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SENATE

s. No. 62

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Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

What began 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, it was unanimously agreed to diminish the evils inherent in war by approving the First Geneva Convention. Thus, the Red Cross emblem was also born – an internationally recognized emblem purposely used to protect humanitarian workers, vehicles and medical facilities in times of armed conflict and other situations of violence, and 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 to participate with the nations of the world in mitigating suffering caused by war and 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 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 yet ratified the 1977 Additional Protocol. While this 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.

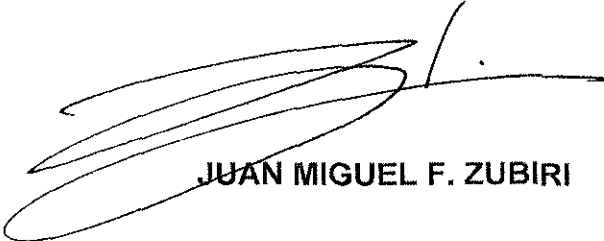
To date, only Sections 14, 15 and 16 of Presidential Decree No. 1264 (as amended) penalize the unlawful use of any other person or entity, aside from the

Medical Services of the Armed Forces of the Philippines and the PNRC, 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.

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.

Finally, this bill is a result of the collaboration of the Philippine National Red Cross National IHL Committee led by Justice Leonor Ines Luciano with the technical assistance of the International Committee of the Red Cross.

The approval of this bill is therefore most earnestly sought.



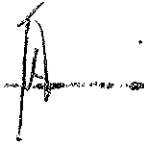
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AN ACT
DEFINING THE USE AND PROTECTION
OF THE RED CROSS, RED CRESCENT AND
RED CRYSTAL EMBLEMS

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

CHAPTER I

PRELIMINARY PROVISIONS

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

6
7 **Section 2.** *Declaration of Principles and State Policies.*

8 a) The Philippines renounces war as an instrument of national policy, adopts
9 the generally accepted principles of international law as part of the law of the land
10 and adheres to a policy of peace, justice, freedom, cooperation, and amity with all
11 nations.

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

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

19
20 **Section 3.** *Definition of Terms:*

21 (1) *AFP* means the Armed Forces of the Philippines;

22 (2) *DND* means the Department of National Defense;

- 1 (3) *DOH* means the Department of Health;
2 (4) *DTI* means Department of Trade and Industry;
3 (5) *Emblems* means the Red Cross, Red Crescent and Red Crystal Emblems;
4 (6) *LGU* means Local Government Unit;
5 (7) *PNRC* means Philippine National Red Cross;
6 (8) *Red Crescent* means;
7 (9) *Red Cross Emblem* means the red Greek cross on a white ground;
8 (10) *Red Crystal Emblem* means the third protocol emblem.

9
10 **CHAPTER II**

11 **USE OF THE RED CROSS, THE RED CRESCENT AND**
12 **THE RED CRYSTAL EMBLEMS**

13 **Section 4.** *Use of the Emblems.* No person may use the Red Cross, Red
14 Crescent, and Red Crystal Emblems, except in cases herein provided.

15
16 **Section 5.** *Protective Use and Indicative Use.*

17 The protective use of the Emblems is meant to mark medical and religious
18 personnel and equipment which must be respected and protected in time of armed
19 conflicts. The dimensions of the Emblems shall therefore be as large as possible.

20 The indicative use of the Emblems serves to show that persons or objects are
21 linked to the International Movement of the Red Cross and Red Crescent and may
22 be used both in peacetime and during armed conflicts. The Emblems shall be small
23 in size.

24
25 **Section 6.** *Protective Use by the Medical and Religious Services of the*
26 *Armed Forces of the Philippines.* Under the control of the DND, the medical service
27 of the AFP shall, both in peacetime and during armed conflict, use the Red Cross
28 emblem to identify its medical personnel, medical units and transports on the
29 ground, sea and air.

30 Medical personnel shall wear armbands and carry identity cards displaying the
31 Red Cross emblem. These armbands and identity cards shall be issued exclusively by
32 the DND.

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

36 Where this may enhance protection, medical and religious personnel attached
37 to the AFP may, without prejudice to the use of their present respective emblems,

1 make temporary use of any of the other distinctive emblems recognized by, and
2 enjoying equal status under the Geneva Conventions and their Additional Protocols.
3

4 **Section 7. *Protective Use by Hospitals and Other Civilian Medical Units.*** The
5 DOH or the LGU, whichever is exercising control over the hospitals, civilian medical
6 personnel, civilian and civilian medical transports, assigned in particular to the
7 transportation and treatment of the wounded, sick and shipwrecked, shall be
8 authorized to use the Red Cross emblem as a protective device in time of armed
9 conflict, in consultation with the Philippine National Red Cross.

10 Civilian medical personnel shall wear armlets and carry identity cards
11 displaying the Red Cross emblem. These armlets and identity cards shall be issued
12 by the DOH or LGU, as the case may be.

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

17 **Section 8. *Protective Use by the Philippine National Red Cross.***

18 The PNRC is authorized to place medical personnel and medical units and
19 transports at the disposal of the medical service of the armed forces.

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

25 Such personnel shall wear armlets and carry identity cards, in accordance
26 with Section 6, paragraph 2 of this Act.

27 The PNRC is authorized to use the emblem as a protective device for its
28 medical personnel and medical units in accordance with Section 7 of this Act.
29

30 **Section 9. *Indicative Use by the Philippine National Red Cross and National***
31 ***Societies.***

32 The Philippine National Red Cross is authorized to use the emblem as an
33 indicative device. It may, in exceptional circumstances and to facilitate its work,
34 make temporary use of the Red Crystal Emblem. It shall apply the "Regulations on
35 the Use of the Emblem of the Red Cross or the Red Crescent by the National
36 Societies."

1 National societies of other countries present in the territory of the Republic of
2 the Philippines shall, with the consent of the Philippine National Red Cross, be
3 entitled to use the emblem under the same conditions.
4

5 **Section 10.** *Indicative Use by the International Organizations of the*
6 *International Red Cross and Red Crescent Movement.* The International Committee
7 of the Red Cross and the International Federation of Red Cross and Red Crescent
8 Societies may make use of the emblems of the Red Cross or the Red Crescent
9 Emblems at any time and for all their activities.

10 The International Committee of the Red Cross and the International
11 Federation of Red Cross and Red Crescent Societies, and their duly authorized
12 personnel, may make use of the red crystal in exceptional circumstances and to
13 facilitate their work.
14

15 **Section 11.** *Use of the Emblems by other persons authorized by PNRC.* In
16 accordance with Article 44 of the Geneva Conventions, the PNRC may authorize the
17 use of the Red Cross Emblem by institutions whose purpose is not commercial but
18 to make known or to promote the activities of PNRC.
19

20 CHAPTER III

21 PROHIBITED ACTS AND PENALTIES

22 **Section 12.** *Unauthorized and Misuse of any of the Emblems as an Indicative*
23 *Device in Peacetime and In Time of Armed Conflict.*

24 Any person who, without authority, willfully:

- 25 (1) uses of the red cross, red crescent or red crystal emblem;
- 26 (2) uses the words "Red Cross", "Red Crescent" or "Red Crystal" or their
27 translation in any official language and dialect;
- 28 (3) uses a distinctive signal, insignia or any other designation which constitutes
29 an imitation of any of the Emblems that will likely cause confusion, mistake
30 and/or deception of the general public, irrespective of the purpose of such
31 use;
- 32 (4) displays any of the Emblems or words "Red Cross", "Red Crescent" and/or
33 "Red Crystal" on signs, posters, announcements, leaflets or commercial
34 documents,
- 35 (5) affixes the Emblems and the words "Red Cross", "Red Crescent" and/or "Red
36 Crystal" to goods or packaging, and/or has sells, offers for sale or places in
37 circulation goods thus marked;

1 shall be punished by imprisonment of not more than one (1) year and/or a fine
2 of not less than Twenty Thousand Pesos (P20,000.00).

3 In case the violation is committed by a corporation or association, the penalty
4 shall be imposed on the persons who committed the crime or ordered the
5 commission of the offense. If the person convicted is a foreigner, he may be ordered
6 deported upon service of his penalty.

7 Any proceeds, property, and other assets used, directly or indirectly in the
8 commission of the offense, shall further be forfeited in favor of PNRC, without
9 prejudice to the rights of bona fide third parties.

10
11 **Section 13. *Prohibited and Unauthorized Uses of the Emblems as***
12 ***Protective Device in Time of Armed Conflict.***

13 1) Perfidious Use of the Emblems, distinctive signals or designations
14 meant to imitate the Emblems, of the words "Red Cross", "Red Crescent", "Red
15 Crystal".

16 Any person who shall use the Emblems, distinctive signals or designations
17 meant to imitate the Emblems, words "Red Cross", "Red Crescent", "Red Crystal", to
18 appeal to the good faith of the adversary, with the intention to deceive him and make
19 him believe that he was entitled to receive or was obliged to confer the protection
20 provided for by the rules of international humanitarian law shall be guilty of the act of
21 Perfidious Use which is punishable with the following penalties:

22 (a) Imprisonment ranging from twenty (20) years and one (1) day to forty
23 (40) years and a fine of not less than Two Hundred Thousand Pesos
24 (P200,000.00) shall be imposed if the Perfidious Use resulted to the
25 death of an adversary;

26 (b) Imprisonment ranging from twelve (12) years and one (1) day to twenty
27 (20) years and a fine of not less than One Hundred Thousand Pesos
28 (P100,000.00) shall be imposed if the Perfidious Use resulted to
29 physical injuries as defined in the Revised Penal Code;

30 (c) Imprisonment ranging from six (6) years and one (1) day to twelve (12)
31 years and a fine of not less than Fifty Thousand Pesos (P50,000.00)
32 shall be imposed if the Perfidious Use did not result to any of the
33 abovementioned cases;

34 The penalties herein provided are imposable to any person who willfully
35 commits the violation and to the person who gave the order to commit such violation.

36 The corresponding accessory penalties under the Revised Penal Code shall
37 be imposed especially where the offender is a public officer.

1 **Section 14.** Any person who in time of armed conflict willfully uses, without
2 authority, the Emblems, distinctive signal or any other signal which constitutes an
3 imitation thereof, and the words "Red Cross", "Red Crescent", "Red Crystal" shall be
4 punishable by imprisonment ranging from six (6) months to one (1) year and a fine of
5 not less than Twenty Thousand Pesos (P20,000.00).

6 In case the violation is committed by a corporation or association, the penalty
7 shall be imposed on the persons who committed the crime or ordered the
8 commission of the crime.

9 Any proceeds, property, and other assets used, directly or indirectly in the
10 commission of the offense, shall further be forfeited in favor of PNRC.

11
12 **Section 15.** *Use of the White Cross on a Red Ground.* Owing to the
13 confusion which may arise between the arms of Switzerland and the emblem of the
14 red cross, the use of the white cross on a red ground or of any other sign
15 constituting an imitation thereof, whether as a trademark or commercial mark or as a
16 component of such marks, or for a purpose contrary to fair trade, or in circumstances
17 likely to wound Swiss national sentiment, is likewise prohibited at all times. Any
18 person who shall use such emblem shall be punishable by a fine of not less than
19 Twenty Thousand Pesos (P20,000.00).

20
21 **Section 16.** *Interim Measures.* The DND, DTI, DOH, DILG and/or LGU shall
22 take the necessary interim measures such as order the seizure of objects and
23 materials marked in violation of this Act, demand the removal of the Emblems or the
24 words "Red Cross" and "Red Crescent" or their translation in any official language
25 and dialect at the expense of the instigator of the crime and order the forfeiture or
26 destruction of the instruments used for their reproduction.

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

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

1 same and withdraw from the market any and all products bearing the same within
2 two (2) months from promulgation of this Act.

3 4 CHAPTER IV

5 ROLES OF GOVERNMENT AGENCIES AND THE PNRC

6 **Section 17. *Control Measures and Enforcement.*** The DND, DOH, DILG,
7 and DTI shall at all times ensure strict compliance with the rules governing the use
8 of the emblems of the red cross, the red crescent or the red crystal, the name "Red
9 Cross", "Red Crescent" or "Red Crystal" or their translation in any official language
10 and dialect or the distinctive signals. They shall exercise strict control over their
11 respective personnel authorized to use the said emblems, names and signals.

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

19
20 **Section 18. *Role of the Philippine National Red Cross.*** The Philippine
21 National Red Cross shall coordinate with the DND, DOH, DILG, and DTI in their
22 efforts to prevent and repress any misuse and unauthorized use of the Emblems. It
23 shall be informed of the misuse and authorized use thereof and to participate in
24 relevant criminal, civil or administrative proceedings.

25 26 CHAPTER V

27 MISCELLANEOUS PROVISIONS

28 **Section 19. *Interpretation.*** In the application and interpretation of this statute,
29 the Philippine courts shall be guided by the following instruments and developments
30 in international law:

- 31 a) The 1949 Geneva Conventions I-IV and their 1977 Additional Protocols I &
32 II and 2005 Additional Protocol III;
- 33 b) Regulations on the Use of the Emblem of the Red Cross or the Red
34 Crescent by the National Societies, as adopted by the 20th International
35 Conference of the Red Cross, and subsequent amendments;
- 36 c) Resolution 1 of the 29th International Conference of the Red Cross and
37 Red Crescent

- 1 d) International criminal law jurisprudence from the international criminal
2 tribunals, specially as may come from the International Criminal Court in
3 The Hague;
- 4 e) Relevant and applicable international human rights instruments and
5 jurisprudence, mainly from the United Nations system; and
- 6 f) Teachings of the most highly qualified publicists and authoritative
7 commentaries on the foregoing sources as subsidiary means for the
8 determination of rules of law.

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

17 The Revised Rules of Criminal Procedure shall be supplementary to this statute
18 and to additional special rules of criminal procedure as may be formulated by the
19 Supreme Court for the investigation, prosecution and trial of crimes under this
20 statute.

21

22 **Section 20. *Jurisdiction of the Courts.*** The Regional Trial Courts or the
23 Metropolitan Trial Courts of the Philippines, as the case may be, shall have original
24 and exclusive jurisdiction over the crimes punishable under this statute. Their
25 judgments may be appealed or elevated to the Court of Appeals and to the Supreme
26 Court under the existing system of jurisdiction of Philippine Courts.

27 The Supreme Court and the Department of Justice shall ensure that judges,
28 prosecutors and investigators receive effective training regarding the crimes
29 punishable under this statute.

30

31 **Section 21. *Implementing Rules and Regulations.*** The DND, DOH, DILG,
32 and DTI in consultation with the PNRC shall formulate and adopt the
33 Implementing Rules and Regulations (IRR) within five (5) months upon
34 promulgation of this Act.

35

36 **Section 22. *Repealing Clause.*** All laws, presidential decrees and issuances,
37 executive orders, rules and regulations or parts thereof inconsistent with the
38 provisions of this Act are hereby repealed or modified accordingly.

1 **Section 23. Separability Clause.** If, for any reason or reasons, any part or
2 provision of this Act shall be held to be unconstitutional or invalid, other parts or
3 provisions hereof which are not affected thereby shall continue to be in full force and
4 effect.

5
6 **Section 24. Suppletory Clause.** This Act shall be suppletory to
7 additional international humanitarian laws as may be promulgated by
8 Congress.

9
10 **Section 25. Effectivity.** This Act shall take effect fifteen (15) days after its
11 publication in two national newspapers of general circulation.

12
13 Approved,