

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
SECOND REGULAR SESSION)

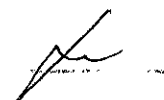
OFFICE OF THE SECRETARY

9 MAY 13 P4:35

SENATE

S.B. No. 3241

RECEIVED BY



Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

The influence of the International Red Cross and the Red Crescent Movement has long been established and recognized worldwide. Among nations great or small, its influence is unmatched and is known to be one that bestows compassion without a tinge of nationality upon sufferings experienced by human beings. A Swiss businessman, upon seeing the devastating aftermath of the war and the lack of medical assistance, took it upon himself to facilitating the aid and treatment of the wounded soldiers. This act of a man named Henry Dunant inspired the creation of the recognized International Committee of the Red Cross. In turn, the First Geneva Convention was approved on August 22, 1864 through a diplomatic conference held that aims to lessen the malevolence created by war. Through this Geneva Convention, the conception of the Red Cross emblem was now determined - a symbol for the protection of the humanitarian workers, vehicles, medical facilities during events of armed conflict and aggression and identification of the members of the Movement.

On February 14, 1947, the Philippines proclaimed its adherence to the Geneva Conventions and participation in aiding the world in diminishing the distress instigated by war and aggression and establishing a voluntary organization as considered by the Geneva Conventions. The Philippine National Red Cross was created with the enactment of the Republic Act 95 signed by then President Manuel Roxas. But the Philippine National Red Cross did not begin from that day it was enacted, but through the initiatives of Apolinario Mabini a Filipino chapter of the Red Cross was established.

This bill is derived from 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.

As of the present, the Four Geneva Convention of August 12, 1949 was ratified and followed by 194 nations. With this numerous approval, it is the widely acknowledged treaty in the world. In 1952, the Philippines ratified this treaty.

Two treaties, namely 1977 Additional Protocol II and the 2005 Additional Protocol III, were signed by the Philippines but have not been ratified. Although the Philippines has not yet ratified one of the treaties, we are not bound to enact a legislation or adopt certain provisions to

govern the usage and protection of the red cross or red crescent emblems which are of vital importance in the international humanitarian law.

As of the present, several sections of the amended Presidential Decree No. 1264, namely Sections 14, 15, and 16 reprimand the unauthorized usage of any other person or entity except the Medical Services of the Armed Forces of the Philippines and the Philippine National Red Cross, of the words "Red Cross" or "Geneva Cross" or use the emblem of the red Greek cross on a white background or any designation, design, sign, or insignia constituting an imitation thereof for any purpose whatever. There is no provision for the unauthorized use of the Red Crescent symbol and the new Red Crystal.

As with the duty of the State to protect the interest of its citizens, thus it must undertake measures needed for the prohibition at all instances the misuse of the emblem. The State must establish legislative measures for the stricter enforcement.

With the collaboration of the PNRC IHL Committee led by Justice Leonor Ines Luciano and the technical assistance of the International Committee of the Red Cross, this bill was brought into being.


We sincerely seek the immediate passage of this bill.



RAMON BONG REVILLA, JR.

9 MAY 13 P4:35

SENATE
S.B. No. 3241

RECEIVED BY 

Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT
DESIGNATING 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 of the Philippines in Congress assembled:

I. PRELIMINARY PROVISIONS

SECTION 1. *Short Title.* This Act shall be known as "The Use and Protection of the Red Cross and Other Related Emblems Bill."

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

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

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

II. RULES ON THE USE OF THE RED CROSS, THE RED CRESCENT AND THE RED CRYSTAL EMBLEMS

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

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

Sec. 4. *Protective Use by the Medical Service of the Armed Forces of the Philippines.* - Under the control of the Department of National Defense (DND), the medical service of the Armed Forces of the Philippines (AFP) shall, both in peacetime and during armed conflict,

use the Red Cross emblem to identify its medical personnel, medical units and transports on the ground, sea and air.

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

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

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

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

Civilian medical personnel shall wear armlets and carry identity cards displaying the Red Cross emblem. These armlets and identity cards shall be issued by the DOH and LGUs. Civilian religious personnel attached to hospitals and other medical units shall be afforded the same protection as medical personnel and shall likewise be similarly identified with armlets and identity cards.

Sec. 6. *Protective Use by the Philippine National Red Cross.* – The PNRC is authorized to place medical personnel and medical units and transports at the disposal of the medical service of the armed forces.

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

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

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

Sec. 7. *Indicative Use by the Philippine National Red Cross and National Societies.* – The PNRC is authorized to use the emblem as an indicative device. It may, in exceptional circumstances and to facilitate its work, make temporary use of the red crystal.

It shall apply the “Regulations on the Use of the Emblem of the Red Cross or the Red Crescent by the National Societies.”

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

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

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

III. CONTROL MEASURES AND PENALTIES

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

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

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

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

If the misuse is committed by a corporate body, the punishment shall apply to the persons who committed the crime or ordered the commission of the offense. Foreigners convicted under this Section may be ordered deported upon service of the penalty. In addition, the court may order the forfeiture in favor of the PNRC of any proceeds, property, assets upon or directly or indirectly in connection with which an emblem, designation, design, wording or sign which was used in the commission of the offense, without prejudice to the rights of bona fide third parties.

Sec. 12. *Misuse of the Red Cross, the Red Crescent or the Red Crystal* - (A) Any person who willfully commits or gives the order to commit acts resulting in the death of, or causing serious harm to the body or health of an adversary by making perfidious use of the red cross, red crescent or red crystal emblem, or a distinctive signal, shall be deemed to have committed a war crime and shall be punished by *reclusion perpetua* or imprisonment of twenty (20) years to one (1) day to forty (40) years and a fine not less than One Hundred Thousand Pesos (P100,000.00) at

the discretion of the court if the act results in death of an adversary, or reclusion temporal or imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine not less than One Hundred Thousand Pesos (P100,000.00) at the discretion of the court if the act results in serious harm to the body or health of an adversary.

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

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

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

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

If the crime is committed by a corporate body, the punishment shall apply to persons who committed the crime or ordered the commission of the crime. In addition, the court may order the forfeiture in favor of the PNRC of any proceeds, property, assets upon or directly or indirectly in connection with which an emblem, designation, design, wording or sign was used in the commission of the crime; and any identity cards, insignia or uniforms used in the commission of the crime.

Sec. 13. *Misuse of the White Cross on a Red Ground.* - Owing to the confusion which may arise between the arms of Switzerland and the emblem of the red cross, the use of the white cross on a red ground or of any other sign constituting an imitation thereof, whether as a trademark or commercial mark or as a component of such marks, or for a purpose contrary to fair trade, or in circumstances likely to wound Swiss national sentiment, shall likewise be prohibited at all times. Offenders shall be punished by a fine not less than Twenty Thousand Pesos (P20, 000.00).

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

Persons making use of the red crystal emblem or of any sign constituting an imitation thereof or the words "Red Crystal" or any translation thereof in any official language and dialect, prior to the adoption of Additional Protocol 111 shall be permitted to continue such use; Provided, That the use shall not be such as would appear, in time of armed conflict, to confer protection under the Geneva Conventions and their Additional Protocols; and Provided further that such rights were acquired prior to the effectivity of this Act.

Otherwise, persons making use of the red cross, the red crescent or red crystal or any sign constituting an imitation thereof or the words "Red Cross", "Red Crescent" or "Red Crystal" or their translation in any official language and dialect upon entry into force of this Act, shall

voluntarily cease and desist from using the same and withdraw from the market any and all products bearing the same within two (2) months from promulgation of this Act. Objects, materials and products abovementioned shall be disposed of by the PNRC accordingly.

Sec. 15. *Registration of Association, Trade names and Trademarks.* – The Securities and Exchange Commission (SEC), Intellectual Property Office (IPO) and the DTI shall refuse the registration of associations, the registration of trade names, and the filing of trademarks, commercial marks and industrial models and designs making use of the emblem of the red cross, red crescent or red crystal and of the words "Red Cross", "Red Crescent" or "Red Crystal" or their translation in any official language and dialect in violation of this Act.

IV. RELATIONSHIP WITH OTHER LAWS

Sec. 16. *Relationship with the Constitution.* – This Act shall supplement the Constitution, especially the Bill of Rights, and provisions on international law and human rights and jurisprudence thereon.

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

(A) The 1949 Geneva Conventions I-IV and their 1977 Additional Protocols I & II and 2005 Additional Protocol 111;

(B) 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;

(C) Resolution 1 of the 29th International Conference of the Red Cross and Red Crescent International criminal law jurisprudence from the international criminal tribunals, especially as may come from the International Criminal Court in The Hague;

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

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

Sec. 18. *Relationship with the Revised Penal Code and Other Relevant Laws.* – The Revised Penal Code shall be of supplementary application to this statute for purposes of criminal investigation, prosecution and trial of crimes under this Act. For these purposes, in case of conflict, this statute shall prevail over the Revised Penal Code. The same relationship with this statute applies to the Civil Code of the Philippines and special laws of criminal and/or civil nature, such as on matters of civil liability. This Act is without prejudice to the application of the Uniform Rules on Administrative Cases in the Civil Service insofar as the administrative liability of a public officer is concerned.

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

Sec. 20. *Relationship with the Intellectual Property Code, the Corporation Code, and the Department of Trade and Industry Rules and Regulations.* – The Intellectual Property Code,

the Corporation Code and the DTI Rules and Regulations shall be supplementary to this statute for purposes of registration of corporations, associations, partnerships, single proprietorships; and trade names and the filing of trademarks, commercial marks and industrial models and designs making use of the emblem of the red cross, red crescent or red crystal and of the words "Red Cross," "Red Crescent" or "Red Crystal" or their translation in any official language and dialect under this Act. For these purposes, in case of conflict, this statute shall prevail over the Intellectual Property Code, the Corporation Code and the DTI Rules and Regulations.

V. PROSECUTION OF CASES

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

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

VI. FINAL PROVISIONS

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

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

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

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

. Approved,