

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN -3 P5:38

SENATE
S. No. 2370

RECEIVED BY: JA

Introduced by **Senator Richard J. Gordon**

EXPLANATORY NOTE

From its beginnings in the battlefields at Solferino in 1859 where human suffering was met with care and compassion without distinction of nationality, the work of the International Red Cross and Red Crescent Movement has since expanded worldwide. In a diplomatic conference in Geneva, Switzerland on August 22, 1864, participating nations unanimously agreed to diminish the evils inherent in war by approving the First Geneva Convention. Thus, the Red Cross emblem was born – an internationally-recognized emblem purposely used to protect humanitarian workers, vehicles and medical facilities in times of armed conflict and violence, and to identify the members of the Movement.

The Philippines after the Second World War proclaimed on February 14, 1947 its adherence to the Geneva Conventions and its commitment to participate with the nations of the world in mitigating suffering caused by war. It further expressed its intent to establish a voluntary organization for that purpose as contemplated by the Geneva Conventions. In two months, the Philippine National Red Cross (PNRC) was established with the promulgation of Republic Act No. 95.

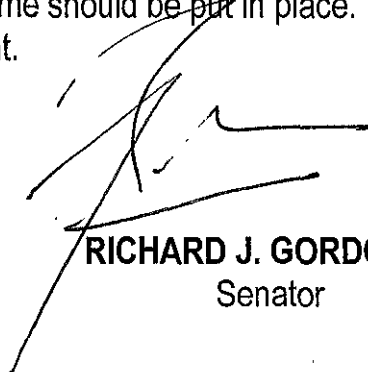
This bill draws on the 1949 Geneva Conventions and their 1977 and 2005 Protocols; the Regulations on the Use of the Emblem of the Red Cross or the Red Crescent by the National Societies, as adopted by the 20th International Conference of the Red Cross, and subsequent amendments; and Resolution 1 of the 29th International Conference of the Red Cross and Red Crescent, among others.

Currently, 194 nations have ratified or adhered to the Four Geneva Conventions of August 12, 1949 making it the most widely accepted and recognized treaty in the world. It was ratified by the Philippines in 1952.

The Philippines has likewise ratified the 1977 Additional Protocol II and the 2005 Additional Protocol III. It has signed but not ratified the 1977 Additional Protocol. While the latter treaty has yet to be ratified, it does not bar our sovereign Congress from adopting certain provisions thereof as part of our national legislation including those governing the use and protection of the emblem of the Red Cross or Red Crescent which occupies a very important place in international humanitarian law.

To date, only Sections 14, 15 and 16 of Presidential Decree No. 1264, as amended, penalize the unlawful use of any other person or entity, aside from the Medical Services of the Armed Forces of the Philippines and the PNRG, of the words "Red Cross" or "Geneva Cross" or use the emblem of the red Greek cross on a white ground or any designation, design, sign or insignia constituting an imitation thereof for any purpose whatsoever. There is no provision for the unlawful use of the Red Crescent symbol and the new Red Crystal.

This bill is a result of collaboration between the PNRG National IHL Committee led by Justice Leonor Ines Luciano, with the technical assistance of the International Committee of the Red Cross. In view of the Philippines' obligation to take measures to prevent and repress at all times any misuse of the emblem, a stricter and broader national legislative regime should be put in place. The approval of this bill is therefore most earnestly sought.



RICHARD J. GORDON
Senator

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AN ACT
DEFINING THE USE AND PROTECTION OF THE RED CROSS, RED CRESCENT
AND RED CRYSTAL EMBLEMS

Be it enacted by the Senate and the House of Representatives in Congress assembled:

CHAPTER 1. INTRODUCTORY PROVISIONS

1
2 **SECTION 1. *Short Title.*** This Act shall be known as "The Red Cross and Other
3 Emblems Bill."

4 **Sec. 2. *Declaration of Principles and State Policies.***

5 (A) The Philippines renounces war as an instrument of national policy, adopts the
6 generally accepted principles of international law as part of the law of the land and adheres
7 to a policy of peace, justice, freedom, cooperation, and amity with all nations.

8 (B) The State adopts the provisions of The Hague Conventions and the 1949
9 Geneva Conventions and their Protocols insofar as they have been ratified or have become
10 part of generally accepted principles of international law.

11 (C) The misuse of the red cross, red crescent or red crystal emblem and of the words
12 "Red Cross", "Red Crescent" or "Red Crystal" or their translation in any official language and
13 dialect shall not go unpunished. Their effective prosecution shall be ensured by taking
14 measures at the national level.

15 **CHAPTER 2. RULES ON THE USE OF THE RED CROSS,**
16 **THE RED CRESCENT AND THE RED CRYSTAL EMBLEMS**

17 **Sec. 3. *Definition of Protective Use and Indicative Use.*** - The emblem used as a
18 protective device during armed conflict is the visible sign of the protection conferred by the
19 Geneva Conventions and their Additional Protocols on medical personnel and medical units
20 and transports in time of armed conflict. The dimensions of the emblem shall therefore be
21 as large as possible.

1 Indicative use of the emblem shows that a person or an object is linked to an
2 institution of the International Movement of the Red Cross and Red Crescent. The emblem
3 shall be small in size.

4 **Sec. 4. Protective Use by the Medical Service of the Armed Forces of the**
5 **Philippines.** - Under the control of the Department of National Defense (DND), the medical
6 service of the Armed Forces of the Philippines (AFP) shall, both in peacetime and during
7 armed conflict, use the Red Cross emblem to identify its medical personnel, medical units
8 and transports on the ground, sea and air.

9 * Medical personnel shall wear armlets and carry identity cards displaying the Red
10 Cross emblem. These armlets and identity cards shall be issued exclusively by the
11 Department of National Defense (DND).

12 Religious personnel attached to the armed forces shall be afforded the same
13 protection as medical personnel and shall likewise be similarly identified with armlets and
14 identity cards.

15 Where this may enhance protection, medical and religious personnel attached to the
16 armed forces may, without prejudice to the use of their present respective emblems, make
17 temporary use of either of the other distinctive emblems recognized by, and enjoying equal
18 status under the Geneva Conventions and their Additional Protocols.

19 **Sec. 5. Protective Use by Hospitals and Other Civilian Medical Units.** - The
20 Department of Health (DOH) or local government unit (LGU) exercising control over the
21 hospitals, civilian medical personnel, civilian and civilian medical transports assigned in
22 particular to the transport and treatment of the wounded, sick and shipwrecked, shall
23 authorize the same to be marked with the Red Cross emblem used as a protective device in
24 time of armed conflict, in consultation with the Philippine National Red Cross (PNRC). In this
25 regard, the DOH and LGUs shall work together with the DND, which shall, if necessary, give
26 advice and assistance.

27 Civilian medical personnel shall wear armlets and carry identity cards displaying the
28 Red Cross emblem. These armlets and identity cards shall be issued by the DOH and
29 LGUs.

30 Civilian religious personnel attached to hospitals and other medical units shall be
31 afforded the same protection as medical personnel and shall likewise be similarly identified
32 with armlets and identity cards.

33 **Sec. 6. Protective Use by the Philippine National Red Cross.** - The PNRC is

1 authorized to place medical personnel and medical units and transports at the disposal of
2 the medical service of the armed forces.

3 Such personnel, units and transportation shall be subject to military laws and
4 regulations and may be authorized by the DND to display as a protective device the emblem
5 of the red cross, or where this may enhance protection, to make temporary use of either of
6 the distinctive emblems recognized by, and enjoying equal status under, the Geneva
7 Conventions and their Additional Protocols.

8 Such personnel shall wear armlets and carry identity cards in accordance with
9 Section 4, paragraph 2 of this Act.

10 The PNRC may be authorized to use the emblem as a protective device for its
11 medical personnel and medical units in accordance with Section 5 of this Act.

12 **Sec. 7. Indicative Use by the Philippine National Red Cross and National**
13 **Societies.** - The PNRC is authorized to use the emblem as an indicative device. It may, in
14 exceptional circumstances and to facilitate its work, make temporary use of the red crystal.
15 It shall apply the "Regulations on the Use of the Emblem of the Red Cross or the Red
16 Crescent by the National Societies."

17 National societies of other countries present in the territory of the Republic of the
18 Philippines shall, with the consent of the PNRC, be entitled to use the emblem under the
19 same conditions.

20 **Sec. 8. Indicative Use by the International Organizations of the International**
21 **Red Cross and Red Crescent Movement.** - The International Committee of the Red Cross
22 and the International Federation of Red Cross and Red Crescent Societies may make use
23 of the emblems of the red cross or the red crescent at any time and for all their activities.

24 The International Committee of the Red Cross and the International Federation of
25 Red Cross and Red Crescent Societies, and their duly authorized personnel, may make use
26 of the red crystal in exceptional circumstances and to facilitate their work.

27 **CHAPTER 3. CONTROL MEASURES AND PENALTIES**

28 **Sec. 9. Control Measures and Enforcement.** - The DND, DOH, Department of
29 Interior and Local Government (DILG) and Department of Trade and Industry (DTI) shall at
30 all times ensure strict compliance with the rules governing the use of the emblems of the red
31 cross, the red crescent or the red crystal, the name "Red Cross," "Red Crescent" or "Red
32 Crystal," or their translation in any official language and dialect or the distinctive signals.
33 They shall exercise strict control over their respective personnel authorized to use the said

1 emblems, names and signals.

2 They shall take every appropriate step to prevent misuse, in particular by
3 disseminating the rules in question as widely as possible among the armed forces, the
4 police forces, the instrumentalities of the State and the civilian population. They shall
5 likewise issue instructions to national civilian and military authorities on the use of the
6 distinctive emblem in accordance with the Geneva Conventions and their Additional
7 Protocols, and provide for the necessary administrative and disciplinary sanctions in cases
8 of misuse.

9 **Sec. 10. Role of the Philippine National Red Cross.** – The PNRC shall cooperate
10 with the DND, DOH, DILG and DTI in their efforts to prevent and repress any misuse. It
11 shall be entitled to inform them of such misuse and to participate in relevant criminal, civil or
12 administrative proceedings.

13 **Sec. 11. Misuse of the Red Cross, the Red Crescent or the Red Crystal Emblem**
14 **as an Indicative Device in Peacetime and In Time of Armed Conflict.** - Any person who
15 willfully and, without entitlement, makes use of the red cross, red crescent or red
16 crystal emblem; the words “Red Cross”, “Red Crescent” or “Red Crystal” or their translation
17 in any official language and dialect; a distinctive signal or any other sign, designation or
18 signal which constitutes an imitation thereof or likely to cause confusion or mistake or to
19 deceive the general public, irrespective of the purpose of such use; any person who, in
20 particular, has displayed the said emblems or words on signs, posters, announcements,
21 leaflets or commercial documents, or has affixed them to goods or packaging, or has sold,
22 offered for sale or placed in circulation goods thus marked; shall be punished by
23 imprisonment of not more than one (1) year and/or a fine of not less than Twenty Thousand
24 Pesos (P20,000.00) at the discretion of the court.

25 If the misuse is committed by a corporate body, the punishment shall apply to the
26 persons who committed the crime or ordered the commission of the offense. Foreigners
27 convicted under this Section may be ordered deported upon service of the penalty.

28 In addition, the court may order the forfeiture in favor of the PNRC of any proceeds,
29 property, assets upon or directly or indirectly in connection with which an emblem,
30 designation, design, wording or sign which was used in the commission of the offense,
31 without prejudice to the rights of bona fide third parties.

32 **Sec. 12. Misuse of the Red Cross, the Red Crescent or the Red Crystal**
33 **Emblem as a Protective Device in Time of Armed Conflict.**

1 (A) Any person who willfully commits or gives the order to commit acts resulting in
2 the death of, or causing serious harm to the body or health of an adversary by making
3 perfidious use of the red cross, red crescent or red crystal emblem, or a distinctive signal,
4 shall be deemed to have committed a war crime and shall be punished by *reclusion*
5 *perpetua* or imprisonment of twenty (20) years to one (1) day to forty (40) years and a fine
6 not less than One Hundred Thousand Pesos (P100,000.00) at the discretion of the court if
7 the act results in death of an adversary, or *reclusion temporal* or imprisonment of twelve
8 (12) years and one (1) day to twenty (20) years and a fine not less than One Hundred
9 Thousand Pesos (P100,000.00) at the discretion of the court if the act results in serious
10 harm to the body or health of an adversary.

11 Perfidious use of the red cross, red crescent or red crystal emblem, or a distinctive
12 signal which does not result in death or serious harm to the body or health of an adversary
13 shall be punished by *prision correccional* in its minimum and medium periods or
14 imprisonment of not less than (6) years and one (1) day to ten (10) years and a fine not less
15 than One Hundred Thousand Pesos (P100,000.00) at the discretion of the court.

16 The court may also impose the corresponding accessory penalties under the
17 Revised Penal Code, especially where the offender is a public officer.

18 Perfidious use means appealing to the good faith of the adversary, with the intention
19 to deceive and create a belief that the offender was entitled to receive or was obliged to
20 confer the protection provided for by the rules of international humanitarian law.

21 (B) Any person who in time of armed conflict has willfully and without entitlement
22 used the red cross, red crescent or red crystal emblem, or a distinctive signal or any
23 other signal which constitutes an imitation thereof or which might lead to confusion, shall be
24 punished by imprisonment of not more than one (1) year and/or a fine of not less than
25 Twenty Thousand Pesos (P20,000.00).

26 If the crime is committed by a corporate body, the punishment shall apply to persons
27 who committed the crime or ordered the commission of the crime.

28 In addition, the court may order the forfeiture in favor of the PNRC of any proceeds,
29 property, assets upon or directly or indirectly in connection with which an emblem,
30 designation, design, wording or sign was used in the commission of the crime; and any
31 identity cards, insignia or uniforms used in the commission of the crime.

32 **Sec. 13. Misuse of the White Cross on a Red Ground.** - Owing to the confusion
33 which may arise between the arms of Switzerland and the emblem of the red cross, the use

1 , of the white cross on a red ground or of any other sign constituting an imitation thereof,
2 whether as a trademark or commercial mark or as a component of such marks, or for a
3 purpose contrary to fair trade, or in circumstances likely to wound Swiss national sentiment,
4 shall likewise be prohibited at all times. Offenders shall be punished by a fine not less than
5 Twenty Thousand Pesos (P20,000.00).

6 **Sec. 14. *Interim Measures.*** - The DND, DOH, DILG and DTI shall take the
7 necessary interim measures in pursuit of the objectives of this Act, including ordering the
8 seizure of objects and materials marked in violation of this Act, the removal of the red cross
9 and red crescent emblem or the words "Red Cross" and "Red Crescent" or their translation
10 in any official language and dialect, at the expense of the instigator of the crime, and the
11 forfeiture or destruction of the instruments used for their reproduction.

12 Persons making use of the red crystal emblem or of any sign constituting an imitation
13 thereof or the words "Red Crystal" or any translation thereof in any official language and
14 dialect, prior to the adoption of Additional Protocol III shall be permitted to continue such
15 use; *Provided*, That the use shall not be such as would appear, in time of armed conflict, to
16 confer protection under the Geneva Conventions and their Additional Protocols; and
17 *Provided further*, that such rights were acquired prior to the effectivity of this Act.

18 Otherwise, persons making use of the red cross, the red crescent or red crystal or
19 any sign constituting an imitation thereof or the words "Red Cross", "Red Crescent" or "Red
20 Crystal" or their translation in any official language and dialect upon entry into force of this
21 Act, shall voluntarily cease and desist from using the same and withdraw from the market
22 any and all products bearing the same within two (2) months from promulgation of this Act.
23 Objects, materials and products abovementioned shall be disposed of by the PNRC
24 accordingly.

25 **Sec. 15. *Registration of Associations, Tradenames and Trademarks.*** - The
26 Securities and Exchange Commission (SEC), Intellectual Property Office (IPO) and the DTI
27 shall refuse the registration of associations, the registration of tradenames, and the filing of
28 trademarks, commercial marks and industrial models and designs making use of the
29 emblem of the red cross, red crescent or red crystal and of the words "Red Cross", "Red
30 Crescent" or "Red Crystal" or their translation in any official language and dialect in violation
31 of this Act.

32 **CHAPTER 4. RELATIONSHIP WITH OTHER LAWS**

33 **Sec. 16. *Relationship with the Constitution.*** - This Act shall supplement the

1 Constitution, especially the Bill of Rights, and provisions on international law and human
2 rights and jurisprudence thereon.

3 **Sec. 17. Relationship with International Law.** - In the application and interpretation
4 of this statute, Philippine courts shall be guided by the following instruments and
5 developments in international law:

6 (A) The 1949 Geneva Conventions I-IV and their 1977 Additional Protocols I & II
7 and 2005 Additional Protocol III;

8 (B) Regulations on the Use of the Emblem of the Red Cross or the Red Crescent
9 by the National Societies, as adopted by the 20th International Conference of
10 the Red Cross, and subsequent amendments;

11 (C) Resolution 1 of the 29th International Conference of the Red Cross and Red
12 Crescent

13 (D) International criminal law jurisprudence from the international criminal
14 tribunals, especially as may come from the International Criminal Court in The
15 Hague;

16 (E) Relevant and applicable international human rights instruments and
17 jurisprudence, mainly from the United Nations system; and

18 (F) Teachings of the most highly qualified publicists and authoritative
19 commentaries on the foregoing sources as subsidiary means for the
20 determination of rules of law.

21 **Sec. 18. Relationship with the Revised Penal Code and Other Relevant Laws.** -

22 The Revised Penal Code shall be of suppletory application to this statute for purposes of
23 criminal investigation, prosecution and trial of crimes under this Act. For these purposes, in
24 case of conflict, this statute shall prevail over the Revised Penal Code. The same
25 relationship with this statute applies to the Civil Code of the Philippines and special laws of
26 criminal and/or civil nature, such as on matters of civil liability. This Act is without prejudice
27 to the application of the Uniform Rules on Administrative Cases in the Civil Service insofar
28 as the administrative liability of a public officer is concerned.

29 **Sec. 19. Relationship with the Revised Rules on Criminal Procedure.** - The
30 Revised Rules of Criminal Procedure shall be suppletory to this statute and to additional
31 special rules of criminal procedure as may be formulated by the Supreme Court for the
32 investigation, prosecution and trial of crimes under this statute.

33 **Sec. 20. Relationship with the Intellectual Property Code, the Corporation Code**

1 *and the Department of Trade and Industry Rules and Regulations.* - The Intellectual
2 Property Code, the Corporation Code and the DTI Rules and Regulations shall be
3 suppletory to this statute for purposes of registration of corporations, associations,
4 partnerships, single proprietorships; and tradenames and the filing of trademarks,
5 commercial marks and industrial models and designs making use of the emblem of the
6 red cross, red crescent or red crystal and of the words "Red Cross," "Red Crescent" or
7 "Red Crystal" or their translation in any official language and dialect under this Act. For
8 these purposes, in case of conflict, this statute shall prevail over the Intellectual Property
9 Code, the Corporation Code and the DTI Rules and Regulations.

10 **CHAPTER 5. PROSECUTION OF CASES**

11 **Sec. 21. Prosecutors and Investigation of Cases.** - The Regional Trial Courts or
12 the Metropolitan Trial Courts of the Philippines, as the case may be, shall have original and
13 exclusive jurisdiction over crimes punishable under this Act.

14 The Supreme Court and the Department of Justice shall ensure that judges and
15 prosecutors, respectively, receive effective training regarding the crimes defined under this
16 Act.

17 **CHAPTER 6. FINAL PROVISIONS**

18 **Sec. 22. Implementing Rules and Regulations.** - The DND, DOH, DILG and DTI,
19 in consultation with the PNRC, shall adopt Implementing Rules and Regulations (IRR) within
20 five (5) months upon promulgation of this Act.

21 **Sec. 23. Repealing Clause.** - All laws, presidential decrees and issuances,
22 executive orders, rules and regulations or parts thereof inconsistent with the provisions of
23 this Act are hereby repealed or modified accordingly.

24 **Sec. 24. Separability Clause.** - If any part or provision of this Act is held
25 unconstitutional or invalid, other parts or provisions hereof which are not affected thereby
26 shall continue to be in full force and effect.

27 **Sec. 25. Effectivity.** - This Act shall take effect fifteen (15) days after its publication
28 in two national newspapers of general circulation. This publication shall not be later than
29 seven (7) days after the approval hereof.

30 Approved,