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Dual Distribution

CONFERENCE OF PLENIPOTENTIARIES
ON THE STATUS OF REFUGEES AND
STATELESS PERSONS

AIDE-MEMOIRE ON THE REFUGEE QUESTION

Statement submitted by the International Committee of the Red Cross, a non-governmental organization in consultative relationship with the Economic and Social Council.

The Executive Secretary has received the following statement which is circulated in accordance with Article 27 of the Rules of Procedure of the Conference.

Submitted: July 2, 1951

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In view of the opening on July 2, 1951, in Geneva, of a Diplomatic Conference with a mandate from the United Nations General Assembly to establish a statute for refugees, the International Committee of the Red Cross believes it may be useful to recall the principles which have led it, on various occasions, to intervene in this field.

In 1948, the Committee submitted to the XVIIth International Red Cross Conference a draft Convention for the Protection of Civilians which contained the following provision:

ARTICLE 127

RETURN TO DOMICILE. EMIGRATION

The High Contracting Parties shall, upon the close of hostilities or occupation, endeavour to facilitate the return to their domicile or the settlement in a new place of residence of all persons who, as a result of war or occupation, are unable to live under normal conditions in the place where they may happen to be.

The High Contracting Parties shall ensure, in particular, that such persons are allowed, if they so desire, to travel to other countries, and that they are provided for this purpose with passports or equivalent documents.

Without actually mentioning the word "refugee", the first paragraph gives an empirical but humane definition of this term. Article 127 was adopted without change by the Red Cross Conference and formed part of the working document for the 1949 Diplomatic Conference in Geneva.

The Article does not, however, figure in the Fourth (Civilian) Geneva Convention; it is one of the few provisions of the 1948 Drafts which were not incorporated, with or without amendment, into the definitive text.

It would be wrong to deduce from this that the 1949 plenipotentiaries departed from the principle of Article 127; the Conference agreed rather with the opinion expressed by one Delegation that the refugee problem was too large to be dealt with in a few lines of a Convention - whose object, moreover, was quite different. The Delegate who spoke took care also to express his agreement with the "admirable principles and ideals expressed in this text". No Delegation disagreed with the principles; two - one from South America and the other from Northern Europe - pressed strongly in the appropriate Commission for the retention, in one form or another, of Article 127.

The Conference decided otherwise, apparently because the Economic and Social Council of the United Nations was already well advanced in its study of the refugee problem. In fact, a draft international Convention, constituting a definite statute for refugees, was drawn up some months later by the Council and submitted by it to the United Nations General Assembly.

It is this draft that the forthcoming Conference at Geneva will discuss.

The International Committee can only pay tribute to the spirit in which this draft was conceived. To some extent, it codifies various previous Conventions, many of which had been left unratified; it sets out precise obligations in an attempt to remedy one of the gravest existing human evils.

It may however be asked if, in spite of its detail, the proposed text entirely fulfils the intention briefly stated in Article 127 of the Stockholm Draft. It is true that that Article merely made a declaration, and was still further limited by being optional; but it at least left it to be clearly understood that a humane solution, excluding all unjustified discrimination, should be sought.

It is natural that Governments should consider the responsibilities, political, economic and social, they undertake in signing a Convention based on so wide a principle. The Committee, nevertheless, would like to see the general agreement shown at the 1949 Geneva Conference carried over into the texts, at least in so far as the principles are concerned.

Looking at the problem from its own, strictly humanitarian, point of view, the Committee believes that the following ideas should be incorporated:

"Every person forced by grave events to seek refuge outside his country of ordinary residence is entitled to be received."⁽¹⁾

(1) This is a new and enlarged conception of the right of asylum. Obviously, reservations similar to those contained in the second paragraph of Article 14 of the Universal Declaration of the Rights of Man also apply here, so that the provision would exclude common law criminals recognized as such by International Law.

"He shall be entitled, moreover, to assistance from the Authorities if unable to lead a normal existence in the territory to which he comes.

"Should the resulting charge be excessive in relation to the resources of the Authority concerned, the responsibility for it shall, in virtue of their common humanity, become an obligation, for the community of nations.

"This common responsibility shall be accepted and given effect by the appropriate political bodies.

"Humanitarian organizations shall be entitled, so far as their means allow, to second the action taken by the Authorities".

The International Committee had these principles in mind when, in its Appeal dated May 1, 1950, it drew the attention of Governments and the responsible institutions to "the vital importance of not limiting, by a too strict definition, the categories of persons who may be entitled to that status, but of leaving the scope wide and comprehensive, taking into account only the unfortunate position of those who, today as in the future, may have to avail of it".

The Committee has felt it necessary to clarify its position in regard to this grave problem, in the hope that the views of the Red Cross, expressed above, may be borne in mind by all who regard that institution as a valuable agency for the alleviation of human suffering.
