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ET

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DES SOCIÉTÉS
DE LA CROIX-ROUGE

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INTERNATIONAL RED CROSS

THE INTERNATIONAL COMMITTEE
OF THE RED CROSS

THE LEAGUE OF RED CROSS
SOCIETIES

February 15, 1951

DISPLACED GREEK CHILDREN

*To the Central Committees of
the National Red Cross
(Red Crescent — Red Lion and Sun) Societies*

For over two years the International Committee of the Red Cross and the League of Red Cross Societies have made the most strenuous efforts to solve, in agreement with all parties concerned, the problem of repatriating the Displaced Greek Children. Their purpose has not always been fully understood and has led to criticism, often due to lack of sufficient information.

It may therefore be of interest to National Societies to have a general outline of the principal steps taken in the matter, and to be informed of the results that have so far been achieved.

(1) — Early in 1949, our organizations, in conformity with the mandate of the United Nations General Assembly, made contact with the Greek Red Cross and the Greek authorities, as with the Red Cross and the authorities of those countries where Greek children were living ; our purpose was to ascertain

their views on the matter and request their suggestions for a practical settlement to which all parties might be induced to agree. These attempts, initiated in January, 1949, are still being pursued ; up to the present, however, no really constructive suggestions have been put forward by the countries of residence concerned. Far from this, no effect has been given to the proposals which we ourselves submitted to the said countries, although their authorities have always either stated, or let it be understood, that they approved, in principle, of repatriation.

(2) — In order to ascertain the whereabouts of each of the children claimed, the countries in question were asked for lists of Greek children living in their territory ; it was intended to compare these lists with the parents' requests and thus find out what children were actually resident in each country. Each individual case could then have been taken up, and it would have been possible to decide which of the children were in reality eligible for repatriation.

The proposal was ignored or, as in certain cases, accepted and then nothing further done about it. Another method was then tried. From the parents' applications received in Geneva through the Greek Red Cross, lists of the children claimed were drawn up and sent to each of the countries concerned. These were asked to note on the lists, which of the children named were actually living in their territory. As far as we were concerned, it did not follow that every child registered would necessarily be eligible for repatriation ; the lists were simply a basis.

Up to now, only the Czechoslovak and Yugoslav Red Cross Societies have indicated that a small number of the Greek children named are living in their territory. On several occasions we have suggested to the National Societies concerned that we should delegate a representative, instructed to make an objective study of the lists and take note of each Society's comments on them.

We hoped by this means to sort out any doubtful cases and examine them in detail ; later discussion could thus be

avoided, of the kind which has now arisen—the Press has reported on it—in connection with two children repatriated from Jugoslavia, at the request of their fathers in Greece, and whose mothers, it is now stated for the first time, are living abroad.

The proposals mentioned were not accepted, and no reply has been given to the repeated applications for visas which we have made with a view to sending Delegates.

(3) — Anxious at all costs to reach a solution, in spite of these setbacks, we inquired at the end of March, 1950, from the countries concerned, what conditions they considered necessary so that arrangements could be made for the return, at the earliest possible date, of Greek children whose return was justified. With the exception of the Czechoslovak and Yugoslav Red Cross Societies, none of the Societies made any constructive proposal in reply.

Moreover, to ensure that, on our part, everything should be done in complete equity, we obtained a guarantee from the Greek authorities in February, 1949, that any children returned would be at once given back to their parents. If, for technical reasons, this could not be done at once—when, for example, the parents had a long way to travel—the children would remain under our control until they were restored to their relatives. We can therefore give an assurance that the children would not be placed in internment camps on their return to Greece. Thus, twenty-one children repatriated from Jugoslavia in November last remained in the home placed at the disposal of our Delegate, and five days later had all returned to their parents.

(4) — We consider the efforts we have made for more than two years in connection with the Greek children separated from their relatives, as an attempt to solve, in one of its forms, the general problem of re-uniting families dispersed by war. We are prepared to help in restoring to their families all Greek children separated from them, whatever the actual place of residence of the children, or their relatives. It is clear, however, that we must act under the same conditions in each case, and

in this connection, it is essential that all parties concerned agree to give us the necessary facilities for verification and checking. Such facilities were granted when it was necessary to verify in Greece the justification for the claim made by the Greek relatives of children whose presence in one or other of the neighbouring countries had been recognized by it.

(5) — We recall that in March, 1950, we invited the Red Cross Societies of the countries concerned to a conference in Geneva, in order to discuss the problem as a whole, and especially to clear up any cases where the justification of claims for repatriation was contested. The Bulgarian, Rumanian, and Czechoslovak Red Cross Societies did not accept the invitation. The Yugoslav Red Cross accepted in principle, but did not send representatives. No reply was received from the Hungarian and Polish Societies. The Greek Red Cross was the only one to send Delegates to Geneva.

* * *

The above is a general outline, and some details, of our attempts over a period of more than two years to find a solution to the problem of the Greek Displaced Children. In spite of obstacles, we have not yet given up the hope that a solution may be found. We have therefore every reason to rejoice at anything one or other of the National Societies may be able to do in the interests of the Greek families whose members are still separated.

FOR THE
LEAGUE OF RED CROSS
SOCIETIES :

G. Milsom
Under Secretary-General

FOR THE
INTERNATIONAL COMMITTEE
OF THE RED CROSS :

D. de Traz
Deputy Executive Director

INTERNATIONAL COMMITTEE OF THE RED CROSS

MISSION TO THE FAR EAST

The mission of the International Committee which left for the Far East on February 26, 1951, on board the aircraft "Henry Dunant"—painted in white with Red Cross markings and piloted by a "Swiss-Air" crew—included, besides the President and Madame Paul Ruegger, M. Alfred Escher, Personal Adviser to the President, Dr. Roland Marti, Medical Adviser, and Dr. Charles Bessero, Medical Delegate.

The mission, in agreement with the Central Government of the People's Republic of China, is proceeding to Peking, where M. Ruegger is to have discussions with M. Chou-en-Lai, Prime Minister and Minister for External Affairs, and with Madame Li Teh Chuan, President of the Red Cross and Minister for Public Health, on Red Cross matters of common interest in existing circumstances to the ICRC and the Chinese Government.

Madame Li Teh Chuan paid a visit to the International Committee in October 1950.¹

The Government of North Korea, to which the President of the International Committee addressed himself by telegram (repeated by wireless), on January 5, 1951,² has not, up to now, replied to M. Ruegger's offer to go personally to North Korea, to examine with the Red Cross there questions relating to prisoners of war, and the possible creation of security zones, in the spirit of the new Geneva Conventions.

The "Henry Dunant" has taken with it a first consignment of medical supplies for the victims of war (wounded,

¹ See *Revue*, Nov. 1950, p. 863.

² See *Supplement* for January 1951, p. 4.

prisoners of war, and civilians) in North Korea. These supplies have been provided in large part from a gift of the Swiss Federal Government, handed to the ICRC for distribution in full independence, in accordance with its traditional neutrality, to victims of the conflict in the Far East.

M. Ruegger intended to break the journey at Karachi and Delhi, to pay visits to the Governments of Pakistan and India, in both of which the ICRC recently brought to an end a relief program for the benefit of Bengal refugees.

* * *

Three days were spent in New Delhi, where the President and Madame Ruegger were the guests of the President of the Indian Republic, Dr. Rajendra Prasad. M. Ruegger was also cordially received by the Prime Minister, Shri Jawaharlal Nehru and the Secretary-General of the Ministry of Foreign Affairs, M. Bajpai, with whom he had useful discussions.

Rajkumari Amrit Kaur, President of the Indian Red Cross and Minister for Public Health, arranged a meeting of the mission with the Committee of the Indian Red Cross, and invited the Chinese Ambassador, General Yuan-Chung-Hsien, to be present. Conversations with the Chinese Ambassador were continued at the residence of the Swiss Minister, and later at a dinner in the Chinese Embassy.

The mission has gone on to Bangkok, Hong Kong, and Peking.

*PRINCIPAL ITEMS OF INTEREST
IN FEBRUARY*

Korea. — Since January 15, Delegates in South Korea have visited nine camps and hospitals and one civilian prison, namely :

January 15	Sub-Camp No. 3 (U.N. POW Camp No. 1).
February 12	U.N. POW Transit Camp, Taejon
» 12	U.N. POW Collecting Centre, Hayang
» 13	U.N. POW Transit Camp, Ch'ungju
» 13	8076th Surgical Field Hospital, Ch'ungju
» 15	Taijon Civilian Prison
» 19	POW Collecting Centre, 3rd U.N. Division
» 19	POW Collecting Centre, 15th Regiment
» 22-23	U.N. POW Camp No. 1. Pusan (Sub-Camps Nos. 3 and 5).

Indonesia. — Dr. Lehner, Delegate in Indonesia, visited Amboina Prison and Batu Gadjaja Camp at Amboina on December 10, 1950. He arrived in Geneva on March 15 and is being replaced in Indonesia during his absence by Dr. Pflimlin.

Greece. — During the last few weeks Delegates have again visited the detainees in certain of the Islands. They also went to the Penitentiary in the island of Ghioura and the principal mainland prisons.

Since 1947, the ICRC has assisted the Greek population as a whole and particularly persons deported or imprisoned. With Government consent and the regular co-operation of the Greek Red Cross, Delegates have made more than one hundred visits to camps and prisons and distributed 136.429 kilos of relief to the detainees.

On March 2, the Delegate visited Kastoros Prison, in Epirus.

Germany. — M. Charles de Jenner, head of the Delegation in Germany, again visited Landsberg Prison (American Zone) on

January 5, and Werl (British Zone) on February 12. Many of the inmates in both are former German military leaders sentenced by Allied tribunals.

Following the visits, M. de Jenner had useful discussions with the British and American authorities, including the United States High Commissioner in Germany, Mr. J.J. McCloy.

Central Prisoners of War Agency. — Amongst the many duties of the Central Agency, particular importance attaches at the moment to the transmission of information about prisoners of war and men killed in action in Korea.

Since fighting began, the Agency has sent the Government of the People's Democratic Republic of Korea 16,400 photo-stats of capture cards, official lists naming 48,299 prisoners, and 4,829 dead.

The Agency has also forwarded to the Alliance of Red Cross and Red Crescent Societies in Moscow some 250 inquiries from the Japanese Red Cross about missing Japanese military personnel.

"Volksdeutsche". — On February 7, 1951, 37,329 *Volksdeutsche* and East Germans, coming from Poland, passed through Friedland camp; on February 16, 1951, 14,954 *Volksdeutsche* from Czechoslovakia crossed the frontier at Furth im Wald. In both camps the ICRC arranged certain issues to the most needy.

Courses for Doctors and Nurses. — In order to have trained personnel ready for missions—especially medical—abroad, the ICRC organized one-month courses for doctors and nurses. The object is to have medical personnel familiar with traditional work and responsibilities under the Conventions. Two courses, attended by three doctors and twelve nurses, have taken place during February and March.

The program included general questions (history and organization of the Red Cross and of the ICRC; Conventions of 1929 and 1949, etc.)—and special activities (Central Agency, relief, and so on).

Practical work was varied with numerous visits—World Health Organization, League of Red Cross Societies, International Union for Child Welfare, International Refugee Organization and International Labour Office. Most of those who attended have returned to their ordinary occupations, but are ready to respond at short notice to any call from the ICRC.

Two of the doctors have gone on mission: Dr. Bessero with the President to the Far East, and Dr. Daulte to Indo-China, to assist M. Aeschlimann.

* * *

Visitors. — Since the beginning of February, the ICRC received the following visits:

M. Toru Hagiwara, representing the Japanese Government at Paris, came to Geneva on February 15 to take part in the Shôken Fund meeting; Lord Killanin, Hon. Secretary, and Mr. A.N. O'Brien, Executive Secretary of the Irish Red Cross (who were on visit to the IRO), on February 16; M. Abdul Ghafour Charar, First Secretary at the Afghanistan Embassy at Paris, who was Delegate to the 1949 Diplomatic Conference, on February 28 and March 8; Madame Laura Martinez de Perez Peña, head of the Foreign Section of the Chilean Red Cross, accompanied by her son, on March 8.

INTERNATIONAL PROBLEMS

RESTORATION OF THE RIGHT OF ASYLUM

The right of asylum is as old as civilisation.

In Ancient Greece the word "Asylum"¹ meant places secure from pillage, such as temples and sacred woods. A man taking refuge there could not be brought out by force. Respect for the local divinity ensured absolute protection.

The custom was maintained by Rome and jealously defended by the Church, which, during the invasions and wars which accompanied the fall of the Roman Empire, tried to give effect to the humane principles of Christianity.

In 511, the Council of Orleans, with the approval of Clovis I, King of the Franks, proclaimed the right of asylum, allowing fugitives to escape private vengeance by seeking refuge in a church.

The annals of the VIth century repeatedly mention Gregory of Tours and his courageous efforts to preserve those who took refuge in the Basilica of St. Martin.

As authority began to be restored, the absolute right of asylum became subject to restrictions, varying with the person and the guarantees secular justice was prepared to offer. In an organized State, responsible for public order, the Church could obviously not protect criminals or evil-doers from legal arrest; but at least it could ensure that they would be protected against inhuman cruelty. Asylum was waived when guarantees against death, mutilation and torture had been sworn on the Gospel. This practice is worth noting; it represents a first essay in humanitarian law. The Church postulated, as the foundation of this law, the dignity of man, created in the image of God.

¹ ἀ = no + σάλη = pillage.

When customary law was codified in France, early in the XVIth century, the right of asylum in churches finally disappeared, the suppression, in agreement with the Papacy, extending to all European States.

The development of society and the firm hold acquired by laws had by then, in a general way, put an end to private vendettas and internal wars. The individual was face to face with the State, which acted by established rules, applied according to a legal system. Already, legal opinion was contributing to the evolution of law.

The French Ordinance of 1539 recognized as inviolable only the Royal palaces, Ambassadors' residences and—a rather curious survival—the Temple, a former convent of the Knights Templar, to whom the Hospitalers of St. John of Jerusalem had succeeded and whose house became the Grand Priory of France. Until 1789, the great enclosure of the Temple was a place of shelter for insolvent debtors. The right of asylum there was not abolished until the Revolution, when, ironically, the Tower of the Temple, which had protected the King's least worthy subjects, served as a prison for the blameless Louis XVI.

In 1811, Napoleon, at the height of his power, razed the Tower, doubtless to obliterate its associations and emphasize the fact that times had changed. The French Revolution had inaugurated a new system of law, stated in the *Code civil*, as the 1539 Ordinance had codified customary law.

Impregnated with the ideas of the eighteenth century philosophers, the new Code was promulgated "in the name of the fraternity which should unite all men, and of the sacred and inviolable laws of humanity".

The first Article of the Declaration of the Rights of Man and of the Citizen stated: "All men are born free and equal before the law".

Although not founded on the theological concepts on which, in an earlier age, the right of asylum had been based, the law introduced by the Revolution did not the less insist on the principle of respect for the human person. It even extended the previous law in many respects. Foreigners were no longer subject to certain restrictions which had until then been

imposed upon them. They could sue in civil cases, and inherit in the event of intestacy, the right of escheat—succession by the Crown—being abolished. However, while freeing them in this respect, the new legislation imposed in 1792 a fresh obligation, that of passports—an obligation which was to be maintained in France and to spread throughout the world.

It was not likely that such a transformation of the law should leave the idea of asylum untouched.

The right of asylum had gradually disappeared in the form established by the Church, and customary protection by the State was now substituted for the divine protection formerly conferred on those who sought refuge in places of worship.

The law of asylum had ceased to be a right which the individual exercised in the name of principles superior to the law of the State, and became a right which the State itself exercised for the benefit of the individual, in accordance with humanitarian ideas. The distinction is important.

The right of asylum, a prerogative of the State, must be seen first as one of the rules applicable to the admission of aliens in a given territory.

Has the State a sovereign right to make such regulations? or is it limited by the duty of considering aliens as fellowmen, by international usage, and in courtesy to other States?

Asiatic countries hold firmly to the first thesis; the second has come to be more and more widely recognized in the rest of the world and has finally prevailed in International Law. In 1888, the International Law Institute declared: "In principle, each sovereign State is entitled to regulate the admission of aliens, according as it deems fit"; it added, in 1892: "Humanity and justice require that the State, in making such regulations, must, in so far its own security allows, respect the rights and liberty of aliens who wish to enter its territory".

The existence of a right of the individual, as against the right of the State, is here suggested. But the right of the individual is subordinate to the State's security rights.

From this theory derive the general rules governing asylum on board warships and in diplomatic premises, as well as extradition and expulsion.

In its 1898 Regulations, the International Law Institute forbids local authorities to interfere in happenings on board warships (Article 15). All authorities seem agreed that on warships, representing the sovereign power of the State, the right of asylum can be invoked as on the territory of the State itself.

The same applies to embassies, legations and their offices, in virtue of the principles of extritoriality.

It is clear, however, that, in the absence of special agreement, the right of asylum should not apply on board warships or in diplomatic premises, except under the same conditions as apply in the territory of the State itself in regard to extradition treaties.

Extradition, for all practical purposes unknown during ancient times and in the Middle Ages, while the right of asylum was still applied in its original form, began to be recognized in the XIVth century. It was more often used against political refugees than in their favour. Rulers agreed to exchanges of their political adversaries. It was thus that Peter the Cruel, King of Castile, handed over to Don Pedro, on his accession to the throne of Portugal, the murderers of Inez de Castro, whom Pedro forthwith executed in the most barbarous manner.

The theory of extradition has since developed. In the XVIIIth century it became the unchanging rule to refuse extradition in political cases, but to make it the rule in cases of common law misdemeanour. "The knowledge that there is no place on earth where crime will remain unpunished", wrote Beccaria (*Treatise on Crime and Punishment*, par. 25) "would be a most effective means of preventing it".

Apart from extradition, regulated by inter-state treaties, States have the right to expel undesirables. This follows from the principle that the safety of the State is above any personal interest of the individual. International Law, however, places limits on the rights of expulsion enjoyed by sovereign States. In 1892, the International Law Institute proposed that expulsion should depend on a community and not a personal motive, that it should be justified *de facto* and *de jure*, and that there

should be the right of appeal to a judicial or administrative tribunal.

In spite of the evolution of law under the influence of legal opinion, the individual was still practically helpless as against the well-nigh omnipotent State. Even where refugees from political or religious persecution have always been most generously received, in France and Britain, for example, they are completely dependent on the decision of the State, and have no guarantees in their own right.

In England, under the Aliens' Act (1905), an alien shall be considered as an undesirable immigrant if he has been sentenced in a foreign country with which there is an extradition treaty, for an offence which is not political, and which for the country in question is an "extradition offence" in the sense of the Extradition Act of 1870. But if he can show that he is seeking admission either (1) to escape persecution or punishment for political or religious motives, or for a political offence; or (2) to avoid the risk of death, corporal punishment or imprisonment because of his religious beliefs, he shall not be refused simply because he is without resources and/or likely to become a public charge.

Moreover, the passport system, although it had fallen gradually into disuse before the first World War, and scarcely operated except in Russia, Turkey and Rumania, bound the would-be refugee, theoretically at least, very closely to his home country.

Such was the legal position before the first of the two World Wars, which—the second especially—have given the refugee problem and the question of the right of asylum a tragic urgency.

Between the two Wars, the League of Nations tried to codify, as international agreements, the existing regulations concerning the reception of refugees. Serious obstacles were the security requirements of States, and the principle of reciprocity in International Law.

The explanatory text of the French law approving the Refugee Convention of October 28, 1933, is instructive: "It is a matter in which the law, without creating a privilege for

the citizens of a given State, accords aliens the same treatment as citizens, on a single condition: reciprocity, whether by municipal law or by convention.

“ The object of the law is evident. The restriction it imposes is justified, but it could not be applied to refugees. In actual fact, a refusal, because of the absence of reciprocity, to accord an alien the same treatment as citizens, is nothing other than mitigated retorsion—an attempt to retaliate, in the person of its citizen, on a country which refuses to adopt as liberal a regime and accord reciprocity. On what country or Government can one retaliate in the person of a refugee? ”

Most refugees are *de facto* stateless. They have lost the protection of their home country, either by decision of the authority in power, or by their own choice, because they repudiate or fear this authority. Such persons are henceforth deprived of what, through the mutual respect of States, gave substance to their rights. These rights existing only in virtue of what attaches citizens to a given State, they entirely lose legal status and are completely without protection, as against the authorities in the country of reception.

There was an obvious need, therefore—especially in view of experiences during the second World War—of finding some other foundation for the rights of the individual as against the State. By a curious repetition of history, the idea was put forward anew that the individual, as such, had an inalienable right to recognition in law, independently of his allegiance to any given State. On December 10, 1948, the United Nations General Assembly proclaimed the Universal Declaration of Human Rights, Articles 14 and 15 of which read :

ARTICLE 14

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality, nor denied the right to change his nationality.

The Declaration, extremely important as it is morally and as a guide, is still, however, in its own terms, only "a common standard of achievement for all peoples and all nations". It has not yet become part of treaty law, and needs implementing by individual States. For this purpose the Human Rights Commission of the United Nations established a draft international Treaty on Human Rights.

The Draft was examined at Geneva in July, 1950, during the session of the Economic and Social Council; it was referred back to the Commission for amendment before submission to the General Assembly.

One of the objections to the Draft is its omission of the right of asylum. The Belgian Delegate, in particular, comparing the Draft to the Declaration, regretted the absence of any mention of asylum. Similar warnings had been expressed in the Human Rights Commission itself. The representative of the International Refugee Organization had pointed out that, in spite of the inclusion of an Article on the right of asylum in the Declaration, and although the Commission had decided to insert such an Article in the Draft or in a special Convention on the subject, nothing had been done.¹ In his opinion, the Commission should recognize the right of the individual to seek asylum; if it was not desired to mention this right in the draft, the Commission could recommend its inclusion in the draft Convention on the status of refugees.

The first of these suggestions is obviously preferable, from a humanitarian point of view, because it tends to affirm the right, and have the signatory States recognize it as belonging to the individual and prior to any implementing legislation.

¹ Analytical Minutes, 153rd Meeting, United Nations Document E/C/N, 4/SR/153, p. 12.

Investigation of the question is being continued by the appropriate Commission of the General Assembly, which seems likely to follow the Economic and Social Council in inviting the Human Rights Commission to continue the study of new instruments and measures, to cover the other rights not dealt with in the draft international Treaty.

Thus, asylum, first of all individual and founded on respect for a religious idea, grew to be primarily a State prerogative, the State taking precedence always over the individual. The tendency now is to return to the individual right, valid as such in virtue of the respect due to the fundamental liberties of man.

It is to be hoped that the ancient rule will thus be revived, for the benefit of millions of persons ; there is no reason why it should not, while taking full account of what has been learned in the meantime.

Readers will no doubt follow with interest the discussions now in progress on this very important question.

The Geneva Conventions of 1949, signed by sixty-one Governments, give practical recognition to important inferences from the idea of respect for the human person, and are, as it were, a first application of the principles of the Universal Declaration of Human Rights.

The Conventions, designed to operate in time of war, having been adopted, the right of asylum, applicable at all times, may likewise be proclaimed and ratified. This can be brought about if the sense of human fellowship is strong and if good will, the indispensable concomitant of peace, is brought to bear.

Henri Coursier.
