

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

H. B. No. 440

Introduced by HONORABLE JUAN EDGARDO "SONNY" M. ANGARA

EXPLANATORY NOTE

The country's enduring commitment to international efforts mitigating the adverse effects caused by war can be traced back to the post-World War II era, when the Philippines proclaimed its adherence to the 1864 Geneva Conventions on February 14, 1947.

In this diplomatic conference held in Geneva, Switzerland, an internationally recognized humanitarian symbol was born – the Red Cross. This internationally recognized emblem is 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.

It then only took two months for the country to establish its National Red Cross (PNRC) through promulgation of Republic Act No. 95 in 1947.

Also, the Philippines joined 193 other nations that 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 country 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 the country's legislature 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.

In view of the Philippines' obligation to take measures to prevent any misuse of the emblem and uphold international humanitarian efforts, a stricter and broader national legislative regime should be put in place.

Thus, the provisions of this bill seek to define the use and protection of the Red Cross, Red Crescent and Red Crystal emblems, to wit:

- Defining the emblems' use:

Protective 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.

Indicative Use – 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 bill also penalizes 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.

The approval of this bill is earnestly sought.



JUAN EDGARDO "SONNY" M. ANGARA
Representative
Lone District, Province of Aurora

H. B. No. 440

Introduced by Honorable JUAN EDGARDO "SONNY" M. ANGARA

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:

PART 1. INTRODUCTORY PROVISIONS

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

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 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.

PART 2. 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, 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.

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 or the local government unit (LGU), whichever is 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

The Department of Health and local government units (LGUs) in this regard, shall work together with the Department of National Defense, which may, 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 Department of Health and local government units (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 Philippine National Red Cross 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 Department of National Defense 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 Philippine National Red Cross 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 Philippine National Red Cross 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 Philippine National Red Cross, 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.

PART 3. CONTROL AND PENALTIES

SEC. 9. *Control Measures and Enforcement.* The Department of National Defense, the Department of Health, the Department of Interior and Local Government and the Department of Trade and Industry 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 by providing for the necessary administrative and disciplinary sanctions in cases of misuse.

SEC. 10. *Role of the Philippine National Red Cross.* The Philippine National Red Cross shall cooperate with the Department of National Defense, the Department of Health, the Department of Interior and Local Government and the Department of Trade and Industry 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, make 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).

If the misuse is committed by the management of a corporate body, the punishment shall apply to the persons who committed the crime or ordered the commission of the offense. If the person convicted is a foreigner, he may be ordered deported upon service of his penalty.

In addition, the court may order the forfeiture in favor of the Philippine National Red Cross 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 Emblem as a Protective Device in Time of Armed Conflict. (1) 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 him and make him believe that he was entitled to receive or was obliged to confer the protection provided for by the rules of international humanitarian law.

(2) Any person who in time of armed conflict has willfully used and without entitlement 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 the management of 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 Philippine National Red Cross 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, is likewise 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 Department of National Defense, the Department of Trade and Industry, the Department of Health and the Department of Interior and Local Government shall take the necessary interim measures such as order the seizure of objects and materials marked in violation of this Act, demand 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 order 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 III 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 Philippine National Red Cross accordingly.

SEC. 15. *Registration of Associations, Tradenames and Trademarks.* The Securities and Exchange Commission, the Intellectual Property Office and the Department of Trade and Industry, shall refuse respectively, the registration of associations, and the registration of tradenames 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.

PART 4. RELATIONSHIP WITH OTHER LAWS

SEC. 16. *Relationship with the Constitution.* This Act shall supplement the Constitution, specially its Bill of Rights, its relevant provisions on international law and human rights and jurisprudence thereon.

SEC. 17. *Relationship with International Law.* In the application and interpretation of this statute, the 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 III;
- (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
- (D) International criminal law jurisprudence from the international criminal tribunals, specially as may come from the International Criminal Court in The Hague;
- (E) Relevant and applicable international human rights instruments and jurisprudence, mainly from the United Nations system; and
- (F) 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 suppletory 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 a 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 suppletory 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 Industries Rules and Regulations.* The Intellectual Property Code, the Corporation Code and the Department of Trade and Industry Rules and Regulations shall be suppletory to this statute for purposes of registration of corporations, associations, partnerships, single proprietorships; and tradenames 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 Department of Trade and Industry's Rules and Regulations.

PART 5. COURTS, PROSECUTORS AND INVESTIGATORS

SEC. 21. *Philippine Courts, Prosecutors and Investigators.* The Regional Trial Courts or the Metropolitan Trial Courts of the Philippines, as the case may be, shall have original and exclusive jurisdiction over the crimes punishable under this statute. Their judgments may be appealed or elevated to the Court of Appeals and to the Supreme Court under the existing system of jurisdiction of Philippine Courts.

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

PART 6. FINAL PROVISIONS

SEC. 22. *Implementing Rules and Regulations.* In relation to Section 8(2), Part 8 hereof, the Department of National Defense, the Department of Interior and Local Government, the Department of Health and the Department of Trade and Industry in consultation with the Philippine National Red Cross shall adopt the 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, for any reason or reasons, any part or provision of this Act shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 25. *Suppletory Clause.* This Act shall be suppletory to additional international humanitarian laws as may be promulgated by Congress.

SEC. 26. *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,