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**31st INTERNATIONAL CONFERENCE
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**Furthering the auxiliary role:
Partnership for stronger National Societies
and volunteering development**

Background report

**Document prepared by
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BACKGROUND REPORT

Furthering the auxiliary role: partnership for stronger National Societies and volunteering development

INTRODUCTION

National Societies are recognized by all Governments as auxiliary to the public authorities in the humanitarian field. At the same time, the Statutes of the Red Cross/Red Crescent Movement require that National Societies maintain their autonomy so that they can act at all times in accordance with the Fundamental Principles of the Movement. In line with Article 2(4) of the Statutes of the Movement, States are required at all times to respect the adherence by all the components of the Movement to the Fundamental Principles.

Auxiliary status: a specific and distinctive partnership between states and National Societies

Governments have the primary responsibility to address the vulnerabilities that exist in their countries, and a main function of the auxiliary role of National Societies is to supplement them in the fulfilment of that responsibility. This recognizes the advantages, both to the public authorities, and to National Societies themselves, in the latter being able to deliver services to vulnerable communities, in line with the Movement's Fundamental Principles. As reliable partners to their public authorities in the humanitarian field, the auxiliary role may provide a framework to ensure effective access to those in need by National Societies as reliable partners to their public authorities in the humanitarian field.

With the above in mind, National Societies create and strengthen relations with their public authorities – ensuring they are balanced and based on trust – by continuing to update any necessary revisions to the legal base of their status as auxiliaries. This specific and distinctive partnership is pursued through dialogue, trust, cooperation, mutual understanding and respect, thus allowing the most sensitive humanitarian questions to be raised in a confidential, constructive and independent manner. The auxiliary partnership gives National Societies a privileged seat in decision-making forums with governments, and a meaningful share of resources that are available for humanitarian action.

The auxiliary partnership includes:

- National Society support to their State in the implementation of their obligations under international law (in particular, international humanitarian law); mutual efforts to implement the resolutions of the International Conference of the Red Cross and Red Crescent; co-operation in related tasks, such as health and social services, disaster management, and restoring family links.
- A platform for constructive dialogue between a State and its National Society, at all levels on matters within its competence. This includes consultation of the National Society on major humanitarian issues, and its participation and resourcing for domestic and international disaster relief and preparedness, and in health, social welfare, community development and other competent fields
- A National Society working with its State to create an environment conducive to carrying out its functions, including appropriate legislation on its status, authorisation to use one of the distinctive emblems subject to international and national regulations, resourcing that is linked only to humanitarian motives, and other support that facilitates effective National Society functioning, for example, on voluntary service, tax and customs status

- Authorization of the National Society to assist the regular medical service of its armed forces and employment of National Society personnel within that framework, in accordance with the First and Second Geneva Conventions of 1949.

National Societies exercise initiative on tackling humanitarian needs where they have the means to do so. In their auxiliary role, they also have a duty to consider seriously any request from their public authorities to carry out humanitarian activities within their mandate. States must refrain from requesting National Societies to act in conflict with the Fundamental Principles or the Statutes of the Movement or its mission. National Societies have a duty to decline any such request and public authorities need to respect such decisions by National Societies. The National Society should have responsibility for its own internal functioning, the selection of its activities, the appointments of its leaders and amendments to its legal texts.

Getting access to those in need through strong National Societies and volunteering

The independence of National Societies, as autonomous auxiliaries, combined with their commitment to impartial and neutral assistance, is often the best available means to gain access and address immediate and emerging vulnerabilities. This also enables National Societies to have public trust and confidence. States profit from this unique relationship with a reliable and impartial partner, which is both community-based and organically linked with the rest of the International Red Cross and Red Crescent Movement. Both Governments and the Movement need strong individual National Societies able to deliver relevant and sustainable services to vulnerable people across the country through a network of volunteer-based units.

Legal and socio-cultural environments affect how National Societies can grow stronger, can respond to unforeseen humanitarian needs, and mobilise, motivate and retain volunteers to serve vulnerable people. While National Societies are significantly supported by specific Movement-developed guidance on such matters, including through the “Minimum elements to be included in the legislation between Red Cross and Red Crescent Societies and their public authorities”, among others, this is not, by itself, sufficient. Dialogue and agreements need to take place at all levels to ensure stable resource bases and contributions to National Society organisational development to enhance their humanitarian services, their capacity to adapt, but also their transparency and accountability.

As part of their humanitarian diplomacy efforts, National Societies aim to raise the interests of vulnerable people to the consideration of decision makers, ensure their own access and humanitarian space, increase visibility and public understanding, strengthen overall resource mobilisation capacities and develop partnerships. The 28th International Conference accepted the concept of a balanced relationship between the States and National Societies and requested the International Federation to continue its work on the subject. The 30th International Conference invited National Societies and governments to clarify and consolidate the areas in which National Societies as auxiliaries cooperate with the public authorities¹.

The paper underpins discussions and decisions of the 31st Conference pursuing enhanced partnerships between governments and National Societies through re-emphasising the need for a multi-tier approach to partnerships, and focusing on the crucial elements of National Society resourcing and volunteering development.

¹ Resolution 2 *Specific nature of the International Red Cross and Red Crescent Movement in action and partnerships and the role of National Societies as auxiliaries to the public authorities in the humanitarian field*, 30th International Conference, Geneva, 26-30 November 2007

FURTHERING THE AUXILIARY ROLE FOR STRONGER NATIONAL SOCIETIES

Pursuing the implementation of resolution 2 of the 30th International Conference².

Resolution 2 of the 30th International Conference of the Red Cross and Red Crescent focused on promoting partnerships between Governments and National Societies, in the framework of the auxiliary role, through consolidating a balanced relationship with clear and reciprocal responsibilities and permanent dialogue. It further invited Governments and National Societies to clarify and consolidate areas of cooperation at all levels.

A questionnaire was sent to all National Societies and Governments asking for feedback on the implementation of the 30th International Conference resolutions between 2007 and 2011. Analysis of answers received highlights that numerous and significant steps are undertaken primarily on initiating permanent dialogue, as well as clarifying and agreeing on the existence and modus operandi of National Societies. Examples include agreement on a National Society's auxiliary role and autonomy, within the framework of the Fundamental Principle of Independence, on the activities they undertake, on cooperation in normal and exceptional circumstances, on the protection of the emblems, on international humanitarian law, on ensuring distinction with military and governmental bodies, and on the adherence by National Societies to the Fundamental Principles.

States are encouraged to initiate or pursue a dialogue, as required, with their partner National Society in order to strengthen their legal base in domestic law, through high quality Red Cross/Red Crescent laws, so as to formalise their auxiliary role in the humanitarian field and to commit to respect the ability of National Societies to work and operate in accordance with the Fundamental Principles. In particular, it is recommended that they use the platform and format of the 31st International Conference to clarify and consolidate the areas in which National Societies as auxiliaries cooperate at all levels with the public authorities. Such dialogue may contribute and lead to strengthening the capacities of National Societies especially on enhancing performance, transparency and accountability.

Partnerships at all levels

The review of the questionnaire highlights that in most cases actions taken target primarily governments and National Societies at national level. But both public administrations and National Societies are organised as multi-tier systems. Although National Societies have many different organisational models worldwide, these usually take the form of a multi-tier network of self-initiated, self-managed and self-resourced community units, coordinated by an intermediary coordination and support structure and a central office. It is important to re-emphasize that National Societies and governments need to clarify and consolidate their relationships at all levels of their organisational and public administration structure.

Specific steps should be taken by Governments, National Societies, ICRC and the International Federation to promote similar balanced partnerships at the lower levels of the public authorities and of the National Society structure for more effective response to humanitarian needs. This could for instance be captured in a Red Cross/Red Crescent law, and internal dissemination could be organised throughout the country at the different levels of public administration. National Societies, with support from their International Federation,

² Resolution 2 *Specific nature of the International Red Cross and Red Crescent Movement in action and partnerships and the role of National Societies as auxiliaries to the public authorities in the humanitarian field*, 30th International Conference of the Red Cross and Red Crescent, Geneva, 26-30 November 2007

should make sure that simple guidance on partnerships with public administration is made available throughout its structure in appropriate languages.

Resourcing National Societies

The screening of questionnaires further highlights that while the partnerships developed contribute to clarify the roles and responsibilities of National Societies in their auxiliary role, they very seldom tackle resourcing aspects.

Volunteers and members are not only the driving force for the activities and the governance of National Societies, but they are also their primary and most stable resources. Voluntary service is at the heart of community building. Volunteering promotes trust and reciprocity. It encourages people to be responsible citizens contributing towards building resilient communities through local action. Doing so requires continued realignment with the changing nature of communities and their needs, and evolving patterns of volunteering.

At the local grassroots level, community units mobilise most of the resources they need from the people they are serving, mainly through the contributions of members and unpaid work of volunteers. At the upper regional and national levels of the organisation, additional resources are needed for staff, offices, communication, transportation, learning systems, organisational development and adaptation efforts to changing environments and humanitarian patterns. For most National Societies, these resources for the coordination and support system for community based service delivering units are the most difficult to mobilise.

Growth and strength of an organisation, and its ability to stabilise and sustain it, has to come from within the country. It is the result of good strategies, right leadership, and hard work but also of strong partnerships. Enhanced partnerships between Governments and National Societies can make a significant difference through appropriate resourcing. This is critical to ensure that National Societies have the necessary resources and capacities to coordinate and support the work and growth of its structure and to ensure enabling environments for volunteering development. It is also important to ensure stability and sustainability, avoiding that National Societies become dormant or highly dependent on time-bound resources from International partners and ad-hoc programs.

States and National Societies are encouraged to discuss and agree on resourcing modalities to contribute to the good functioning and development of National Societies to ensure relevancy, stability, capacity to adapt, strength development and accountability. This can be done in different ways, by

1. providing National Societies with an up to date Red Cross/Red Crescent law with tax exemptions,
2. and specific provisions to take a share of resourcing
 - Headquarters and regional branches, providing facilities for offices and covering some of the ordinary running costs such as electricity, telecommunication, salaries and insurances, etc.
 - Organisational development efforts to increase the country coverage, community presence, services development and associated volunteer and member mobilisation.
 - Humanitarian operations when the National Society is addressing national vulnerabilities and emergencies.

The International Federation will conduct a study on best practices on the matter and Governments will be presented with minimum elements to be included in a Red Cross/Red Crescent law and illustrative case studies.

FURTHERING THE AUXILIARY ROLE TOWARD STRONGER VOLUNTEERING DEVELOPMENT

What is volunteering?

We define volunteering with the Red Cross/Red Crescent as an activity that is organised by representatives of National Societies, aimed at furthering their services and activities, and in accordance with the Fundamental Principles of the Red Cross and Red Crescent. It is carried out by people motivated by free will, and not by a desire for material or financial gain, or by external social, economic or political pressure.

Volunteers in the Red Cross/Red Crescent are people who carry out volunteering activities for a National Society occasionally or regularly. They work to deliver services directly to vulnerable people, and seek to prevent vulnerability and exclusion where they can. They also govern National Societies and the International Federation.

Strong and cohesive communities are the foundation for volunteer-led service delivery by National Societies. This acknowledges that people themselves are the most important resource for their own progress, which can only be sustained through their own leadership and ownership of the process.

What value do Red Cross and Red Crescent add in humanitarian and development interventions?

About 13.1 million people volunteer for the Red Cross/Red Crescent, representing about one person in 500 of the global population. Of these 13.1 million, about 26% are active in preparing for and responding to disasters. 37% are active in enabling healthy living, while a further 12% work to promote social inclusion. The remaining 25% are the leadership and administrative core of National Societies, leading, governing, administering and raising funds so that other volunteers can work effectively. For more information refer to “The value of volunteers” report by the IFRC, 2011 at www.ifrc.org

The volunteer base of National Societies provides a distinct qualitative and quantitative complement to governmental action in delivering humanitarian services. Through mobilising volunteers National Societies access resources of human time, diverse capabilities and energy and channel them to humanitarian action.

Volunteers saving lives and strengthening recovery from disaster and crisis

Volunteers are part of communities before, during and after disaster. Volunteer integration in communities allows for an ongoing understanding of community needs, vulnerabilities and capacities. Volunteers operate early warning systems. They are the first people on the scene of a disaster, using their training and skills to assess the situation and provide coordinated help to vulnerable people.

Volunteers enabling healthy and safe living

Volunteers help people to be as healthy as possible, working to reduce individual and community vulnerability. They expand the access that people in under-served communities have to health services. In many countries, the Red Cross/Red Crescent is associated with first aid services delivered by volunteers. But volunteers also address underlying social, behavioural and environmental risks through the education and social mobilisation of individuals and communities.

Volunteers promoting social inclusion and a culture of non-violence and peace

Volunteers apply the Fundamental Principles in their daily lives, modelling values of social inclusion and peace in their communities. Local Red Cross/Red Crescent groups are open to

all, regardless of gender, age, racial background or sexual orientation. They provide an environment in which people who are marginalized and stigmatized feel welcome and safe.

The process of volunteering itself builds community cohesion and resilience. It contributes to a culture of non-violence and peace. Dynamic volunteer action is a sign of empowerment and ownership in addressing the community's own issues. It is one expression of a community's solidarity and humanitarian values.

For individuals volunteering builds skills and confidence. For young people in particular it can provide first leadership positions, and inculcate values that remain with volunteers through their adult lives.

How can government be part of creating an enabling environment for Red Cross/Red Crescent volunteers?

While volunteering is a social phenomenon, deeply rooted in community traditions and values, the capacity of National Societies to mobilise and manage volunteers can be augmented or limited by state policy and practice. We define an enabling environment for volunteers as one that provides a culturally appropriate policy framework in which volunteering can grow and thrive.

Specific aspects of such a framework include adequate protection, promotion and recognition of the roles of volunteers and volunteering in society.

In light of the value and importance of volunteers, as described in the previous sections, it is essential to create an enabling environment, whereby volunteers and voluntary action are allowed to flourish.

One such means of creating an enabling environment is by ensuring that the legislative and policy framework around volunteering is robust, and encourages volunteering activities.

At the international level, States have recognized the importance of promoting a positive legal framework to enable volunteering. This has been affirmed at fora such as the International Conference as well as the General Assembly of the United Nations.

At the 27th International Conference in 1999, Final Goal 3.3 placed the responsibility on States to "review and where necessary, introduce or update legislation so as to facilitate the efficient work of relevant voluntary organisations." The International Federation also made a pledge to the conference inter alia, "to cooperate with governments to broaden the existing legal, fiscal and political bases for volunteering and to mobilize increased public support".

Echoing the same call and commitment made at the International Conference, the United Nations General Assembly in Resolution A/RES/56/38 of 10 January 2002, elaborated on ways for governments and civil society to support volunteerism and recommended that governments support volunteerism by creating a favourable environment, which included "enabling fiscal, legislative and other frameworks", and specifically within this category, to "introduce enabling legislation".

In follow-up to the 27th International Conference, and in keeping with its mandate, the International Federation worked with the Inter-Parliamentary Union (IPU) and United Nations Volunteers (UNV) to prepare a guidance document in 2004, *Volunteerism and Legislation: A Guidance Note*. This Guidance Note flags the main issues and considerations that need to be taken into account in examining the legal framework as it relates to volunteering. It provides guidance to Parliamentarians and recognizes the vital role that Parliaments play in creating an enabling environment for volunteering.

The United Nations General Assembly, commemorating the tenth anniversary of the International Year of Volunteering in Resolution A/RES/63/153 of 11 February 2009 acknowledged the role of the IFRC to “promote volunteerism through its global network”. Further, the resolution “recognizes the importance of supportive legislative and fiscal frameworks for the growth and development of volunteerism, and encourages Governments to enact such measures”.

In follow-up to the International Year of Volunteering as declared by GA resolution 56/38, UNV commissioned a study, *Law and Policies Affecting Volunteerism since 2001*, issued in 2009. This study has provided a detailed analysis of the law and policies that have been enacted or that have been amended since 2001. This study provides detailed guidance on the types of legal issues that arise, that may either inhibit volunteering or that should be legislated on to facilitate volunteering. It also provides case studies and best practice, providing comparison and the values of different approaches and models. Based on this study, in 2010, UNV prepared *Drafting and Implementing Volunteerism Laws and Policies: A Guidance Note*. This guidance note further develops on the 2004 Guidance Note developed jointly by IFRC, UNV and IPU, by providing details of best practice in relation to the legal challenges to volunteering and in identifying the goals and challenges of volunteerism law, the process of advocacy and drafting, as well as implementation of the law.

Issues

Upon a review of literature, the following are some of diverse legal issues related to volunteers that may arise, either due to barriers in the law or ambiguities in legislation:

- v. Legal recognition of volunteers/volunteering activities
- vi. Clarity in regard to employment and voluntary activity
- vii. Safe environment for volunteers
- viii. Social welfare benefits and the eligibility to volunteer
- ix. Insurance for volunteers
- x. Tax implications for volunteers and volunteering organisations
- xi. Liability of volunteers and volunteer organizations

These issues have a very real impact upon volunteers as well as organisations that depend on volunteers for their activities as well as communities. For instance, ambiguities in regard to who may or may not volunteer could result in unfair treatment of volunteers. Similarly, lack of clarity in regard to reimbursement of volunteers expenses may put volunteers at a significant disadvantage and would in many situations, prevent volunteering. These are a few instances of the practical impact that unclear laws and policies may have on volunteering in general.

It is therefore important that in each country context, the applicable legal framework relating to volunteerism is assessed, and in case of barriers or ambiguities, that these are clarified by means of law or policy. Depending on the problem at hand, the solution will need to be tailored: for instance, in case of a barrier to volunteering such as the levying of taxes on reasonable reimbursements for volunteers, then a solution may lie in amending the particular tax provision. In other situations, where there are multiple barriers or ambiguities, then a preferred option may be to legislate a ‘framework’ law on volunteering in general, that would clarify all the legal aspects surrounding volunteering. Clearly, the most appropriate way to create an enabling environment would depend on the particular context of each country and a “one size fits all” approach will not work.

Examples may illustrate better some of the legal questions that may arise, related to volunteering. A classic and often raised question relates to whether there is a clear definition of who is a volunteer. In many cases, due to lack of clarity regarding what constitutes

volunteerism, labour or employment law may apply to volunteers resulting in confusion in regard to obligations of organisations as well as rights of volunteers. In some countries, even reimbursing basic costs incurred by volunteers, in the course of volunteering activities, would result in their being considered 'employees', resulting in their being subject to minimum wage regulations and other employment laws. In some situations, this has been clarified by means of amending the law to ensure that volunteers and their activities are clearly distinguished from employment.

Another example that relates to the application of income tax to reimbursements of volunteers resulted in a barrier or disincentive to volunteer. In this situation, the tax law was amended to exclude the application of income tax, thereby ensuring that volunteers were not dissuaded from volunteering.

Other countries have ensured by means of law that the health and safety of volunteers are to be considered seriously, and provide for steps such as accident insurance or in other instances, for the equivalent of workman's compensation to apply to volunteers, while recognizing them as a category distinct from employees still.

Another example of law removing barriers to volunteering, should this be in keeping with the states policy, is that of amendment of national immigration law to clarify and simplify the process for international volunteers to be able to undertake voluntary activities in the country, within particular defined parameters.

Yet other laws have provided for more rigorous training and management of volunteers, seeking to ensure that volunteers are better prepared and equipped in the course of their volunteering activities, which benefits the community, as well as the volunteer and voluntary organisation. These are but a few examples of some of the legal issues that may arise when considering volunteering, and where either amending or creating law can result in better protection for, and enabling of, volunteers.

Law and Policies Affecting Volunteerism since 2001 provides a comprehensive analysis of the various issues and laws and policies around the world, and highlights over seventy such laws or policies. However, there are still areas that warrant further analysis. One such identified gap relates to volunteering in emergencies (such as natural and man-made disasters, excluding situations of conflict). This context brings up specific legal issues that need to be addressed, such as heightened health and safety concerns, the impact of declaration of emergency, questions related to insurance, liability, employment law, volunteering by professionals, etc. Upon a survey of literature, while this area has been highlighted, there has not been much focus on these specific issues and how they correlate to disaster management or volunteering legislation, despite the widespread assistance and crucial role of volunteers in emergencies. This is therefore an area that warrants further study and inquiry, in order to scope and assess the legal issues that may arise. This is a gap that is especially relevant to the International Red Cross and Red Crescent Movement, given the heavy reliance upon volunteers at all times, including in times of emergency.

An example of an issue that has come up and may require clarification, by means of a law or policy, relates to employment at the time of volunteering in an emergency context. Many volunteers who may be deployed in emergencies have regular employment, and they may benefit from additional protection in regard to this employment. In some countries, law protects the volunteer from being fired at the time of deployment for volunteering duties; in other instances, the law enables such activity by expressly providing for a fixed number of days that the person will be able to volunteer for, either with pay or in some cases, without pay. In all these cases however, the employer would be unable to dismiss or commence any disciplinary processes.

Another area of concern relates to exemption from liability in the course of voluntary activities. Given the heightened circumstances and risk, many countries have legal protection for volunteers who have been tasked to undertake certain activities and conduct the activities in good faith. Naturally, in circumstances such as inebriation, or criminal activity, usually no such exemptions from liability would apply. Clarity surrounding the extent of liability in emergencies is in many instances found in the disaster management or emergency responses laws of countries, if such laws exist.

Given the circumstances around volunteering, proper training as well as accreditation of volunteers is sometimes also provided for in disaster legislation and may be one way of ensuring better protection of volunteers as well as communities that benefit from such activities.

These are some of the issues that may arise specifically in regard to volunteers in emergency contexts. As a result, acknowledging the need to undertake a more detailed analysis of these issues, complimenting the work already done regarding legal issues around volunteering in general, the International Federation has prepared a preliminary scoping study relating to legal issues specific to volunteering in emergencies. This research has been undertaken in order to contribute to a better understanding of the legal issues that may arise, and to initiate discussion on this subject, along with legal issues relating to volunteering in all contexts.

The findings of this preliminary study indicate that there are divergent approaches taken in addressing the legal issues that may arise. In some countries, there is no specific law applicable in regard to volunteers or emergency contexts, and the general law would apply (which may not be sufficiently clear in regard to some of the issues raised). In other countries, there is specific legislation relating to volunteers (which may apply to all contexts) and in others, there is specific disaster legislation only that regulates volunteering. Even in these latter contexts, the protection of such laws may not be sufficient in all instances, and a case by case analysis may be required. Overall the approach varies greatly, and it may be to the benefit of communities and volunteers for States to undertake an initial assessment of their legal framework in regard to volunteers, to assess the adequacy of such a framework.

In sum, the legal environment in a country consists of national laws and policies. In some instances, legislation is clear in regard to definitions of volunteers and activities of volunteers, and there may even be a framework law relating to all volunteering issues; in other jurisdictions, there is an absence of clear definitions or scope of activities that volunteers may be engaged in, leaving grey areas in the law; in yet other instances, there are barriers or legal provisions that may in fact prohibit or restrict volunteering, in various sectors (including labour law, tax law etc.) These diverse legal environments need to be taken into consideration, when assessing suitable remedial action. Some preliminary questions that may be considered in making a correct assessment of the legal environment surrounding volunteering include:

- Does national law or policy recognise volunteers?
- Is there a 'framework' law in regard to volunteering?
- If there is no framework law, are there separate laws/policies that regulate volunteering?
- Do such laws/policies enable and protect volunteers or do they create barriers to volunteering?
- Is there specific legislation in regard to volunteering in emergency context, or does the general law apply to all types of volunteers?
- Are there additional or different requirements in case of volunteering in emergencies?

- Are there specific issues that apply to volunteers that pose significant barriers to volunteering, which may be rectified by means of amendment of laws or policies, or the enactment of additional legislation?

These questions provide a starting point to ascertain the legal environment within which volunteering occurs and provide some indication in regard to next steps that may be taken.

In seeking to extend the reach and scope of Red Cross and Red Crescent volunteering in the context of National Societies' auxiliary roles to government, governments are encouraged to:

- 1) Work with National Societies to develop and improve the environment for volunteers and volunteering. This could include undertaking a review of relevant national law and policies and work to strengthen such frameworks as appropriate;
- 2) Protect Red Cross/Red Crescent volunteering by working with National Societies to ensure safe access for volunteers to all vulnerable groups in society;
- 3) Promote Red Cross/Red Crescent volunteering by working with National Societies' to integrate volunteer capacity into local, regional and national emergency response plans. Promotion of volunteering more generally can include measures to encourage citizen volunteer involvement through national and local campaigns and events;
- 4) Recognise Red Cross/Red Crescent volunteering by working with National Societies to deepen understanding of the role and impact that Red Cross/Red Crescent volunteers have in national social and economic development, and in responding to crises.

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