



HOUSE OF REPRESENTATIVES

H. No. 4314

BY REPRESENTATIVES GOLEZ (R.), ANGARA, DATUMANONG, TUPAS, RELAMPAGOS, AUMENTADO, CASTRO, AGGABAO, ARENAS, CALIXTO-RUBIANO, ARROYO (D.), BATAOIL, BONOAN-DAVID, ACOB, ARROYO (I.), CUA, BATOCABE, BINAY, AQUINO, CAJAYON, CRISOLOGO, VILLAR, ANGPING, COSALAN, CO, MARCOS, SARMIENTO (C.), VERGARA, TEODORO, FARIÑAS, BAGATSING, CELESTE, TAÑADA AND LOPEZ (C.), PER COMMITTEE REPORT NO. 691

AN ACT DEFINING THE USE AND PROTECTION OF THE RED CROSS, THE RED CRESCENT, THE RED CRYSTAL AND THE RED LION AND SUN EMBLEMS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES

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

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PART I

INTRODUCTORY PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as “The Red Cross and Other Emblems Act of 2011”.

SEC. 2. *Declaration of Principles and State Policies.* –

(a) The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law

1 of the land and adheres to a policy of peace, justice, freedom, cooperation and
2 amity with all nations.

3 (b) The State adopts the provisions of the Hague Convention IV of
4 1907 and the 1949 Geneva Conventions and their Additional Protocols on the
5 protection of victims of war insofar as they have been ratified or have become
6 part of generally accepted principles of international law.

7 (c) The State shall secure the protective use and indicative use of the
8 emblems both in times of peace and in times of armed conflict in accordance
9 with the standards and guidelines set forth under the Hague Conventions of
10 1907 and the 1949 Geneva Conventions and their Additional Protocols on the
11 protection of victims of war.

12 (d) The misuse of the emblems of the Red Cross, the Red Crescent, the
13 Red Crystal and the Red Lion and Sun; of the words "Red Cross", "Red
14 Crescent", "Red Crystal" and "Red Lion and Sun"; or their translation in any
15 official language and dialect shall not go unpunished. Its effective prosecution
16 shall be ensured by taking measures at the national level.

17 SEC. 3. *Definition of Terms.* – For purposes of this Act, the term:

18 (a) *Armed conflict* means any use of force or armed violence which
19 gives rise, or may give rise, to a situation to which the Geneva Conventions of
20 1949 and their Additional Protocols, including their common Article 3
21 (Conflicts not of an International Character), apply. It does not include
22 situations of internal disturbances and tensions, such as riots, isolated and
23 sporadic acts of violence or other acts of a similar nature.

24 (b) *Distinctive signals* mean any of the distinctive signals specified in
25 Chapter III of Annex I to the Additional Protocol to the Geneva Conventions
26 of 12 August 1949, and relating to the Protection of Victims of International
27 Armed Conflicts (Protocol I), being the signals of identification for medical

1 units and transport, namely: the blue light signal, the radio signal and
2 electronic means of identification.

3 (c) *Emblem* means the Red Cross, the Red Crescent, the Red Crystal
4 and the Red Lion and Sun emblem.

5 (d) *Indicative use* means the use of the emblem showing that a person
6 or an object is linked to an institution of the International Movement of the
7 Red Cross and Red Crescent. The emblem shall be small in size.

8 (e) *Perfidious use* means the use of the emblem by a person with intent
9 to appeal to the good faith of an adversary in order to deceive and make the
10 latter believe that the person is entitled to receive or is to be conferred the
11 protection provided for by the rules of international humanitarian law.

12 (f) *Protective use* means the visible sign of the protection conferred by
13 the 1949 Geneva Conventions and their Additional Protocols on medical
14 personnel and medical units and transports in time of armed conflict. The
15 dimensions of the emblem shall therefore be as large as possible.

16 (g) *Red Crescent*, when used to signify a heraldic emblem, means an
17 emblem depicting a red crescent moon on, and completely surrounded by, a
18 white ground, as illustrated in Article 4, Chapter IV of Annex I of the
19 Additional Protocol I to the 1949 Geneva Conventions.

20 (h) *Red Cross*, when used to signify a heraldic emblem, means an
21 emblem depicting a red cross with branches of equal length on, and completely
22 surrounded by, a white ground, formed by reversing the colours of the Swiss
23 Confederation, as illustrated in Article 4, Chapter IV of Annex I of the
24 Additional Protocol I to the 1949 Geneva Conventions.

25 (i) *Red Crystal*, when used to signify a heraldic emblem, means an
26 emblem depicting a red frame in the shape of a square on edge, and completely
27 surrounded by, a white ground, as illustrated in Additional Protocol III to the
28 1949 Geneva Conventions.

1 (j) *Red Lion and Sun*, when used to signify a heraldic emblem, means
2 an emblem depicting a red lion passing from right to left, completely
3 surrounded by a white background, with its face turned towards the observer,
4 holding erect in its raised right forepaw a scimitar, with the upper half of the
5 sun shooting forth rays appearing above the lion's back, as illustrated in
6 Article 4, Chapter IV of Annex I of the Additional Protocol I to the 1949
7 Geneva Conventions.

8 PART 2

9 RULES ON THE USE OF THE RED CROSS, THE RED CRESCENT, 10 THE RED CRYSTAL AND THE RED LION AND SUN EMBLEMS

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

18 Medical personnel of the AFP shall wear armlets and carry identity
19 cards displaying the Red Cross emblem. These armlets and identity cards shall
20 be issued by the DND.

21 Religious personnel attached to the armed forces shall be afforded the
22 same protection as medical personnel and shall likewise be similarly identified
23 with armlets and identity cards.

24 Where this may enhance protection, medical and religious personnel
25 attached to the armed forces may, without prejudice to the use of their present
26 emblems, make temporary use of any of the other distinctive emblems
27 recognized by, and enjoying equal status under the 1949 Geneva Conventions
28 and their Additional Protocols.

1 *SEC. 5. Protective Use by Hospitals and Other Civilian Medical Units.*

2 – The Department of Health (DOH), exercising control over hospitals, civilian
3 medical personnel, civilian and civilian medical transports assigned in
4 particular to the transport and treatment of the wounded, the sick and the
5 shipwrecked, shall authorize the marking of the Red Cross emblem used as a
6 protective device in time of armed conflict, in consultation with the Philippine
7 Red Cross (PRC). In this regard, the DOH shall coordinate and work together
8 with the DND, which may, if necessary, give advice and assistance. The DND
9 shall authorize medical personnel, units and transports of uniformed personnel
10 in government other than the armed forces to be marked with the emblem used
11 as a protective device in time of armed conflict.

12 Civilian medical personnel shall wear armlets and carry identity cards
13 displaying the Red Cross emblem. These armlets and identity cards shall be
14 issued by the DOH.

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

18 *SEC. 6. Protective Use by the Philippine Red Cross.* – The PRC shall
19 be authorized to place medical personnel and medical units and transports at
20 the disposal of the medical service of the armed forces.

21 Such personnel, units and transportation shall be subject to military
22 security regulations and may be authorized by the DND to display, as a
23 protective device, the emblem of the Red Cross or where this may enhance
24 protection, to make temporary use of any of the distinctive emblems
25 recognized by, and enjoying equal status, under the 1949 Geneva Conventions
26 and their Additional Protocols.

1 compliance with the rules governing the use of the emblems of the Red Cross,
2 the Red Crescent, the Red Crystal and the Red Lion and Sun; the name of the
3 "Red Cross", "Red Crescent", "Red Crystal" or "Red Lion and Sun"; or their
4 translation in any official language and dialect or the distinctive signals. They
5 shall exercise strict control over their respective personnel authorized to use
6 the emblems, names and signals.

7 They shall take every appropriate step to prevent misuse, in particular
8 by disseminating the rules on their usage as widely as possible among the
9 armed forces, the police forces, the instrumentalities of the State and the
10 civilian population. They shall likewise issue instructions to national, civilian
11 and military authorities on the use of the distinctive emblem in accordance
12 with the 1949 Geneva Conventions and their Additional Protocols and by
13 providing appropriate sanctions in cases of misuse.

14 SEC. 10. *Role of the Philippine Red Cross.* — The PRC shall cooperate
15 with the DND, the DOH and the DTI in their efforts to prevent and repress any
16 misuse. It shall be entitled to information on such misuse and to participate in
17 relevant criminal, civil or administrative proceedings.

18 SEC. 11. *Misuse of Emblems and Names of the Red Cross, the Red*
19 *Crescent, the Red Crystal or the Red Lion and Sun as an Indicative Device in*
20 *Peacetime and in Time of Armed Conflict.* — Any person who willfully and
21 without entitlement, make use of the emblems of the Red Cross, the Red
22 Crescent, the Red Crystal or the Red Lion and Sun; the names of the "Red
23 Cross", "Red Crescent", "Red Crystal" and "Red Lion and Sun"; or their
24 translation in any official language and dialect; a distinctive signal or any other
25 sign, designation or signal which constitutes an imitation thereof or likely to
26 cause confusion or mistake or to deceive the general public, irrespective of the
27 purpose of such use; as well as any person who has displayed the said emblems
28 or words on signs, posters, announcements, leaflets or commercial documents,

1 or has affixed them to goods or packaging, or has sold, offered for sale or
2 placed in circulation goods thus marked shall be punished by *arresto mayor*,
3 and a fine of not less than Twenty thousand pesos (P20,000.00) but not more
4 than Forty thousand pesos (P40,000.00) at the discretion of the court.

5 If the misuse is committed by a partnership, corporation, association or
6 any juridical entity, the partner, president, director, manager, trustee, estate
7 administrator or officer who consents to or knowingly tolerates such misuse
8 shall be held criminally liable as a co-principal. If the person convicted is a
9 foreigner, he or she may be ordered deported and blacklisted after serving his
10 or her sentence.

11 In addition, the court may order the forfeiture in favor of the PRC of
12 any proceeds, or property or assets upon which an emblem, designation,
13 design, wording or sign was used directly or indirectly in violation of this Act,
14 without prejudice to the rights of *bona fide* third parties.

15 SEC. 12. *Misuse of the Red Cross, the Red Crescent, the Red Crystal or*
16 *the Red Lion and Sun Emblems as Protective Device in Time of Armed*
17 *Conflict.* -- (a) Any person who willfully commits or gives the order to
18 commit acts resulting in the death of, or causing serious harm to the body or
19 health of an adversary by making perfidious use of the Red Cross, the Red
20 Crescent, the Red Crystal or the Red Lion and Sun emblems, or a distinctive
21 signal shall be deemed to have committed a war crime. If the act results in the
22 death of an adversary, the penalty shall be *reclusion perpetua* and a fine of not
23 less than Two hundred thousand pesos (P200,000.00) but not more than Five
24 hundred thousand pesos (P500,000.00) at the discretion of the court, or
25 *reclusion temporal* and a fine of not less than One hundred thousand pesos
26 (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00)
27 at the discretion of the court, if the act results in serious harm to the body or
28 health of an adversary.

1 Perfidious use of the Red Cross, the Red Crescent, the Red Crystal or
2 the Red Lion and Sun emblems, or a distinctive signal which does not result in
3 death or serious harm to the body or health of an adversary shall be punished
4 by *prision correccional* and a fine of not less than Fifty thousand pesos
5 (P50,000.00) but not more than One hundred thousand pesos (P100,000.00) at
6 the discretion of the court.

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

9 (b) Any person who, in time of armed conflict and without entitlement,
10 has willfully used the Red Cross, the Red Crescent or the Red Crystal
11 emblems, or a distinctive signal or any other signal which constitutes an
12 imitation thereof or which might lead to confusion, shall be punished by
13 *prision correccional* in its medium period and a fine of not less than Forty
14 thousand pesos (P40,000.00) but not more than Eighty thousand pesos
15 (P80,000.00) at the discretion of the court

16 If the misuse is committed by a partnership, corporation, association or
17 any juridical entity, the partner, president, director, manager, trustee, estate
18 administrator or officer who consents to or knowingly tolerates such misuse
19 shall be held criminally liable as a co-principal. If the person convicted is a
20 foreigner, he or she may be ordered deported and blacklisted after serving his
21 or her sentence.

22 In addition, the court may order the forfeiture in favor of the PRC of
23 any proceeds, property or assets upon which an emblem, designation, design,
24 wording or sign was used directly or indirectly in violation of this Act,
25 including any identity cards, insignia or uniforms used in connection therewith.

26 SEC. 13. *Interim Measures.* – The DND, the DOH and the DTI shall
27 take the necessary interim measures such as order the seizure of objects and
28 materials marked in violation of this Act, demand the removal of the emblems

1 of the Red Cross, the Red Crescent or the Red Lion and Sun; the words "Red
2 Cross", "Red Crescent" and "Red Lion and Sun"; or their translation in any
3 official language and dialect at the expense of the instigator of the crime and
4 order the forfeiture or destruction of the instruments used for their
5 reproduction.

6 Persons making use of the emblem of the Red Crystal or of any sign
7 constituting an imitation thereof or the words "Red Crystal" or any translation
8 thereof in any official language and dialect, prior to the adoption of Additional
9 Protocol III (Adoption of an Additional Distinctive Emblem) shall be
10 permitted to continue such use: *Provided*, That the use shall not be such as
11 would appear, in time of armed conflict, to confer protection under the 1949
12 Geneva Conventions and their Additional Protocols: *Provided, further*, That
13 such rights were acquired prior to the effectivity of this Act.

14 Otherwise, persons making use of the emblems of the Red Cross, the
15 Red Crescent, the Red Crystal or the Red Lion and Sun, or any sign
16 constituting an imitation thereof, or the words "Red Cross", "Red Crescent",
17 "Red Crystal" or "Red Lion and Sun" or their translation in any official
18 language and dialect upon entry into force of this Act, shall voluntarily cease
19 and desist from using the same and withdraw from the market any and all
20 products bearing the same within two (2) months from the promulgation of this
21 Act.

22 Objects, materials and products abovementioned shall be disposed of by
23 the PRC accordingly.

24 SEC. 14. *Prohibition on the Registration of Partnership, Corporation,*
25 *Association and Other Juridical Entity, and Tradenames, Trademarks, Etc. -*
26 *The Securities and Exchange Commission, the Intellectual Property Office and*
27 *the DTI shall refuse, respectively, the registration of a partnership,*
28 *corporation, association and other juridical entity; and the registration of*

1 tradenames, trademarks, service marks, collective marks, other marks of
2 ownership, utility models and industrial designs, making use of the emblems of
3 the Red Cross, the Red Crescent, the Red Crystal or the Red Lion and Sun; of
4 the words "Red Cross", "Red Crescent", "Red Crystal" or "Red Lion and
5 Sun"; or their translation in any official language and dialect in violation of
6 this Act.

7 PART 4

8 RELATIONSHIP WITH OTHER LAWS

9 SEC. 15. *Relationship with the Constitution.* — This Act shall
10 supplement the Constitution, especially its Bill of Rights, its relevant
11 provisions on international law and human rights and jurisprudence thereon.

12 SEC. 16. *Relationship with International Law.* — In the application
13 and interpretation of this statute, the Philippine courts shall be guided by the
14 following instruments and developments in international law:

15 (a) The 1949 Geneva Conventions I-IV and their 1977 Additional
16 Protocols I and II and the 2005 Additional Protocol III;

17 (b) Regulations on the Use of the Emblem of the Red Cross or the Red
18 Crescent by the National Societies, as adopted by the 20th International
19 Conference of the Red Cross, and subsequent amendments;

20 (c) Resolution 1 of the 29th International Conference of the Red Cross
21 and Red Crescent;

22 (d) International criminal law jurisprudence from the international
23 criminal tribunals, especially as may come from the International Criminal
24 Court in The Hague;

25 (e) Relevant and applicable international human rights instruments and
26 jurisprudence, mainly from the United Nations system; and

1 (f) Teachings of the most highly qualified publicists and authoritative
2 commentaries on the foregoing sources as subsidiary means for the
3 determination of rules of law.

4 SEC. 17. *Relationship with the Revised Penal Code and Other*
5 *Relevant Laws.* — The Revised Penal Code shall be supplementary to this statute
6 for purposes of criminal investigation, prosecution and trial of crimes under
7 this Act. For these purposes, in case of conflict, this statute shall prevail over
8 the Revised Penal Code. The same relationship with this statute applies to the
9 Civil Code of the Philippines and special laws of a criminal and/or civil nature,
10 such as on matters of civil liability. This Act shall be without prejudice to the
11 application of the Uniform Rules on Administrative Cases in the Civil Service
12 insofar as the administrative liability of a public officer is concerned.

13 SEC. 18. *Relationship with the Revised Rules on Criminal Procedure.*
14 — The Revised Rules on Criminal Procedure shall be supplementary to this statute
15 as well as the additional special rules on criminal procedure as may be
16 formulated by the Supreme Court for the investigation, prosecution and trial of
17 crimes under this statute.

18 SEC. 19. *Relationship with the Intellectual Property Code, the*
19 *Corporation Code and the Department of Trade and Industry's Rules and*
20 *Regulations.* — The Intellectual Property Code, the Corporation Code and
21 the DTI's Rules and Regulations shall be supplementary to this statute for purposes
22 of registration of partnerships, corporations, associations and other juridical
23 entities; and tradenames, trademarks, service marks, collective marks, other
24 marks of ownership, utility models and industrial designs making use of the
25 emblems of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion
26 and Sun and of the words "Red Cross", "Red Crescent", "Red Crystal" and
27 "Red Lion and Sun" or their translation in any official language and dialect
28 under this Act. For these purposes, in case of conflict, this statute shall prevail

1 over the Intellectual Property Code, the Corporation Code and the DTI's rules
2 and regulations.

3 PART 5

4 FINAL PROVISIONS

5 SEC. 20. *Implementing Rules and Regulations.* — The DIND, the DOH
6 and the DTI, in consultation with the PRC, shall adopt the Implementing Rules
7 and Regulations (IRR) within five (5) months after the effectivity of this Act.

8 SEC. 21. *Suppletory Effect.* — This Act shall be suppletory to other
9 international humanitarian laws as may be promulgated by Congress.

10 SEC. 22. *Separability Clause.* — If, for any reason or reasons, any part
11 or provision of this Act shall be held to be unconstitutional or invalid, the other
12 parts or provisions hereof which are not affected thereby shall continue to be
13 in full force and effect.

14 SEC. 23. *Repealing Clause.* — All laws, presidential decrees and
15 issuances, executive orders, rules and regulations or parts thereof inconsistent
16 with the provisions of this Act are hereby repealed or modified accordingly.

17 SEC. 24. *Effectivity.* — This Act shall take effect fifteen (15) days after
18 its publication in any newspaper of general circulation.

Approved,

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