placed on efforts coordinated nationally such as a Youth Task Force and the Youth Symposium, which occurred in conjunction with the last Annual General Meeting and General Assembly.

is important to note that inasmuch as many saw interesting possibilities for future Canadian Red Cross programming, there were also many voices that cautioned the Society to concentrate on the things its does well and not overextend itself with too broad a palette of activities and services.

The “public face” of the Canadian Red Cross was also discussed, not just in connection with the auxiliary role, but in relation to how the public perceives the institution and what it does. On numerous occasions comments were made pointing to the fact that the Society does not do a very good job of “selling itself” and getting its message out. At the Ottawa meeting, for instance, Paul Hannon said that the “*leadership within the Canadian Red Cross needs to be much more visible to Canadians.*” Participants at the Vancouver meeting said the Society must “wave the flag” more. At the Fredericton consultation, Claudette Bradshaw encouraged the Society to consistently engage local politicians across the country in its agenda. At the same meeting, John Barry, a lawyer with considerable NGO (including Red Cross) experience, felt that, while the Society had generally established itself in the minds of Canadians, a more proactive approach to public affairs and information programs was still required: “*People need to know more about what the Canadian Red Cross does.*” Eric Arsenault, the Moncton Fire Chief, encouraged the Society to devote more effort to communicating with government to increase the understanding of complementary interests and roles.

In summary, while the auxiliary concept is not well understood within the International Movement, within the Canadian Red Cross, within governments or among the general public that did not stop consultation participants from readily identifying auxiliary roles in the areas of emergency management, health and injury prevention, and the promotion of humanitarian values and the dissemination of IHL. And, as we have seen, there was a wealth of other ideas on possible future auxiliary roles involving health, aboriginal and northern programming as well as a possible advocacy and coordinating role. But there remains much work to be done. Many comments reflected the view that the Society must continue to concentrate on building depth and capacity at both the volunteer and staff levels. The Society may also have some work to do from a communications standpoint to

better inform and educate Canadians. Nevertheless, the consultation meetings made the point that, despite some areas that need attention, the Canadian Red Cross is still regarded as the strongest and most respected humanitarian organization in this country. This point was driven home rather dramatically in Fredericton when Mr. Randy Dickinson, Executive Director of the Premier’s Council on the Status of the Disabled, put on and then took off a baseball hat, saying: *“I take my hat off to you for what you have done and what you will do in the future!”*

**RECOMMENDATION:**

**That the Government of Canada and the Canadian Red Cross undertake:**

*“To renew the framework for cooperation between the Government of Canada and the Canadian Red Cross to better address the humanitarian challenges of the 21<sup>st</sup> century by working to reinforce the status and roles of the Canadian Red Cross as auxiliary to public authorities in the humanitarian field.”*

**Advantages and Disadvantages of a Clear Auxiliary Definition**

**Question Two: The working definition positions the auxiliary role as “areas in which the National Society supplements or substitutes public humanitarian services.” What are some of the advantages and disadvantages for Canadian Red Cross, governments and partners of a clear and strong definition of the auxiliary status and role?**

The working definition of the auxiliary role (on page 9) was a constant reference point for the discussion at all of the consultation meetings. It has also been the topic of considerable debate within the International Movement. It was the subject of a meeting among States and National Societies in February 2007 and was discussed again at a further meeting in Geneva in July. Consequently, it is important to review what was said on this working definition to establish the appropriate context for addressing the issue of advantages and disadvantages of a clear definition of the auxiliary role.

When a basic and foundational concept like the auxiliary role is not much thought about or talked about within an organization over an extended period, it is not unreasonable for people to question whether it is still applicable and appropriate. Some of the participants at internal meetings in Calgary and Vancouver expressed doubt on whether the over one-hundred-year-old auxiliary concept still had value today and whether it was worth the effort to update it at all. At the Calgary internal meeting, one participant asked: “*Do we have to accept the auxiliary role or can we say ‘no’ and stay independent?*” Another question raised was “*The auxiliary role hasn’t been a factor in our work. Is it still relevant?*”<sup>10</sup> Some others simply did not consider auxiliaryity as a defining role for the Canadian Red Cross. At several locations, some very basic and healthy questioning of the continuing significance of the auxiliary role occurred. However, it must be said that for a significant majority of those who attended the consultations – both internal and external – the big question was not “whether” to better operationalize the auxiliary relationship between public authorities and the Canadian Red Cross, but “how.” This was based on what could be considered a widely accepted view that working closely with, but independent of, public authorities is an important means by which the Society and governments can address the needs of the vulnerable.

There were also some lively discussions about the mention in the working definition of “a privileged/unique partnership.” Some, especially in western Canada, recoiled from the use of the word “privileged,” arguing it had negative connotations of elitism, exclusivity and superiority and was inappropriate for an organization that prides itself on its common touch and connection to average Canadians. But as the discussion moved into central and Atlantic Canada, opposition to the word “privileged” seemed to dissipate and indeed many felt that it was the most appropriate adjective to use under the circumstances. Many reasons were given.

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<sup>10</sup> The question “Is the auxiliary role still relevant?” is one which was raised not just in Canada, but also in discussions with representatives of the American Red Cross, the British Red Cross and other National Societies in attendance at a Federation Meeting in Geneva in July 2007. While questions were asked, the general consensus seemed to be “the auxiliary role” still remains the best way to express the nature of the “unique/privileged relationship” that exists between National Societies and States.

As evidence of “privileged” status, interlocutors cited the fact that the Government of Canada and the Canadian Red Cross are the only bodies permitted to use the red cross emblem in Canada. Reference was also made to the very strong historical connection between the Geneva Conventions, States and National Societies and that, unlike other voluntary organizations, States create their National Societies most often through national legislation. Another example of privileged status related to the fact that the International Movement, including all 186 National Societies, is the only humanitarian organization that has regular International Conferences (every four years) with all States Party to the Geneva Conventions. Some also spoke of the breadth and depth of the International Red Cross and Red Crescent Movement with over 300,000 staff and 100 million volunteers worldwide and the fact that such a critical mass puts the organization in a class by itself.

There were many other interesting remarks made on the “privileged” issue. Some, for instance, saw an obligation by National Societies, in keeping with the Fundamental Principle of Neutrality, to eschew more public forms of advocacy. They felt National Societies should provide their States with confidential advice on humanitarian matters similar to that provided by lawyers in a privileged “solicitor-client” relationship.

Mr. George Weber provided some very valuable insights born of long experience. He served as a Secretary General for both the Canadian Red Cross and for the International Federation of Red Cross and Red Crescent Societies and holds the distinguished title of “Secretary General Emeritus” within the International Movement. Mr. Weber felt strongly that National Societies needed a “privileged” relationship with States in order to be able to leverage action on humanitarian issues. He added that a “privileged” relationship was, like the auxiliary role, a means to an end and not an end in itself. In other words, National Societies and States needed a privileged relationship only for the purposes of better assisting the most vulnerable, and not as a means of setting the National Society above other actors in the humanitarian field. Mr. Weber also said he felt the word “partnership” was inappropriate in the working definition. He said “partnership” implies a level of equality that does not exist between States and National Societies and that a “privileged relationship” better characterized the situation.

Others seemed to link the auxiliary relationship with a measure of undesirable exclusivity. Grace Getty in Fredericton said that many see the Canadian Red Cross as a “super NGO” and that the Society must demonstrate diplomacy and sensitivity. “*Partner more with NGO’s,*” she said, “*don’t see them as less than you are.*” Dan Hefke, Chief, Disaster Management Ontario, also saw the need for his organization to strengthen the relationship with the Canadian Red Cross and others. But he was concerned about generating needless friction and resentment among other voluntary organizations around the auxiliary issue. Speaking from the perspective of a public authority, he noted: “*We need other partners; we can’t alienate St. John Ambulance or the Mennonite Disaster Service.*”

In Montreal, participants recognized that a clearly defined auxiliary role increases the Society’s capacity for action throughout the entire province of Quebec. This makes the Canadian Red Cross an important and privileged partner, but not necessarily unique. Participants acknowledged that the operating environment must allow for potential partners. For many, the Society’s role as auxiliary means that the organization must fill humanitarian gaps and not duplicate what is already being done. Many felt that the Society should not operate in competitive areas, but rather focus on meeting the needs of the most vulnerable that are not being met.

It is clear there are many perspectives on the auxiliary concept within the voluntary sector. One of the most interesting presentations on this subject was provided in Ottawa by Mr. Paul Migus, former CEO of St. John Ambulance. Mr. Migus drew attention to the fact that St. John Ambulance believes it also has an auxiliary role. He cited the fact that an Act of Parliament established St. John Ambulance in Canada in 1914 and “*also envisioned an auxiliary role to government to be played by our organization.*” He noted some fascinating historical information, observing, for instance, that during the First World War the letterhead of the St. John Brigade in Canada bore the sub-heading “*A part of the Red Cross Organization of the British Empire.*” He also commented that during the Second World War, both the Canadian Red Cross and St. John Ambulance had a Joint Management Board which was established by Privy Council Order in 1943.

Still, there are a couple of subtle differences worth noting in terms of how the two organizations came into being and how they function in relation to government. It would appear that the Act of Parliament that created St. John Ambulance was a “private bill” which was a common means of establishing charitable bodies and even private corporations at the time. *The Canadian Red Cross Society Act, 1909* is, on the other hand, part of the body of public law. The reason for this may have been a desire by the Government of Canada to help fulfill British treaty obligations under the Geneva Convention of 1863 as they applied to Canada. In addition, it would seem that the auxiliary role of St. John Ambulance was restricted to wartime. By comparison, a 1919 amendment to *The Canadian Red Cross Society Act, 1909* specifically states that “*The purposes of the Society shall be: In time of peace or war to carry on and assist in work for the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.*” All of this is to say that there can in fact be different types of auxiliary relationships.

The next key component of the working definition speaks to the issue of “mutual responsibilities and benefits.” “Mutual responsibilities” touches upon what has been referred to within the International Movement as the characteristics of a balanced relationship. Many participants spoke about the need for mutual respect and mutual support, information sharing, building trust, proactive and meaningful dialogue, and a recognition of each other’s strengths, weakness and constraints. The last point – constraints – is particularly important for an organization like the Canadian Red Cross. A balanced relationship means that a National Society has an obligation to treat very seriously every request coming from a public authority. At the same time, the public authority must understand and respect the Fundamental Principles that the National Society operates under and not make a request that would violate those principles.

In terms of benefits, Mr. John Ashe, Manager of the Office of Emergency Management for the City of Ottawa, provided a good summary of the benefits which he believes flow to public authorities from a close relationship with the Canadian Red Cross. At the top of the list were the ability of the Canadian Red Cross to train, mobilize and deploy

volunteers quickly, the fact that it is non-faith based, its autonomy from government and its willingness to share knowledge and expertise.

At the Winnipeg consultation, Mr. Gerry Delorme, Director of the Office of Disaster Management, Manitoba Health, offered similar comments. He spoke of the benefits of close collaboration with an organization that is national in scope with strong representation across Canada but one that also has a community focus and presence. He also noted the large network of trained volunteers, other resources and the Society's strong relations with all levels of government. Mr. Delorme ventured to say that, from his perspective, the benefits to the Canadian Red Cross were having more formal mechanisms for information sharing and collaboration and more efficient and coordinated programs, including more informed decisions on program priorities as well as memoranda of understanding that facilitate early planning. The internal Ottawa meeting suggested that the benefits to governments were that the Society brings legitimacy, resources, visibility, scope and "gravitas" to its work.

The next component of the working definition relates to a partnership "*in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services.*" Most participants readily acknowledged that this part of the working definition is absolutely critical to a proper understanding of the auxiliary role. Of course, the Canadian Red Cross can speculate on what areas it considers auxiliary and public authorities can similarly identify their own list of existing auxiliary functions for the National Society. However, under the existing working definition, unless there is agreement between the two on what is and is not an auxiliary role, no such role or relationship exists. It is this element of reciprocity which is the *sine qua non* of the relationship.

Some of the workshops at the meeting in Toronto produced interesting comments on "operationalizing" the working definition. The emergency management discussion group, which was comprised almost exclusively of provincial government representatives, expressed the intention of forming a working group to further discuss and define potential



auxiliary roles. Representatives of various Ontario provincial ministries also suggested that the Canadian Red Cross develop a strategic plan with each level of government to identify functions and services which it would consider auxiliary. They said the Society should “*focus on a few,*” demonstrate capacity and sustainability, particularly during complex and protracted events, and deliver on the commitments made. All agreed that a revitalized role and stronger relationships would lead to enhanced coordination.

Some discussion was also generated around the portion of the working definition in which “*the National Society **supplements or substitutes** public humanitarian services.*” In regard to “substituting” public humanitarian services, some concerns were raised both inside and outside the Canadian Red Cross about the Society being put “*on the hook*” for roles which are traditionally the responsibility of government. In Charlottetown, Corinne Boswell, Coordinator for Infection Control in the Department of Health for Prince Edward Island, cautioned governments not to use the Canadian Red Cross as a substitute. “*Government,*” she said, “*can’t shirk its responsibilities.*” The internal meeting in Hamilton expressed similar sentiments – that an auxiliary relationship may encourage an “*off-loading*” of government services with no resources. In Fredericton, Randy Dickinson said the Society must ensure it does not allow itself to be taken advantage of in a “*slave labour*” type of voluntarism. He suggested a demand/response model whereby funds are requested for specific auxiliary roles and plans of action, allowing the Canadian Red Cross to build capacity consistent with its mandate.

The final part of the working definition which references the Fundamental Principles of the Red Cross also produced some lively discussion. It required participants to focus on the meaning of individual principles such as Independence, Neutrality and Impartiality, and raised both philosophical and operational issues around the question of a balanced relationship. Mr. Mike Kaminski in Regina urged the Canadian Red Cross to protect its reputation and image and cautioned against too close an association with government. This view was also shared by Grace Getty in Fredericton who argued strongly against a stronger auxiliary relationship with governments. She also submitted that in her view the idea of an “*independent auxiliary*” was “*an oxymoron.*”



### **Auxiliary Role Consultation Meeting – Ottawa**

Some others in Fredericton wondered if the term auxiliary could be replaced with something else. Professor van den Hoonaard of the Department of Sociology at the University of New Brunswick preferred the term “*associated autonomously with relevant government authorities.*” Some felt they could support the idea of a “privileged/unique” relationship with government, but that use of the word auxiliary added unnecessary complexity and appeared to be “at odds” with the principles of Independence and Neutrality. At least one person speculated about whether the driver for the auxiliary role issue was financial and asked: “*Is this a cash grab because of scarce resources?*” While there were those who were suspicious of closer relations with governments, many more saw the need to work more collaboratively with public authorities for the Society to properly discharge its mandate. A common view which found expression at almost every meeting was that the Fundamental Principles must continue to guide the Canadian Red Cross in decision making. As one speaker in Charlottetown said, the Society must “*act with vigilance to respect and practice the principles of neutrality and independence.*”

On the specific question of the advantages and disadvantages of a clear definition of the auxiliary role, there was general agreement that the advantages of a more precise definition outweighed the disadvantages. Importantly, the working definition was seen as broadly worded enough to guide the formulation and identification of auxiliary roles. The internal meeting in Hamilton, for instance, said a better domestic definition could offer clarity to the Canadian Red Cross as well as other NGO’s and governments on who does

what with a view to reducing overlap and duplication. A premium was placed on flexible instruments (especially at other levels of government) to recognize auxiliaryity such as memoranda of understanding to address the specifics of an auxiliary relationship.

Reference was made to a number of such MOU's in Ontario between the Society and municipalities with the suggestion that perhaps the Canadian Red Cross should examine standardized language or model agreements. A common view expressed was the need to avoid being overly specific and "hand-cuffing" or constraining either the Society or the public authority.

In summary, while there was not unanimity, there was a broad consensus in support of the working definition of the auxiliary role offered by the International Movement. The same applied to the need to define auxiliary roles more clearly on a domestic level, but not to be too specific or too restrictive and to use instruments that provide for optimal flexibility. There was also a general agreement on the various components of the working definition, including the phrase "a privileged/unique partnership." Nevertheless, the use of the word "partnership" may not, as noted by Mr. George Weber, be the most appropriate term to use. Instead, as he suggests, "relationship" may be the best way to characterize the connection, at least in part because "partnership" has a specific meaning in the laws of many countries. It can, for instance, be problematic from the standpoint of legal obligations and liabilities.



**Auxiliary Role Consultation Meeting – Montreal**

**RECOMMENDATION:**

**That at the International Conference of the Red Cross and Red Crescent, the Canadian Government and the Canadian Red Cross support an amended working definition of the auxiliary role that reads as follows:**

*“A privileged/unique **relationship**, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services. The National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental Principles and with its other obligations under the Statutes of the International Red Cross and Red Crescent Movement as agreed by States in the International Conference of the Red Cross and Red Crescent.”*

## Defining the Auxiliary Role – At Which Level(s) of Government?

**Question Three: “In your experience, is there a need to define and enshrine the auxiliary role just at the federal level or at each level of government?”**

When retired Chief Justice Clarke was asked at the Halifax meeting to comment on whether or not a solid understanding of Canadian Red Cross programs and services existed among governments and other stakeholders, he said that was why “*It makes it even more essential to enshrine and clarify the auxiliary role.*” While this particular question did not elicit the volume of comment that others did, there were some important observations submitted which might help guide future decision making on how best to construct both the “framework for cooperation” and the “instruments of cooperation” on the auxiliary role. There was a general understanding that the auxiliary concept and specific auxiliary roles need to be better communicated at every level of government and with multiple agencies within those governments. There was also a recognition that, at the national level, the federal government had a specific responsibility, at the very least, to review the existing legal foundation of the Society to determine whether or not it meets current needs so as to allow it and other levels of government to better operationalize existing and future auxiliary roles.

At the Charlottetown meeting, one participant conveyed the views of many with the suggestion that a framework for cooperation should begin with the Fundamental Principles and federal legislation to “*give it (auxiliary) the force of law.*” Provinces, territories and municipalities could then use other instruments such as memoranda of understanding to reflect interests and priorities at those levels. External stakeholders were particularly interested in standard language for agreements that could be tailored to an auxiliary role in a specific area. They saw potential benefits to clarifying respective responsibilities, expectations and accountabilities; responsiveness to jurisdiction and division of powers; better planning; and a more managed approach to the use of scarce resources. At the Calgary meeting, one participant observed that “*Working together to*

*avoid duplication of services and to determine where additional or enhanced services are required and who could best provide them would be of benefit to all partners and ultimately the citizens served.”* However, there were also a few sceptics at the Calgary meeting on the subject of recognizing the auxiliary role below the federal level. One person noted that most provincial and municipal governments do not even know the Society has an auxiliary role *“and even when they find out, it makes no difference to them.”*

Operationalizing the auxiliary role was definitely not seen as a “one size fits all” proposition. While it was suggested that the Canadian Red Cross would likely have to discuss auxiliary roles individually with each province to determine priorities and needs, Dr. Isaac Sobel in Iqaluit offered another approach for the Canadian Red Cross in working with the territories. Since the three territories are cooperating on a wide range of issues, he recommended that the Society approach all three territories concurrently. Dr. Sobel seemed enthusiastic about the possibilities for a larger presence for the Canadian Red Cross in the North, but regretted that the Society thus far at least had been *“absent from the process.”*

If the public consultations demonstrated anything, it is that much more work needs to be done at the provincial, territorial and municipal levels to raise awareness of the auxiliary role and then to work toward some type of more formal recognition. The general opinion expressed during the consultations was that legislation is probably not required or even desirable at the provincial level. However, resolutions sponsored by provincial legislatures coupled with resolutions from municipal councils could certainly go a long way toward ensuring that the auxiliary concept (and all that it entails) becomes entrenched and ingrained among public authorities at all levels. As well, formal memoranda of understanding between the Canadian Red Cross and provincial and municipal authorities may provide another tool or instrument of cooperation to further enhance the overall framework for cooperation. Potential points of contact to further the relationship could be the Federation of Canadian Municipalities and the next federal-

provincial-territorial meeting of ministers responsible for emergency management and/or health.

## **Protecting the Red Cross Emblem – Who Should Do What?**

**Question Four: According to the Geneva Conventions, the ICRC, International Federation of Red Cross and Red Crescent Societies, National Societies and the medical services of the armed forces are exclusively entitled, in certain conditions, to use the emblems. What do you consider to be the respective roles of the federal government and Canadian Red Cross regarding emblem protection?**

Holding public consultations on the auxiliary role of the Canadian Red Cross without any reference to the red cross emblem would, to say the least, constitute a rather significant omission. As noted in the preamble to the question, under the Geneva Conventions the emblem is shared between the various components of the International Movement and States through the medical services of armed forces. As we have seen, there is a strong link between the joint responsibilities that National Societies and States have to both promote IHL and protect the red cross emblem from misuse by unauthorized persons. In fact, so strong is the connection that many consultation participants had no difficulty seeing IHL promotion and emblem protection as an auxiliary role. The issue of emblem protection is a complex one. The discussion paper, executive summary and introductory presentation at each meeting sought to provide sufficient information – both before and during the consultation – to allow meeting participants to form opinions based upon a general understanding of the problem. Certainly, by the end of the consultations most participants had a fairly solid grasp of the issue.

The power of the red cross emblem and the Fundamental Principles was acknowledged by all participants. Deanna Power, a 19-year old Red Cross youth volunteer from St. John's perhaps best captured the idealism that permeates the International Movement when she spoke of the great sense of pride she and her Red Cross colleagues feel when they wear the emblem, and she called on the Canadian Red Cross "*to protect it at all*

costs.” *“Imagine,”* she added, *“a world that embraced the Fundamental Principles.”* Others also drew a strong connection between the emblem and the Fundamental Principles. At the internal meeting in Regina, Joe Roll, a volunteer lodging coordinator, said that *“the emblem means nothing if the principles are compromised.”* On a more operational level, Rona Khan, a Legal Officer with the United Nations High Commissioner for Refugees, told the Toronto meeting: *“Regardless of language, asylum seekers recognize the emblem as a source of assistance and protection.”*

Over the course of the consultation meetings and discussion groups, a number of misconceptions about the emblem were addressed. For instance, many Red Cross volunteers and staff were rather shocked to learn that the Canadian Red Cross does not “own” the red cross emblem in Canada. As a signatory to the Geneva Conventions, it is the Government of Canada that grants the Canadian Red Cross the right to use the emblem. Very few were aware that the red cross in Canada was not a “copyrighted” mark, but rather a “prohibited” mark with the same protected status in law as the Royal Arms, Crest and Standard, the flag of any province or territory, and the emblem of the United Nations.

There was a widespread recognition of the problem that emblem misuse causes by undermining the protective value of the emblem under international law, not just for humanitarian workers but also for the medical services of armed forces. Also recognized was the fact that misuse undermines an important “brand” under which National Societies and the International Movement carry out their humanitarian work. Some also noted that the amount and type of misuse (especially that which has been seen recently on the Internet) has a corrosive effect on the stature of the National Society. A common view was that whenever there is a use of the red cross outside of what is authorized by law, there is an erosion of its meaning and all that it represents. As one participant to the Halifax meeting said: *“The more misuse, the more the emblem loses respect.”*

At each of the meetings, once the nature of the emblem misuse problem and the issue of “control/ownership” were understood, the broad brush strokes of a consensus on how



best to protect it began to emerge. Not surprisingly, participants were very reluctant to put the full onus of emblem protection on the federal government. There was general agreement that the Canadian Red Cross and the Government of Canada both had important roles to play. Most saw the Society as being “the custodian” of the emblem with attendant responsibilities to educate, promote and protect. On the issue of education, an interesting comment was made at the Vancouver internal meeting. One participant felt that the federal government should not play a role in education and that it should be the exclusive domain of the Canadian Red Cross. The rationale: “*don’t confuse Canadians who believe the emblem belongs to the Society.*” Considerable faith was expressed in the value of education as a means to solve the problem. As the Winnipeg meeting was told: “*If Canadians understood the value of the emblem, what it signifies and the protection it offers, the abuse would diminish.*” Canadian Red Cross staff with experience in emblem protection were very supportive of that view.



**Auxiliary Role Consultation Meeting – Winnipeg**

If education was seen as the Society’s role, enforcement was regarded as the federal government’s responsibility. Many participants – both inside and outside the Society – could not see the Canadian Red Cross as “enforcer.” The prevailing view, based upon “legal ownership” of the emblem and the lack of Canadian Red Cross resources to pursue litigation, was that this duty most properly resided with the federal government. There was also a strong disinclination expressed at many meetings to use donated funds to

prosecute emblem misusers in the court system.<sup>11</sup> While there was disappointment that the federal government over the years had not been more proactive on emblem protection, there was also a measure of realism and resignation, as expressed at the Fredericton meeting by a speaker who lamented that “*It (the emblem) matters more to us than to government.*”

Inasmuch as there was criticism of the Government of Canada for its lack of interest in the emblem, there were also words of disapproval for the Canadian Red Cross. Even though the Society has stepped up its emblem education and protection efforts in recent years, concerns were expressed about how the emblem was used within the Canadian Red Cross in marketing and advertising campaigns. The Charlottetown meeting cited the example of the emblem being used as a clock and compass to reinforce the message that the Red Cross was available “*Anytime. Anywhere.*” This led one participant to ask: “*If you’re not willing to protect the emblem, why should the federal government?*” While this comment may have been somewhat harsh, it did drive home the point that the Canadian Red Cross must lead by example. At many meetings, the view was clearly expressed that the Society must maintain and uphold rigorous internal policies on the use of the emblem in signage, advertising, promotional material, fundraising campaigns and with our corporate partners. “*Protection,*” as one participant noted, “*starts at home.*”

To summarize, there was a clear consensus on the need for joint responsibility and collaboration in protecting the emblem. Indeed, many felt that it was an excellent example of a specific auxiliary role.<sup>12</sup> The general view expressed was that the bulk of responsibility for emblem protection should continue to reside with the Canadian Red Cross through its education efforts. However, there was also a view that the Government of Canada had to accept its responsibilities in those very few instances where an individual or company appropriated the emblem for their own purposes and simply refused to obey the law. Finally, those more familiar with this issue (especially zone

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<sup>11</sup>It should be noted that the Canadian Red Cross has used litigation very sparingly. The last emblem misuse case, which was heard in the Federal Court, involved a company called Kitcare.

<sup>12</sup>One participant at the internal meeting in St. John’s approached the matter in a rather novel fashion, suggesting that emblem protection was an area where the Government of Canada could serve in an auxiliary role to the Canadian Red Cross.

public affairs personnel) were quick to point out that clarifying roles and responsibilities as well as setting up better procedures to deal with emblem misuse internally and externally should be a priority.

#### **RECOMMENDATION:**

##### **That the Government of Canada and the Canadian Red Cross undertake**

*“To renew the framework for cooperation between the Government of Canada and the Canadian Red Cross to better address the humanitarian challenges of the 21<sup>st</sup> century by assessing the roles and responsibilities pertaining to the protection of the Movement emblems as contained in the Geneva Conventions and their Additional Protocols.”*

#### **The Fundamental Principles and Canadian Values**

**Question Five: How do the Fundamental Principles of the Movement relate to Canadians and Canadian values?**

It was deemed important to ask Question Five to probe the level of comfort Canadians have with the Fundamental Principles of the International Red Cross and Red Crescent Movement as a gauge of public support for Red Cross auxiliary. Importantly, this question requires the person responding to, firstly, understand the Fundamental Principles, and secondly, assess whether or not there is anything in those principles that could be construed as intrinsically problematic from the standpoint of the Canadian value system. The approach on the basis of principles was considered to be more probing than simply asking whether or not a person supported the Canadian Red Cross. As well, because the concept of auxiliary is embedded in the Fundamental Principle of Independence, it provides additional context for the discussion. This rationale was well understood by a speaker at the internal meeting in Regina, who said: *“If Canadians value the principles, they will value the institution.”*

At both the internal and external meetings, there was a general consensus that the Red Cross Fundamental Principles are fully concordant with Canadian values and culture. As one of the participants at the Fredericton meeting noted: “*The principles are easy to embrace.*” Another speaker in Charlottetown said: “*The Fundamental Principles attracted me to the Canadian Red Cross as a volunteer; they are so inclusive.*” Many others spoke to the universal and inclusive nature of Fundamental Principles and the fact that they serve as a “*passport*” allowing the Red Cross to bridge political, cultural, religious, racial, ethnic and social divides. And indeed, Nancy Karetak-Lindell, MP for Nunavut, was not the only person to suggest that the Fundamental Principles resonated particularly well with Aboriginal populations. Others made the same observation.

Throughout the consultations, participants demonstrated a very high comfort level with the Fundamental Principles. At the meeting in Halifax, it was suggested they were an asset that could be used in future campaigns to rebuild the volunteer base, especially among youth. And in both St. John’s and Halifax, participants strongly encouraged the Canadian Red Cross to re-engage with youth and the school system to share the Fundamental Principles, the ethic of volunteerism and humanitarianism. Some also saw a strong link between Red Cross and responsibilities of citizenship.

But as with some of the other questions, there were minority voices. Some, for instance, at the Vancouver internal meeting suggested that the Fundamental Principles were a little outdated. They also felt that the Movement was not inclusive enough when it came to acknowledging diversity and non-discrimination on gender and sexual orientation issues. Another felt that the Movement can sometimes be a little too preachy and arrogant and suggested an eighth principle for the Red Cross – “*Humility.*”

If there was one principle during the consultations that seemed to have less support than any of the others, it would be the principle of Neutrality,<sup>13</sup> which is widely regarded as the

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<sup>13</sup> The Principle of Neutrality – “In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.” For an excellent and more thorough discussion of advocacy within the International Red Cross and Red Crescent Movement, see Michael Meyer, “Public Advocacy,” *International Review of the Red Cross*, 1996.

least understood of all the Fundamental Principles. Dr. Ron Stewart, a former Minister of Health for Nova Scotia and Director of the Medical Humanities Program at Dalhousie Medical School, spoke to the issue of neutrality and the role of the Society in disease prevention. His argument was that agencies such as the Red Cross cannot be neutral about health policy. Disease prevention involves legislation, policies and programs. In his view, the Canadian Red Cross has a role to play in policy advocacy. *“Does neutrality mean you never bring up anything controversial?”* he asked. *“CRC should be guided by the principle of the improvement of health and reduction of disease,”* he added.

Whether in the context of the auxiliary role or in a discussion on the Fundamental Principles, much discussion centred on the principle of Independence. In Montreal, emphasis was placed on the fact that, when acting in an auxiliary capacity, special attention must be paid to scrupulously maintaining independence. Not only must it be maintained, it must appear to be maintained.

Mr. Frédéric Gouin, a lawyer and former ICRC delegate, drew on his experience to note that certain National Societies that are too close to their government are perceived as being associated with a particular regime. He told the Montreal meeting that this becomes especially problematic at the operational level during conflicts or internal tensions. In some cases as well, the National Society’s budget is dictated by the government thus drawing the Society into the realm of politics. A National Society that is too institutionally close to its Government, he said, will encounter problems in the long term. Mr. Gouin concluded by underlining the importance of neutrality and independence, stating: *“It is independence that enables the Red Cross to be auxiliary.”* Another participant at that meeting observed that the auxiliary partnership may be viewed as *“a concerted strategy rather than a common policy with the Government.”*

Perhaps one of the most interesting comments on the Fundamental Principles was an observation made by a participant in Charlottetown about how successful the International Red Cross and Red Crescent Movement had been in ensuring that the

principles and the mission statement had been inculcated at every level of the organization. This was certainly in evidence at many of the internal meetings, where both Society staff and volunteers spoke of using the Fundamental Principles as a test or filter for making program decisions on a daily basis and as tools to foster and maintain working partnerships and relationships. For an organization like the Red Cross this is not a “nice to do,” but a “must do.” As Professor Ivaylo Grouev of the University of Ottawa said, “*The credibility of National Societies is entirely dependent on their adherence to their core Fundamental Principles.*” He saw the Fundamental Principles as the ethical and moral base for National Societies.

## **PART III**

### **The Legal Foundation – A Key Instrument of Cooperation**

The funding agreement for the Auxiliary Role Project between the Society and Public Safety Canada authorized a “*wide-ranging public consultation on the status/future of the Recipient as ‘auxiliary to public authorities’ and possible legislative changes to the existing legal framework of The Canadian Red Cross Society in accordance with the work plan.*” One of the objectives of the consultation was to discuss the need to update the Society’s legal basis as contained in *The Canadian Red Cross Society Act, 1909* and the *Letters Patent, 1970*. And indeed, at almost every meeting, both internal and external, the issue of legislative change was raised.



**Auxiliary Role Consultation Meeting – Fredericton**

A number of participants expressed the view that the Society needed a legislative foundation relevant to the 21<sup>st</sup> century. Comments were also made about antiquated provisions such as the reference to the Boer War, the Department of Militia and the penalties in the Act that involve incarceration for misuse of the emblem to mention just a few. Better emblem protection measures were also the subject of discussion as were reporting relationships. Some very constructive legislative suggestions came from the Honourable Keith Martin, MP for Esquimault–Juan de Fuca. He proposed the inclusion

of a number of elements, including mention of the Fundamental Principles and the Society's auxiliary status as well as ongoing and predictable base funding and provision for cost recovery when responding to government requests for assistance. He saw the need for emblem protection under the Criminal Code or patent protection laws and suggested that the Society provide an annual report to Parliament through the ministers of Public Safety, Health and National Defence.

Because the issue of legislative renewal forms an important component of the future vision for the Canadian Red Cross and is also referenced in the funding agreement, it was deemed necessary in this report to share some additional research to provide context on the issue of statutory change with a view to informing discussion both before and after the International Conference.

### **The Question of Auxiliary Status – Background**

An important issue which underlies the auxiliary role of the Red Cross is the question of the legal recognition of the auxiliary status of a National Society by its State. The recognition of this status may seem like a relatively simple pre-condition for the acceptance of a National Society into the International Movement. However, legal research conducted as part of the Auxiliary Role Project indicates that the recognition of the auxiliary status of the Canadian Red Cross is anything but simple or straightforward. The provisions within *The Canadian Red Cross Society Act, 1909*, the *Letters Patent, 1970*, and the subsequent amendments to both point to a recognition status that is at the very least convoluted and complex.

Historically, the ICRC has had the responsibility of recognizing National Societies for the purpose of admission into the International Red Cross and Red Crescent Movement. This process of recognition has evolved from an informal list of conditions to a considerably more formal approach. At the Karlsruhe Conference in 1896, for instance, an unofficial list of twelve conditions was published, but these had no legal standing and were largely internal to the ICRC. The third condition of recognition within the 1896 document



dealing with the auxiliary status of the National Society states that it must “*be recognized by the government as auxiliary to the medical services of the armed forces.*”

Until 1948, no official text had defined the conditions of recognition. In 1948, however, these twelve Karlsruhe conditions were reformatted into ten and were adopted by the XVIIth International Conference of the Red Cross attended by National Societies and State Parties to the Geneva Conventions. In 1949, the Conference decided that this condition of recognition would be changed so that a National Society had to

be duly recognised by a legal Government as a voluntary aid society auxiliary to public authorities, and in particular as provided in Article 10 of the Geneva Conventions and, in States which do not possess armed forces, as a voluntary aid Society, auxiliary to the public authorities, exercising its activities in favour of the civilian population.

The conditions underwent further minor modifications in 1986 at the XXVth International Conference. The current wording as established by Article 4.3 of the *Statutes of the Movement* states that a National Society must

Be duly recognized by the legal government of its country on the basis of the Geneva Conventions and of the national legislation as a voluntary aid society, auxiliary to the public authorities in the humanitarian field.

The ICRC has been somewhat flexible and pragmatic when it comes to recognizing what constitutes auxiliary status. Although article 4.3 requires that this be done “on the basis of national legislation,” the ICRC has in some circumstances accepted other types of declarations as sufficient to establish recognition. Nevertheless, there is very strong encouragement within the International Movement to have States provide recognition of auxiliary status which is clear, unambiguous and supported by national legislation. Having formal legal recognition sends a strong message about the role and relationship of National Societies to their public authorities.

## Founding and Recognition of the Canadian Red Cross

In 1896, Dr. George Sterling Ryerson founded the first overseas branch of the British Red Cross, which later became the Canadian Red Cross. In 1909, an Act of Parliament was passed to incorporate the Canadian Red Cross even though the Society remained an “*affiliate*” of the British Red Cross. The initial aims of the Society, as stated in the Act, were

- (1) To furnish volunteer aid to the sick and wounded of armies in time of war, in accordance with the spirit and conditions of the conference of Geneva of October, 1863, and also of the treaty of the Red Cross or the treaty of Geneva of August twenty-second, 1864, to which Great Britain has given its adhesion;
- (2) To perform all the duties devolved upon a national society by each nation which has acceded to said treaty, but in affiliation with the British Red Cross Society;
- 3) To succeed to and take over all the rights and property heretofore or now held and enjoyed by and all the duties heretofore performed by the unincorporated association known as The Canadian Red Cross Society.

In 1919, the Act was amended to include an important fourth subsection to Section 2, giving the Society a role in peacetime:

- (4) In time of peace or war to carry on and assist in work for the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

The Balfour Declaration at the British Empire Conference in October 1926 defined the status of Great Britain and its Dominions as “*autonomous communities whose status is equal and are not subordinate to one another in any manner, either in their internal affairs or in their external affairs.*” In view of this new political situation, the ICRC asked the British Red Cross to inform it if the Balfour Declaration changed the situation of Red Cross Societies in the Dominions. The British Red Cross answered in the affirmative. Consequently, the ICRC extended an invitation to the Canadian Red Cross to formally submit a request to be recognized as an independent National Society. In a letter dated May 20, 1927, responding to the ICRC invitation, a Mr. Robertson of the Canadian Red Cross enclosed a certified copy of the resolution from the Minutes of the Executive Committee of the Canadian Red Cross of May 18, 1927, and “*a certified copy of the Act*

*of the Parliament of Canada whereby the Government of Canada has recognized the Canadian Red Cross Society as auxiliary to the Department of National Defence.”* On the basis of this response, the Canadian Red Cross was recognized on November 15, 1927, by the ICRC as an autonomous National Society. The official ICRC notice read as follows:

The Canadian Red Cross ... addressed a formal request to the International committee for recognition accompanied by a copy of its Statutes and a copy of the official Act by which the Canadian Government ‘recognized the Canadian Red Cross as an auxiliary to the Department of National Defence, constituted with the spirit of the Conference of Geneva of 1863 and of the Geneva Convention of 1864’. The statutes of the Society satisfy the fundamental conditions basic to the international institution of the Red Cross.

Notwithstanding Mr. Robertson’s letter or the ICRC response, it is very important to note that the language of *The Canadian Red Cross Society Act, 1909* does not explicitly “*recognize the Canadian Red Cross Society as auxiliary to the Department of Defence*” in those terms. Rather, such recognition may have been implied by jointly reading sections 2.2, 3.3 and 7 of the Act. These three sections respectively authorize and mandate the Society to perform in Canada all the duties devolved upon a National Society by the Conference of Geneva of 1863 and the Geneva Convention of 1864. Under Section 7, a reporting obligation with the Minister of Militia and Defence is established. This outline of what may be called the auxiliary role was, it would seem, interpreted by the ICRC as sufficiently fulfilling the condition that the National Society must be auxiliary to the medical services of the armed forces, even though there was no specific mention of such.

### ***Letters Patent, 1970***

In 1970, the Canadian Red Cross was continued pursuant to Part III of the *Canada Corporations Act*. This decision was taken in part because modifying *The Canadian Red Cross Society Act, 1909* to deal with “technical housekeeping issues” such as the size and responsibilities of the governing board was becoming increasingly difficult and cumbersome. This new arrangement promised to simplify things. Consequently, the

Canadian Red Cross made an application pursuant to Part III of the Act and received *Letters Patent* on November 6, 1970. The *Letters Patent* meant that all the sections which dealt with the legal personality of the Society as well as the Society's corporate structure were superseded by the provisions of the *Canada Corporations Act*. Importantly, however, *The Canadian Red Cross Society Act, 1909* was not repealed. It remained in force for all the other provisions and most notably those dealing with the use and the protection of the red cross emblem.

Historically *Letters Patent* were open letters issued by the monarch granting a right, monopoly, title or status to a person or corporation. Under the *Canada Corporations Act* they are the instrument through which a corporation with its own distinct legal personality is created. However, the question of whether *Letters Patent* are an appropriate instrument for recognizing a National Society such as the Canadian Red Cross in its role as “*auxiliary to government in the humanitarian field*” is debatable. Procedurally, an individual or a corporation applies for *Letters Patent* by providing the Minister with the desired content. Article 9.1(a) of the *Canada Corporations Act* states:

- (1) Before the letters patent are issued the applicants shall establish to the satisfaction of the Minister
  - (a) the sufficiency of the application and the truth and sufficiency of the facts therein set forth.

At the time the Canadian Red Cross's *Letters Patent* came into effect, they made no mention of the auxiliary status of the Society. They also did not contain another important obligation placed on National Societies, which was to “prepare in times of peace for the tasks incumbent in time of war.” The National Planning and Review Committee of the Canadian Red Cross discussed the first matter – auxiliary status – and in April, 1983 decided to apply for *Supplementary Letters Patent* changing the Society's aims in Section 3 of the existing document. The new section states:

The Canadian Red Cross Society is officially recognized by the government as a voluntary relief society, auxiliary to the public authorities, and particularly to the medical services of the Armed Forces, in accordance with the provisions of the First Geneva Convention and as the only National Red Cross Society which may carry out activities in Canadian territory.

The application was submitted on June 27, 1983, to the Minister of Consumer and Corporate Affairs and *Supplementary Letters Patent* were issued making the proposed change.

There are a number of issues raised by the *Supplementary Letters Patent*. It would appear that the Canadian Red Cross applied for this instrument to address what it considered to be a lack of formal legal recognition of its auxiliary role within *The Canadian Red Cross Society Act, 1909* and the original *Letters Patent, 1970*. It seems a safe assumption that the Society would not have made the 1983 application had it been satisfied that the 1909 Act had sufficiently addressed the matter of auxiliary status. That the Minister of Consumer and Corporate Affairs acquiesced to this recognition raises another interesting question about whether this Minister had the legal authority to recognize an auxiliary organization in the humanitarian field. Also, the purpose of *Letters Patent* pursuant to Section Four of the *Canada Corporations Act* is to create “*a body corporate and politic for any of the objects to which the legislative authority of the Parliament of Canada extends.*” As a legal tool for domestic corporate governance, it would also seem that *Letters Patent* are particularly ill suited as an instrument to officially accord a special status which exists in international law to a non-profit corporation such as the Canadian Red Cross. On a broader level, one might also ask whether the declaration of auxiliary status that appears in the *Letters Patent* can constitute an official recognition on behalf of the Government of Canada.

Despite the legal complexities surrounding auxiliary status for the Canadian Red Cross and the many questions that arise, the fact remains that 80 years ago the ICRC recognized the Canadian Red Cross as a National Society. It has unquestionably functioned as such for almost a century – first as an affiliate of the British Red Cross and then after 1927 as a fully independent National Society. Whether or not the Canadian Red Cross strictly meets all of the requirements as established by Article 4.3 of the Statutes of the Movement is a moot point probably requiring more research and analysis. Although understanding the past is instructive, what is more important is what lies ahead. There can be little doubt that a clear, unequivocal legislative provision recognizing the auxiliary

status of the Canadian Red Cross would put to rest any lingering doubts on the issue and help facilitate operationalizing specific auxiliary roles.

## **A New Canadian Red Cross Act**

A new statute for the Canadian Red Cross is not something that is being exclusively pursued by the Society as an isolated issue separate from the rest of the International Red Cross and Red Crescent Movement. For a number of years, International Conferences sponsored by the Movement have been addressing the issue of the legal foundations of National Societies. These legal bases consist of National Society statutes (or bylaws) and the public law or Charter recognizing the Society pursuant to the Statutes of the Movement. In recent years, National Societies have been strongly encouraged to re-examine and update their legal foundations in conjunction with States. Consequently, the Movement and State Parties to the Geneva Convention, including Canada, assembled at the XXVIIth International Conference of the Red Cross and Red Crescent and gave National Societies the following mandate:

National Societies, in order to ensure their capacity to respond more effectively to new challenges, will:

(b) **review their legal base and statutes** [author's emphasis] to determine whether they need to be updated. As part of this process they will consider the draft model law<sup>14</sup> prepared by the International Federation and the ICRC, the guidelines for National Society statutes and other relevant decisions of Movement and International Federation statutory bodies.

In Canada, of course, *The Canadian Red Cross Society Act of 1909* is nearing its centennial. The most recent change to the Act was in June 2007 to reflect the addition of the new red crystal emblem under the provisions of the Third Additional Protocol to the Geneva Conventions. Prior to that, it had been last amended in 1950. The relationship between the Act, the *Letters Patent of 1970* and the Society's bylaws are often unclear. The Act also does not contain all of the provisions required by international law and the Statutes of the Movement. This puts the Government of Canada and the Canadian Red Cross in the position of having a legal framework that is among the most antiquated in

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<sup>14</sup> See Appendix C for a copy of the International Federation's draft model law.

the world. Indeed, comparable National Societies such as the British Red Cross, the Australian Red Cross and the American Red Cross have legal bases which were updated by their governments respectively in 2003, 2005 and 2007. In 2006, the Canadian Red Cross did its part to answer the International Movement's call to update the legal base of National Societies by adopting new corporate governance bylaws in full compliance with the Movement's guidelines. However, the active involvement of the federal government is now required to update the other half of the National Society's legal foundation.

On a practical note, some have asked if the current situation prevents the Society from carrying out its activities. Clearly, the answer is "no" – nothing in the current Act prevents the Society from fulfilling its humanitarian tasks. However, an unbending attachment to the status quo fails to grasp the advantages new legislation offers in terms of re-invigorating and renewing the mandate of a great national humanitarian institution that is part of an even greater international humanitarian organization.

A new Canadian Red Cross Act could revitalize the relationship the Society has with public authorities in the context of a better defined and operationalized auxiliary role. As noted above, this is not an end in itself. It is a means to the end of ensuring the Society is equipped – based upon closer cooperation with governments – to assist the most vulnerable in the context of increasingly complex humanitarian challenges. A new statute could also help the people of Canada better understand today's Canadian Red Cross – what it is, what it does, what it believes and what it hopes to do. In essence, the Canadian Red Cross holds that the current Act is no longer adequate and that a relevant legislative foundation for the Society is long overdue. Also, because the Society's legal basis is so antiquated compared with that of other countries, this is an occasion for Canada not only to catch up to the rest of the world on issues of statute revision, the auxiliary role and National Society–State collaboration, but to move into a position of leadership.

**RECOMMENDATION:**

**That the Government of Canada and the Canadian Red Cross undertake**

*“To renew the framework for cooperation between the Government of Canada and the Canadian Red Cross to better address the humanitarian challenges of the 21<sup>st</sup> century by reviewing the legal and administrative instruments supporting the relationship.”*



## **PART IV**

### **Summary and Conclusion**

The Auxiliary Role Project, especially through the initial public consultation phase, was an unprecedented initiative for the Canadian Red Cross. Never before has the organization brought together representatives of public authorities, other stakeholders such as NGO's, academics and interested members of the public to discuss an important aspect of the Society's mandate in an open forum. The Canadian Red Cross was always convinced of the importance of reaching out beyond the Society to engage others in this dialogue and we were very encouraged by the tremendous enthusiasm many interlocutors brought to the discussion.

It was also gratifying to hear those both outside and inside the organization tell us how much they had learned from the exercise and how very useful they felt it was. In fact, for many Red Cross staff, the consultation resulted in new and "renewed" contacts and requests for further meetings to explore avenues of cooperation. George Weber, former Secretary General of the Canadian Red Cross, offered the view that this was one of the *"most important initiatives the Society had undertaken in the last 20 years."* The value of the discussion was also reflected in the very positive feedback received from participants. Worth mentioning also is that the International Federation of Red Cross and Red Crescent Societies and the ICRC have been following the progress of the Auxiliary Role Project with great interest.

As mentioned in the introduction, the primary purpose of this interim report is to convey what was heard during the public consultations. But it was also intended to inform the discussion among Canadian Red Cross and Canadian government officials at the International Conference, to raise awareness of the auxiliary issue, foster an ongoing dialogue and lay the groundwork for the next phase of the project. A series of recommendations for consideration at the International Conference are included in this interim report. To briefly summarize, they include the need for the federal government

and the Canadian Red Cross to

- work together to reinforce the status and roles of the Canadian Red Cross as auxiliary to public authorities in the humanitarian field;
- review the legal and administrative instruments supporting the relationship; and
- assess the roles and responsibilities pertaining to the protection of the Movement emblems.

In addition, the Canadian Red Cross recommends that the Government of Canada join it in supporting the definition of the auxiliary role as contained in the draft conference resolution with some minor amendments.<sup>15</sup>

To briefly summarize, there were four “key strengths” which were emphasized in meeting after meeting across the country in support of Canadian Red Cross auxiliary. They include

- the Fundamental Principles;
- the ability to mobilize human, financial and materiel resources;
- the broad reach of the Canadian Red Cross nationally and the even broader network that exists through the International Movement;
- the organization’s leadership in fostering an ethic of volunteerism.

While a broad diversity of views was expressed on a variety of issues, it is also possible to identify some general themes which emerged on the basis of particular groups of participants. In terms of public authorities, for instance, great respect was expressed for the Canadian Red Cross and there was a strong recognition of the importance of the public authority/National Society relationship. There was also interest in leveraging the relationship further and in formalizing agreements to facilitate planning and clarify accountabilities. While there was some reluctance in some parts of the country to treat Canadian Red Cross differently from other partners, it is also apparent that in many zones the Society is fulfilling a *de facto* auxiliary role. There was considerable (although not

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<sup>15</sup> See Appendix D for a copy of the draft Conference Resolution. In the working definition of the auxiliary role, the Canadian Red Cross would recommend replacing the word “*specific*” with “*unique/privileged*” and replacing “*partnership*” with “*relationship*.”

universal) interest among public authorities in having the Society undertake more of a coordination role within the voluntary sector.

Among participants from the voluntary sector, there was a general recognition of the Canadian Red Cross as a leader and standard setter. In this respect, considerable interest was expressed in the Society's providing support to others in the sector in the area of core competencies such as training and volunteer recruitment. On auxiliary specifically, most voluntary sector participants were prepared to "listen and learn." Although the Canadian Red Cross is well known to many, the auxiliary concept was unfamiliar ground for the vast majority of consultation participants. Concerns were expressed, which the Society accepts, that auxiliary should convey no special privileges or rights in circumstances where a competitive environment exists for services or programs. With this understood, the general response to auxiliary was "neutral to positive."

Voluntary sector participants displayed a mixed interest in the Canadian Red Cross taking on a coordinating role in the sector. Those with complementary or similar programs and services saw few opportunities, while others involved in emergency management and humanitarian issues programs saw greater potential synergies. There was encouragement for the Society to be more visible and active on policy issues. This last view was generally shared by many academics who spoke at the meetings. They also placed a high value on the Society's independence from government, with many cautioning against too close a relationship with public authorities.

Within the Canadian Red Cross, there were varying views on auxiliary, where it fits into the Society's understanding of the Fundamental Principles, the organizational culture and the mandate to assist the most vulnerable. At every level of the organization, there is a widespread recognition and appreciation of the need for ongoing collaboration with governments involving everything from strategic planning and coordination to the day-to-day operational relationships with provincial, territorial and municipal authorities. Considerable discussion occurred around the Fundamental Principle of Independence and just how close the Society could get to public authorities and still uphold that principle.

The need for caution was also expressed insofar as the public perception of the auxiliary role was concerned. Many staff, volunteers and governance participants were concerned that getting too close to public authorities would give the impression that the Society was government-funded to the detriment to the Society's own fund development efforts.

On the topic of identifying specific auxiliary roles, there was a general consensus that emergency management is currently at the forefront of *de facto* auxiliary roles the Society plays in support of public authorities. The view was also expressed that health programs, elements of injury prevention and many aspects of the humanitarian issues program (IHL dissemination, emblem protection, Restoring Family Links) could be considered as auxiliary. Potential future auxiliary roles were suggested in health care, especially relating to seniors, aboriginal and northern programming, voluntary sector coordination and involvement with the Canadian Forces (medical, welfare).

It is important to strongly emphasize that determining with precision whether an auxiliary role exists between a State and a National Society will be largely dependent upon the definition of auxiliaryity that is agreed upon at the International Conference. Whatever the outcome, it is unlikely the new definition will deviate significantly from the current working definition which speaks to some form of reciprocal partnership or relationship in which *“the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services.”*

During the consultations, there was a general consensus that a clearer definition would promote clarity of respective roles and responsibilities, improve inter-agency planning and coordination, and better use scarce resources. Linked to the definition of auxiliaryity was the question: *“At what level of government should auxiliaryity be enshrined?”* The general view expressed was that it definitely needed to be recognized at the federal level and that some form of recognition would be desirable at the provincial and municipal levels to facilitate operationalizing auxiliaryity through flexible instruments such as memoranda of understanding.

On the issue of emblem protection, very few internal or external stakeholders knew that the Government of Canada has the primary responsibility for control of the red cross emblem in Canada. Still, most meeting participants agreed that the Canadian Red Cross has a primary interest in the emblem and should take the lead in terms of education and promotion and as an initial point of contact in cases of emblem misuse. There was also widespread consensus on the role the federal government needs to play to ensure the proper use of the red cross emblem within government and in taking the appropriate legal action in the small number of cases where companies and individuals refuse to respect existing emblem protection laws. There was also a strong message sent by participants that the Canadian Red Cross needs to set an example by ensuring proper use of the emblem both internally and for marketing purposes.

On the Fundamental Principles, participants felt that they were in full accord with domestic values and culture and in that respect presented no impediment to the acceptance by Canadians of the auxiliary role. As the ethical base for the International Movement and the Canadian Red Cross, the Fundamental Principles were seen as resonating well with youth, aboriginal groups and new immigrants. They were also seen as a “*passport*” allowing the Society to bridge political, cultural, religious, racial, ethnic and social divides. In addition, many comments were made concerning how effective both the International Movement and the Canadian Red Cross have been in ensuring the Fundamental Principles permeated every aspect of the Society’s behaviour and decision making.

The issue of legislative renewal had been raised in the discussion paper “*Toward a Renewed Canadian Red Cross: Forging Stronger Partnerships in Support of a Humanitarian Agenda.*” Consequently, various aspects of statutory change were discussed at virtually every consultation meeting. Most participants saw the Act as a completely outdated legal instrument which no longer meets the 21<sup>st</sup> century needs of the country’s premier humanitarian organization. Most also viewed the possibility of legislative change as a means to give the institution a new lease on life and enable it to re-

engage with governments and Canadians so as to better execute its mission on behalf of the most vulnerable.



**Auxiliary Role Consultation Meeting – Montreal**

## **The Auxiliary Role Project – Next Phase**

Having completed and reported upon the public consultation phase of the Auxiliary Role Project, the immediate next step will involve participation at the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent in Geneva from November 26 to 30, 2007. The Canadian Red Cross delegation will consist of a small group of senior officials and board members. The Canadian Government will be represented by Foreign Affairs department officials from Ottawa and the Canadian mission in Geneva. Other departmental representatives will likely also attend. It is certainly hoped that this document will inform the discussion on the auxiliary role which is one of three major topics to be addressed at the Conference.

The Canadian Red Cross is now seen by many in the International Movement as a leader on the auxiliary role issue. Recently, the Standing Commission of the International Red Cross and Red Crescent Movement invited the President of the Canadian Red Cross, Ms. Jane McGowan, to accept the chairmanship of a commission at the International Conference dealing with the auxiliary role. This is one of three commissions which will be meeting during the International Conference. A resolution on the auxiliary role issue will also be presented at the Conference. The Society expects to actively participate in this discussion. The Canadian Red Cross and the Government of Canada have also jointly accepted an invitation to conduct a workshop at the International Conference on the auxiliary role. At the time of writing, there is also a possibility of a joint Canadian Red Cross–Government of Canada pledge concerning the auxiliary role.

Information gathered at the International Conference will help shape the second phase of the Auxiliary Role Project, especially the direction that will be given through the auxiliary role resolution that emerges from the Conference and, more specifically, the auxiliary role definition. Following up on the Conference, it will be necessary to construct a work plan to

- devise methodologies to support the definition of auxiliary roles at the federal, provincial, territorial and municipal levels

- prepare an inventory of instruments of cooperation and assess strengths, weaknesses and best practices.

It is important to note that this Interim Report will be circulated to key stakeholders such as provincial government ministries and territorial and municipal authorities with a view to eliciting further input and comment on the issue. Also, because the project work plan references “*possible legislative changes to the existing legal framework of the Canadian Red Cross,*” additional legal research will be completed with a view to constructing a suggested draft bill for a new Canadian Red Cross Society Act. In addition to draft legislation, a broad range of recommendations affecting public authorities in Canada and the Canadian Red Cross will be included in the Auxiliary Role Project’s final report.

The purpose of the initial consultation phase of the Auxiliary Role Project and this Interim Report was to hear from Canadians and report on what they had to say about their Red Cross and its future relationships with public authorities. The message received from those who participated was clear: “*Relations with governments are tremendously important, but must be carefully managed to preserve the Red Cross’s independence.*” But there was also a recognition of the need to bring new urgency and new energy to further improve the very complex and extensive web of good relationships that currently exists between the Society and public authorities. As we have seen, governments have a special responsibility in humanitarian affairs which, through auxiliary, is shared with the International Red Cross and Red Crescent Movement.

From its start, the thrust of the Auxiliary Role Project has been to build stronger relationships with governments at all levels to ensure that the Canadian Red Cross is able to execute its mission of providing humanitarian assistance to the most vulnerable. We have an obligation on behalf of those we seek to help, and to our donors, volunteers and staff, to ensure that assistance is delivered in the most efficient and effective manner possible. That means collaboration and cooperation with all our partners in the private, public and voluntary sectors is essential. The overriding objective of the next phase of this project is to ensure the future framework for cooperation with public authorities is



built on a robust foundation of shared values, a shared vision, trust and a continuous dialogue that ensures open and frank communications.



## Appendix A

### Toward A Renewed Canadian Red Cross – Forging Stronger Partnerships In Support Of A Humanitarian Agenda

#### Executive Summary

In 1859, a Swiss businessman traveling through northern Italy witnessed the tragedy of thousands lying wounded and dying following the Battle of Solferino. Recognizing the lack of medical aid for the injured soldiers, Henry Dunant coaxed a small band of volunteers to help him minister to their wounds. Amid the terrible suffering and carnage of Solferino, Dunant could not have predicted that much of the remainder of his life would be devoted to the protection and care of the wounded on the battlefield. His legacy to humankind was twofold: the *Geneva Conventions* and the Red Cross. The former is the cornerstone of international humanitarian law and the latter, now the International Red Cross and Red Crescent Movement (the Movement), numbers almost 100 million volunteers worldwide. The Movement, now the world's largest humanitarian network, includes the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (the Federation) and 186 National Red Cross and Red Crescent Societies. With 194 States Parties, the *Geneva Conventions* of 1949 are also the first treaty in modern history to achieve universal acceptance.

While Dunant is one of history's forgotten heroes, billions of people know something of his legacy through the Movement. Few, however, are aware of the Movement's multi-faceted nature or its special relationship with government. Although independent of government, the Red Cross has a clearly established legislated mandate to act as "auxiliary to public authorities."<sup>16</sup>

It is this role that sets the Red Cross apart from other organizations in the voluntary sector, many of whom may be dedicated to some of the same purposes. However, the

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<sup>16</sup> The terms "auxiliary to government" and "auxiliary to public authorities" are used interchangeably.

“special role” played by the Red Cross means that it pursues its responsibilities under different enabling criteria and that its scope of activity is often far wider than that of other humanitarian organizations.

### ***The Role of the Canadian Red Cross as Auxiliary to Government***

Over the course of its almost 100 year history, the auxiliary to government role of the Canadian Red Cross has evolved considerably. Under *The Canadian Red Cross Society Act* of 1909, its role was that of volunteer “relief society” – an auxiliary to the medical services of the Canadian Army in the field.

Today, the Canadian Red Cross’s strategic plan defines four areas of focus: emergency management, health and injury prevention, humanitarian issues, and organizational capacity. Pursuing this strategic plan has allowed the Canadian Red Cross to cooperate with governments on specific activities and on possible future areas of collaboration in fulfillment of the auxiliary role. In recent years, the Society has concentrated considerable efforts in the area of emergency management and has greatly increased its collaboration and cooperation with governments at the municipal, provincial/territorial and federal levels. These relationships, including the special one the Canadian Red Cross has with Public Safety Canada, are expected to continue to grow. It is important to note that although cooperation takes place at different levels of government, a strong Red Cross at the federal level results in the organization having a greater capacity to meet needs at the provincial and territorial levels.

In facing the future, another consideration for the Canadian Red Cross is that the types of disasters and conflicts have changed in recent years. Threats such as terrorism, pandemic diseases, refugee movements, intra-state conflict and climate change have presented States, National Societies, the ICRC, and the Federation with new and significant challenges. The auxiliary role needs to be better defined based on these new realities.

While the traditional relationships between the Canadian Red Cross and the Department of National Defence and Health Canada are still very important, the Society's organizational focus around emergency management means that Public Safety Canada has assumed more importance from the standpoint of the Society. It prompts the question of whether the Minister of Public Safety should be the "Minister responsible" for coordinating or overseeing the Canadian Red Cross auxiliary role at the federal level. Among other things, this might involve receiving and tabling the annual report of the Canadian Red Cross in Parliament.

The Society stresses that any revisions to *The Canadian Red Cross Society Act* could be based, in part, on the following precepts:

- A clear recognition that the Canadian Red Cross is a non-profit, volunteer, member-based humanitarian organization;
- The members of the Society are subject to an application process open to all Canadians and formally agree to uphold the Fundamental Principles of the Movement;
- The possibility that representatives of public authorities could be included on the Canadian Red Cross Board of Governors in order to better recognize and manage the "auxiliary to government" role;
- The provision in some circumstances for cost recovery for the Society's activities related to the auxiliary role;
- The need to provide better protection for the emblems of the Movement;
- The requirement that the Canadian Red Cross comply with its duties as a component of the Movement and that the federal government also accept its responsibilities to the Movement as a State Party to the *Geneva Conventions*.

What is needed is a single comprehensive statute that not only outlines the rights, duties, governance structures and activities of the Society, but that also establishes the connection between the Canadian Red Cross and the *Geneva Conventions*, international humanitarian law, and the rights, responsibilities and duties of the federal government.

## ***The Misuse of the Red Cross Emblem***

The Movement has always been seen as a neutral, independent and impartial organization devoted to carrying out its humanitarian mission irrespective of creed or ideology. The moral character of that mission is represented by the various Movement emblems: the red cross, the red crescent, the red lion and sun and, most recently, the red crystal. These emblems are protected in international humanitarian law and it is therefore incumbent on national governments to ensure that misuse within their jurisdictions does not occur. Individual governments and National Societies jointly bear the responsibility to inform the public on the proper use of the emblems.

In most cases, the unauthorized use of the Movement's emblems is unintentional. In Canada, governments at all levels have inadvertently used the red cross emblem in ways inconsistent with the intent of the *Geneva Conventions*, leading one to surmise that a wide ranging educational program with respect to emblem use is needed.

Other parties most often associated with misuse include companies involved with first aid and health products, medical clinics, pharmaceutical manufacturers, toy makers, video games, and so on. The extent of the misuse suggests that the federal government and the Canadian Red Cross are losing control of the red cross emblem. The emblem is not "public property" and its display must conform to the conditions set by law. The fundamental concern is that such misuse can lead to the erosion of the protective value of the symbol, thereby placing at risk the lives of humanitarian workers and the people they seek to assist.

Consequently, at the appropriate time, there must be a discussion between the federal government and the Canadian Red Cross around their respective roles in safeguarding the emblem and how best to practically ensure the emblem is used properly. A legislative overhaul of existing emblem protection measures is required. The American example might be instructive, since amendments to the Congressional Charter of the American Red Cross in 1948 moved the penalties for emblem misuse from the Charter to the U.S. Federal Criminal Code.

## ***Conclusion***

The Canadian Red Cross and the Canadian government have always worked closely in addressing humanitarian needs, both at home and abroad. However, the Canadian Red Cross believes that it is time to re-examine the fundamentals of its relationship with public authorities at all levels in order to better address the humanitarian needs of the twenty-first century.





# **Appendix B**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE DEPARTMENT OF PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS**

**AND**

**THE CANADIAN RED CROSS SOCIETY**

**CONCERNING**

**THEIR COLLABORATION IN MATTERS OF EMERGENCY MANAGEMENT**

**May 8, 2006**

## **1. INTRODUCTION**

- 1.1 This Memorandum of Understanding (MOU) between the Department of Public Safety and Emergency Preparedness (DPSEP) and The Canadian Red Cross Society (CRCS), hereinafter referred to as the “Participants”, establishes, in general terms, the principles that will govern the future relationship between the two Participants for their collaboration in matters of emergency management.
- 1.2 The CRCS understands that DPSEP is responsible for the coordination and support of the Government of Canada’s response to an emergency and will do its best to assist DPSEP.
- 1.3 In matters of emergency management, the DPSEP recognizes that the CRCS would support the Government of Canada’s response, by meeting its purpose as set out in the *Act to incorporate the Canadian Red Cross Society*, S.C. 1909, c.68, through its mission to improve the lives of vulnerable people by mobilizing the power of humanity in Canada and around the world, and in its role as auxiliary to the public authorities. DPSEP will do its best to work closely with the CRCS.
- 1.4 DPSEP understands that the CRCS, in addition to its support of the Government of Canada, also works as auxiliary to the public authorities at the provincial, territorial and local levels to support their respective emergency management activities.
- 1.5 The Participants understand that they are not agents or partners and they will not represent themselves, including in any agreement with a third party, as a partner or agent of the other Participant.

## **2. DEFINITIONS**

- 2.1 In this MOU

“Emergency management”, relating to the management of an emergency, means any prevention and mitigation, preparedness, response and recovery activity.

## **3. OBJECTIVES AND SCOPE**

- 3.1 The objective of this MOU is to initiate mutual collaboration in matters of emergency management and, when appropriate, more specifically :
  - 3.1.1 To identify how the CRCS may assist the Government of Canada to support its response during an emergency;
  - 3.1.2 to promote emergency preparedness and public awareness of matters related to emergency management;

3.1.3 to participate in exercises and provide education and training related to emergency management;

3.1.4 to promote a common approach to emergency management, including the adoption of standards and best practices.

#### **4. RESPONSIBILITIES**

##### *Emergency Response*

4.1 The Participants will collaborate to identify how the CRCS can support the Government of Canada's emergency response capacity.

4.2 The CRCS will coordinate with the International Red Cross and Red Crescent Movement to facilitate collaboration by the Participants in response to domestic and international disasters.

##### *Information exchanges*

4.3 In order to facilitate their collaboration under this MOU, the Participants will negotiate arrangements that will outline security responsibilities, safeguards to be applied, and terms and conditions for the sharing of confidential or sensitive information between them.

##### *Communication*

4.4 The Participants will work together to promote research and common messaging that will support and promote an increased awareness and public education regarding emergency management issues.

4.5 The Participants will develop joint emergency management communications strategy and collaborate on the production and distribution of materials to stakeholders and the general public.

##### *National Exercises*

4.6 The CRCS will collaborate with DPSEP for the development of national or international exercises by providing, as required, expertise, suggestions or by participating in the event itself.

### *Volunteer and Training*

- 4.7 In order to increase the national capacity to deal with an emergency, DPSEP will encourage the participation of its personnel, as volunteers, in the activities of the CRCS.
- 4.8 Without prejudice to any agreement actual or future that the Government of Canada has with the CRCS, DPSEP may request the assistance of the CRCS for the training of DPSEP employees or of a third party.

### *Interchange*

- 4.9 To foster a better understanding between the Participants and increase their access to and acquisition of specialized knowledge, diverse skills, expertise and best practices, the Participants will promote and facilitate the exchange of their employees through temporary assignments between them, under the Government of Canada's *Interchange Canada program*.

## **5. ORGANIZATION AND MANAGEMENT**

### *Points of Contact*

- 5.1 The points of contact for this MOU are :
- 5.1.1 DPSEP :       SADM (Senior Assistant Deputy Minister)**
- 5.1.2 CRCS :        NDDM (National Director, Disaster Management)**
- 5.2 The points of contact are responsible for implementing this MOU and coordinating the respective Participants' input to the annual list of activities.

### *Annual Work plan*

- 5.3 The Participants will work together to develop a mutually acceptable work plan with a list of activities to be performed for the following year under this MOU. The list will be negotiated during the month of October of each year, to be ready for implementation by April 1<sup>st</sup> of the following year.

## **6. FINANCIAL ARRANGEMENTS**

- 6.1 This MOU will not impose any financial responsibilities on its Participants, except that each Participant will be responsible for the funding costs it incurs in its own interest, related to the support of the MOU.
- 6.2 The Participants understand that this MOU is not a commitment to provide a grant, a contribution or to enter into a procurement contract. Any material procurement, grant or contribution resulting from, or required by, the implementation of this MOU must be accomplished in accordance with the applicable rules to which each Participant is subject.

## **7. SETTLEMENT OF DISPUTES**

- 7.1 The Participants understand that this MOU is not legally binding and places no legal obligation on them.
- 7.2 Any disputes regarding the interpretation or implementation of this MOU will be resolved only by consultation between ('among' if more than two Participants) the Participants and will not be referred to a national (or international) tribunal or any other third party for settlement.

## **8. AMENDMENT**

- 8.1 This MOU may be amended only with the mutual written consent of the Participants.

## **9. DURATION, WITHDRAWAL AND TERMINATION**

- 9.1 This MOU will remain in effect until either one of the Participants withdraws from or terminates its participation pursuant to paragraph 9.2 or 9.3.
- 9.2 Either Participant may withdraw from this MOU upon presentation of 30 days written notice to the other Participant.
- 9.3 This MOU may be terminated at any time, with the mutual written consent of the Participants.

## **10. EFFECTIVE DATE AND SIGNATURE**

- 10.1 This MOU becomes effective upon the date of the later signature.

<hr/> Minister of Public Safety	<hr/> Secretary General
<hr/> Senior Assistant Deputy Minister Emergency Management and National Security	<hr/> National Director, Disaster Management
<hr/> Department of Public Safety and Emergency Preparedness	<hr/> The Canadian Red Cross Society
Date: _____	Date: _____

# Appendix C

## The Model Red Cross / Red Crescent Law (Updated - 27 July 1999)

### Draft model law on the recognition of the (name of the Red Cross or Red Crescent Society)

Text annexed to the reference document sent out on 16.09.1999 to the members of the 27th International Red Cross and Red Crescent conference (Geneva, 1999). This reference document was adopted by the Conference as an annex to its Resolution 1 (Plan of Action for the years 2000-2003).

#### Commentary

*The purpose of this “model law” on Red Cross/Red Crescent Societies is to encourage governments and National Societies to give due consideration to the legal aspects of supporting and protecting the functions of the National Societies and, at the same time, provide sample clauses covering the main areas of concern for the Movement and from which to draw inspiration for legislative work.*

*The reference to “recognition” in the Title means that the special legislation concerning the Red Cross or Red Crescent Society may, but does not always have to, constitute the act through which a government formally recognises its Society as an auxiliary to the public authorities in the humanitarian field on the basis of the Geneva Conventions. Such recognition may derive from other acts of government (legislative or executive branch).*

#### Article 1

1.1 This law regulates the legal status of the (name of the Society) (hereinafter called “the Society”) and may be quoted as “The (name of the Society) Act”.

**1.2 The Society is a voluntary aid society, auxiliary to the public authorities in the humanitarian field, recognised and authorised on the basis of the Geneva Conventions (and their Additional Protocols) to render assistance to the medical services of the armed forces in times of armed conflict.**

**1.3 The Society is the only National Society of the Red Cross or Red Crescent in (name of the country). It carries out its activities on the entire territory of (name of the country).**

1.4 The Society shall at all times act in conformity with the Geneva Conventions (and their Additional Protocols), the laws of (name of the country) and the Fundamental Principles of the International Red Cross and Red Crescent Movement adopted by the International Conference of the Red Cross and Red Crescent.

**1.5 The public authorities shall at all times respect the adherence by the Society to the Fundamental Principles of the International Red Cross and Red Crescent Movement as required by resolution 55(I) of the General Assembly of the United Nations.**

Commentary

*The sections in bold contain minimum legal requirements for the recognition of National Societies by the ICRC in conformity with the Statutes of the Movement. These Statutes as well as the Fundamental Principles have last been adopted by the 25th International Conference of the Red Cross and Red Crescent (Geneva, 1986).*

*In some countries, the definition of the Society's legal rights and duties does not necessarily appear in one single piece of legislation concerning the National Society, but may be spread over various legal codes or laws such as e.g. the civil code, fiscal law, social security legislation, penal code, etc. The various clauses contained in this model law may therefore be used separately for integration in the specific legislation concerned.*

*Resolution 55(I) can be found in the Handbook of the International Red Cross and Red Crescent Movement (1994, p. 732).*

**Article 2**

2.1 The Society is a corporate body with legal personality.

**2.2 The Society shall at all times act in accordance with its statutes (Constitution, by-laws) adopted by the (relevant body of the Society).**

Commentary

*The legal nature of the National Society (e.g. private law association, public law institution, etc.) depends on the local legal system and its traditions and is therefore up for decision by each national government.*

*The legislator may also want to determine general principles regarding the branch structure of the Society as well as regarding the Society's governance (definition of its main governing bodies).*

*In order to allow the Society to adjust its structure, activities and administration to changing needs and circumstances, the law should be limited to essential principles and leave room for the Society itself to adapt its statutes. It is therefore not recommended to include the entire text of the Society's statutes as part of the law.*

**Article 3**

3.1 In addition to rendering assistance to the medical services of the armed forces in times of armed conflict, the object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, gender, religious beliefs, class or political opinions.



3.2 In order to achieve its object as defined in the previous paragraph, the Society shall carry out the functions as defined in its statutes, international treaties to which (name of the country) is a party and the resolutions of the International Conference of the Red Cross and Red Crescent.

Commentary

*In certain countries, the legislator may want to specify here that none of the Society's activities generating revenue that is exclusively allocated to the Society's object, shall be qualified as a transaction subject to the laws regulating trade and commerce, even if they are performed through contractual arrangements which stipulate a price for goods and services provided by the Society.*

**Article 4**

The Society shall comply with its duties as a component of the International Red Cross and Red Crescent Movement and as a member of the International Federation of Red Cross and Red Crescent Societies.

Commentary:

*Once recognised by the ICRC, the Society, as a component of the Movement takes part in the decision-making of the statutory bodies of the Movement. When they become members of the International Federation of Red Cross and Red Crescent Societies which in itself is a legal body, the National Societies commit to respect the decisions taken by its governing bodies. The current provision allows a National Society at all times to respect the decisions taken within the framework of the Movement and the International Federation.*

**Article 5**

5.1 The Society, within the limits laid down by its object and functions, may acquire, own, alienate and administer such property as it deems fit. It may accept any conveyance of real estate to its use or benefit.

5.2 The Society may, in accordance with its object and functions, accept unrestricted contributions and assistance in any form from individuals, the public authorities and private or public bodies. It may accept as agent or trustee funds or property in trust or earmarked for particular use, provided that such use is within the general scope of its object and functions.

5.3 The Society may constitute and administer any reserve, insurance or other funds for its staff or any of its activities.

5.4 The assets of the Society, including its financial resources and real estate as well as the revenue from its income generating activities, shall be exempted from all taxes and duties.

5.5 Donations made to the Society by any individual or legal body shall benefit from tax exemption.

5.6 The public authorities shall make provisions for covering the cost of any service or activity which they may entrust to the Society within the scope of the Society's object and functions. The conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authority.

Commentary

*The legislator may want to specify that all subsidiary bodies of the Society, including those with legal capacity or those set up under the auspices of the Society, shall benefit from the all or part of the provisions of this law, in particular those regarding the Society's fiscal status.*

**Article 6**

6.1 The Society shall be authorised to use as its emblem a red cross (red crescent) on a white ground for all the purposes foreseen by the International Conference of the Red Cross and Red Crescent, in conformity with the Geneva Conventions of 1949, the present law and the Regulations on The Use of The Emblem by National Societies adopted by the International Conference of the Red Cross and Red Crescent.

6.2 Any use of the emblem of the red cross (red crescent) other than foreseen in the Geneva Conventions of 1949 or in paragraph 1, is prohibited and will be punished with (penalty)(in conformity with the relevant provision of the penal code or a specific law repressing abuse of the emblem).

Commentary

In countries where a separate law is in force to repress abuse of the emblems and designations of the red cross and red crescent, the civil defence sign and electronic signals provided for in Additional Protocol I, a reference to that specific law may be included in paragraph 6.1. In the absence of such a special law, this clause is to be regarded as the minimum legal protection of the emblem of the red cross or red crescent. It is recommended, however, that governments enact proper and detailed legislation on the use of the emblems of the Geneva Conventions.

The ICRC has published a model law for that purpose (International Review of the Red Cross, July-August 1996, No. 313, pp. 482-495) and the ICRC Advisory Service on IHL has examples of emblem legislation adopted in some 80 States.

The Regulations on the Use of the Emblem by National Societies were adopted by the International Conference in 1965 (and revised by the 1991 Council of Delegates after approval by the States Parties to the Geneva Conventions in a written procedure).

In some countries, the funds resulting from penalties mentioned in paragraph 2, are transmitted to the Society to contribute to its general financial resources.

**Article 7**

The present law shall come into force on (date) and shall replace from that date (the previous law in force).

## **Appendix D**

**COUNCIL OF DELEGATES  
OF THE INTERNATIONAL RED CROSS  
AND RED CRESCENT MOVEMENT**

Geneva, Switzerland

23-34 November 2007

**THE SPECIFIC NATURE OF THE 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  
DRAFT RESOLUTION**

**Document prepared by the International Federation  
in consultation with the ICRC and National Societies**

Geneva, October 2007

**CD/07/3.2**

**Original: English**

**For decision**

**CD/07/3.2**

**DRAFT RESOLUTION**

**THE SPECIFIC NATURE OF THE 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**

*The Council of Delegates,*

*Recalling* the Movement's Fundamental Principle of independence as well as Articles 3 and 4.3 of the Statutes of the Movement whereby Red Cross and Red Crescent Societies (National Societies) are recognized by all governments as auxiliaries to the public authorities in the humanitarian field,

*Recalling* Articles 24, 26 and 27 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, Articles 24 and 25 of the Geneva Convention for Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, as well as Article 63 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,

*Recalling* Resolution 9 of the Council of Delegates of 2005,

*Reaffirming* the obligation of all the components of the Movement to act at all times in conformity with the Fundamental Principles, the Statutes of the Movement and the rules

governing the use of the emblems and Movement policies;

1. *Recognises* that public authorities and National Societies as auxiliaries enjoy a specific partnership, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services; the National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental Principles and with its other obligations under the Statutes of the International Red Cross and Red Crescent Movement as agreed by States in the International Conference of the Red Cross and Red Crescent;

□ *Emphasises* that National Societies as auxiliaries to the public authorities in the humanitarian field

(a) have a duty to consider seriously any request of their public authorities to carry out activities within the agreed framework,

(b) have a duty to decline a request of public authorities related to the above activities if it is in conflict with the Fundamental Principles or the Statutes of the Red Cross and Red Crescent Movement or its mission;

3. *Underlines* the need for public authorities to respect the above decisions of the National Societies;

1

#### **CD/07/3.2**

4. *Calls upon* National Societies to engage themselves in a balanced relationship with the respective public authorities with clear and reciprocal responsibilities in the humanitarian field, thereafter maintaining and enhancing a permanent dialogue at all levels within this agreed framework for humanitarian action;

5. *Stresses* that the National Society at all times safeguards neutrality and independence of its activities and clearly distinguishes itself from military and other governmental bodies while its individual staff members, when seconded to the medical services of the State's armed forces in accordance with Article 26 of the First 1949 Geneva Convention, are subjected to military Laws and regulations;

6. *Calls upon* the National Societies to build capacity enabling them to promote their auxiliary role domestically in their dialogue with the Government and *encourages* the International Federation and the ICRC to support the respective National Societies therein;

7. *Welcomes* the concept of a toolbox on good partnerships for use by National Societies when concluding partnership arrangements, including those relevant to the auxiliary role of National Societies, and invites the Federation and the ICRC to develop this toolbox and put it at the disposal of the National Societies;

8. *Requests* the International Federation and the ICRC to further assist members

in ensuring that their respective domestic legislation provides for the appropriate legal framework for effective functioning of the National Society as auxiliary to the public authorities in the humanitarian field, in the strict respect for the Fundamental Principles of the Movement.