



HOUSE OF REPRESENTATIVES

H. No. 6443

BY REPRESENTATIVES GOLEZ, AGBAYANI, DEFENSOR (M.), TAÑADA, DAYANGHIRANG, LAPUS, DOMOGAN, DAZA, ROMULO, BAGATSING, LOPEZ (J.), BONDOC, GARIN, HONTIVEROS, GARAY, OLAÑO, ZIALCITA, MANGUDADATU, VINZONS-CHIATO, NICOLAS, LAGDAMEO, PINGOY, GONZALES (N.), UY (R.A.), SALIMBANGON, LACSON, ROMUALDO, ANGARA, SANTIAGO (N.), JOSON, SY-ALVARADO, PICHAY, RODRIGUEZ, ALCALA, FABIAN, CLIMACO, SILVERIO, DEL ROSARIO, LIM, VILLAROSA, CARI, JAAFAR, ROXAS, MALAPITAN, CASTELO-DAZA, ARENAS, BIAZON, SOLIS, LOPEZ (C.), CHATTO, APOSTOL, TEODORO, PANCRUDO, SAN LUIS, MANDANAS, VALENCIA, MIRAFLORES, MENDOZA (M.), ALVAREZ (A.), GATCHALIAN, FERNANDEZ, DIAZ, CELESTE, ANGPING, MARCOS, TALIÑO-MENDOZA, PADILLA, LOCSIN, GARCIA (A.), VILLAR, ROBES, SYJUCO, ORTEGA AND DE GUZMAN, PER COMMITTEE REPORT NO. 2091

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 2009”.

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

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

6 (b) The State adopts the provisions of the Hague Convention IV of
7 1907 and the 1949 Geneva Conventions and their Additional Protocols on the
8 protection of victims of war insofar as they have been ratified or have become
9 part of generally accepted principles of international law.

10 (c) The State shall secure the protective use and indicative use of the
11 emblems both in times of peace and in times of armed conflict in accordance
12 with the standards and guidelines set forth under the Hague Conventions of
13 1907 and the 1949 Geneva Conventions and their Additional Protocols on the
14 protection of victims of war.

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

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

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

27 (b) “Distinctive signals” means any of the distinctive signals specified
28 in Chapter III of Annex I to the Additional Protocol to the Geneva

1 Conventions of 12 August 1949, and relating to the Protection of Victims of
2 *International Armed Conflicts (Protocol I)*, being the signals of identification
3 for medical units and transport, namely: the blue light signal, the radio signal
4 and electronic means of identification.

5 (c) "Emblem" means the Red Cross, the Red Crescent, the Red Crystal
6 and the Red Lion and Sun emblem.

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

10 (e) "Perfidious use" means the use of the emblem by a person with
11 intent to appeal to the good faith of his/her adversary in order to deceive and
12 make the latter believe that he/she is entitled to receive or is to be conferred the
13 protection provided for by the rules of international humanitarian law.

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

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

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

27 (i) "Red Crystal", when used to signify a heraldic emblem, means any
28 emblem depicting a red frame in the shape of a square on edge, and completely

1 surrounded by, a white ground, as illustrated in Additional Protocol III to the
2 Geneva Conventions.

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

10 PART 2

11 RULES ON THE USE OF THE RED CROSS, THE RED CRESCENT, 12 THE RED CRYSTAL AND THE RED LION AND SUN EMBLEMS

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

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

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

25 Where this may enhance protection, medical and religious personnel
26 attached to the armed forces may, without prejudice to the use of their present
27 emblems, make temporary use of any of the other distinctive emblems

1 recognized by, and enjoying equal status under the Geneva Conventions and
2 their Additional Protocols.

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

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

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

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

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

24 Such personnel, units and transportation shall be subject to military
25 security regulations and may be authorized by the DND to display, as a
26 protective device, the emblem of the Red Cross or where this may enhance
27 protection, to make temporary use of any of the distinctive emblems

1 recognized by, and enjoying equal status, under the Geneva Conventions and
2 their Additional Protocols.

3 Such personnel shall wear armlets and carry identity cards displaying
4 the Red Cross emblem. These armlets and identity cards shall be issued by the
5 DND.

6 The Philippine National Red Cross may be authorized to use the
7 emblem as a protective device for its medical personnel and medical units in
8 accordance with Section 5 of this Act.

9 *SEC. 7. Indicative Use by the Philippine National Red Cross and*
10 *National Societies.* – The Philippine National Red Cross is authorized to use
11 the emblem as an indicative device. It may, in exceptional circumstances as
12 determined by the Philippine National Red Cross, and to facilitate its work,
13 make temporary use of the Red Crystal emblem. It shall apply the
14 “Regulations on the Use of the Emblem of the Red Cross or the Red Crescent
15 by the National Societies”.

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

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

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

PART 3

CONTROL AND PENALTIES

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3 SEC. 9. *Control Measures and Enforcement.* – The DND, the DOH
4 and the Department of Trade and Industry (DTI) shall at all times ensure strict
5 compliance with the rules governing the use of the emblems of the Red Cross,
6 the Red Crescent, the Red Crystal and the Red Lion and Sun; the name “Red
7 Cross”, “Red Crescent”, “Red Crystal” or “Red Lion and Sun”, or their
8 translation in any official language and dialect or the distinctive signals. They
9 shall exercise strict control over their respective personnel authorized to use
10 the said emblems, names and signals.

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

18 SEC. 10. *Role of the Philippine National Red Cross.* – The Philippine
19 National Red Cross shall cooperate with the DND, the DOH and the DTI in
20 their efforts to prevent and repress any misuse. It shall be entitled to
21 information on such misuse and to participate in relevant criminal, civil or
22 administrative proceedings.

23 SEC. 11. *Misuse of the Red Cross, the Red Crescent, the Red Crystal or*
24 *the Red Lion and Sun Emblem as an Indicative Device in Peacetime and in*
25 *Time of Armed Conflict.* – Any person who willfully, and without entitlement,
26 make use of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion
27 and Sun emblem; the words “Red Cross”, “Red Crescent”, “Red Crystal” and
28 “Red Lion and Sun”, or their translation in any official language and dialect; a

1 distinctive signal or any other sign, designation or signal which constitutes an
2 imitation thereof or likely to cause confusion or mistake or to deceive the
3 general public, irrespective of the purpose of such use; as well as any person
4 who has displayed the said emblems or words on signs, posters,
5 announcements, leaflets or commercial documents, or has affixed them to
6 goods or packaging, or has sold, offered for sale or placed in circulation goods
7 thus marked shall be punished by *arresto mayor*, and a fine of not less than
8 Twenty thousand pesos (P20,000.00) but not more than Forty thousand pesos
9 (P40,000.00) at the discretion of the court.

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

16 In addition, the court may order the forfeiture in favor of the Philippine
17 National Red Cross of any proceeds, or property or assets upon which an
18 emblem, designation, design, wording or sign was used directly or indirectly in
19 violation of this Act, without prejudice to the rights of *bona fide* third parties.

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

1 thousand pesos (P500,000.00) at the discretion of the court, or *reclusion*
2 *temporal* and a fine of not less than One hundred thousand pesos
3 (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00)
4 at the discretion of the court, if the act results in serious harm to the body or
5 health of an adversary.

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

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

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

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

27 In addition, the court may order the forfeiture in favor of the Philippine
28 National Red Cross of any proceeds, property or assets upon which an

1 emblem, designation, design, wording or sign was used directly or indirectly
2 in violation of this Act, including any identity cards, insignia or uniforms used
3 in connection therewith.

4 SEC. 13. *Interim Measures.* – The DND, the DTI and the DOH shall
5 take the necessary interim measures such as order the seizure of objects and
6 materials marked in violation of this Act, demand the removal of the Red
7 Cross, the Red Crescent or the Red Lion and Sun emblem or the words “Red
8 Cross”, “Red Crescent” and “Red Lion and Sun”, or their translation in any
9 official language and dialect at the expense of the instigator of the crime and
10 order the forfeiture or destruction of the instruments used for their
11 reproduction.

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

20 Otherwise, persons making use of the Red Cross, the Red Crescent, the
21 Red Crystal or the Red Lion and Sun emblem or any sign constituting an
22 imitation thereof, or the words “Red Cross”, “Red Crescent”, “Red Crystal” or
23 “Red Lion and Sun” or their translation in any official language and dialect
24 upon entry into force of this Act, shall voluntarily cease and desist from using
25 the same and withdraw from the market any and all products bearing the same
26 within two (2) months from the promulgation of this Act.

27 Objects, materials and products abovementioned shall be disposed of by
28 the Philippine National Red Cross accordingly.

1 SEC. 14. *Prohibition on the Registration of Partnership, Corporation,*
2 *Association and Other Juridical Entity, and Tradenames, Trademarks, Etc. –*
3 The Securities and Exchange Commission, the Intellectual Property Office and
4 the DTI shall refuse, respectively, the registration of a partnership, corporation,
5 association and other juridical entity; and the registration of tradenames,
6 trademarks, service marks, collective marks, other marks of ownership, utility
7 models and industrial designs, making use of the emblem of the Red Cross,
8 the Red Crescent, the Red Crystal or the Red Lion and Sun and of the words
9 “Red Cross”, “Red Crescent”, “Red Crystal” or “Red Lion and Sun” or their
10 translation in any official language and dialect in violation of this Act.

11 PART 4

12 RELATIONSHIP WITH OTHER LAWS

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

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

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

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

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

26 (d) International criminal law jurisprudence from the international
27 criminal tribunals, especially as may come from the International Criminal
28 Court in The Hague;

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

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

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

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

20 *SEC. 19. Relationship with the Intellectual Property Code, the*
21 *Corporation Code and the Department of Trade and Industry's Rules and*
22 *Regulations.* – The Intellectual Property Code, the Corporation Code and the
23 DTI's rules and regulations shall be supplementary to this statute for purposes of
24 registration of partnerships, corporations, associations and other juridical
25 entities; and tradenames, trademarks, service marks, collective marks, other
26 marks of ownership, utility models and industrial designs making use of the
27 emblem of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion
28 and Sun and of the words "Red Cross", "Red Crescent", "Red Crystal" and

1 “Red Lion and Sun” or their translation in any official language and dialect
2 under this Act. For these purposes, in case of conflict, this statute shall prevail
3 over the Intellectual Property Code, the Corporation Code and the DTI’s rules
4 and regulations.

5 PART 5

6 FINAL PROVISIONS

7 SEC. 20. *Implementing Rules and Regulations.* – The DND, the DOH
8 and the DTI, in consultation with the Philippine National Red Cross, shall
9 adopt the implementing rules and regulations (IRR) within five (5) months
10 after the effectivity of this Act.

11 SEC. 21. *Suppletory Effect.* – This Act shall be suppletory to other
12 international humanitarian laws as may be promulgated by Congress.

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

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

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

Approved,

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