

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

House Bill No. 628

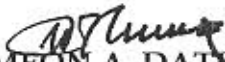
Introduced by the Honorable Simeon A. Datumanong

Explanatory Note

The international organizations that render emergency assistance, disaster relief, charitable endowments, and humanitarian efforts in times of peace and armed conflict deserve the definitive safeguard of all peace-loving States in which they operate to ensure the continuation of their impartial functions therein. Their contributions to society are unmistakably grand and their endeavours are unparalleled.

In this light, this Bill seeks to define the use and protection of the Red Cross, the Red Crescent, the Red Crystal and the Red Lion and Sun emblems, and provide penalties for violations therefor. It will not only protect the integrity of these humanitarian organizations but will also deter the abusive and invalid usages of their emblems and insignias to advance any ends in times of conflicts and emergencies.

The passage of this Bill is long overdue considering that we adhere to the Hague Convention IV of 1907 and the 1949 Geneva Convention and their Additional Protocols on the protection of victims of war. Our government should endeavour to honor its international commitment by expeditiously enacting this Bill into law to show the community of nations that we are truly a bastion of democracy and the rule of law.


SIMEON A. DATUMANONG
2nd District, Maguindanao

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House Bill No. 6666 **628**

Introduced by the Honorable Simeon A. Datumanong

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 the 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 Act of 2009”.

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 Convention IV of 1907 and the 1949 Geneva Convention and their Additional Protocols on the protection of victims of war insofar as they have been ratified or have become part of generally

accepted principles of international law.

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

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

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

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

(b) "Distinctive signals" means any of the distinctive signals specified in Chapter III of Annex I to the Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), being the signals of identification for medical units and transport, namely: the blue light signal, the radio signal and electronic means of identification.

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

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

(e) "Perfidious use" means the use of the emblem by a person with intent to appeal to the good faith of his/her adversary in order to deceive and make the

latter believe that he/she is entitled to receive or is to^{be} conferred the protection provided for by the rules of international humanitarian law.

(f) "Protective use" means the visible sign of the protection conferred by the 1949 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.

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

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

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

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

PART 2

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

SEC. 4 *Protective Use by the Medical Service of the Armed Forces of the Philippine.* - 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 of the AFP shall wear armlets and carry identify cards displaying the Red Cross emblem. These armlets and identify cards shall be issued by the 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 emblems, make temporary use of any of the other distinctive emblems recognized by, 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), exercising control over hospitals, civilian medical personnel, civilian and civilian medical transports assigned in particular to the transport and treatment of the wounded, the sick and the shipwrecked, shall authorize the marking of 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 shall coordinate and work together with the DND which may, if necessary, give advice and assistance. The DND shall authorize medical personnel, units and transports of uniformed personnel in government other than the armed forces to be marked with the emblem used as a protective device in time of armed conflict.

Civilian medical personnel shall wear armlets and carry identity cards shall be issued by the DOH.

Civilian religious personnel attached to hospital and other medical units 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 shall be 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 security 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 any 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 displaying the Red Cross emblem. These armlets and identity cards shall be issued by the DND.

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 as determined by the Philippine National Red Cross, and to facilitate its work, make temporary use of the Red Crystal Emblem. 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 the Red Crescent Movement.* – The International Committee of the Red Cross and the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies may make use of the Red Cross or Red Crescent emblems 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 authorized personnel, may make use of the Red Crystal emblem in exceptional circumstances and to facilitate their work.

PART 3

Control and Penalties

SEC. 9. *Control Measures and Enforcement.* - The DND, the DOH and the 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, the Red Crystal, and the Red Lion and Sun; the name Red Cross, Red Crescent, Red Crystal or Red Lion and Sun, or their translation in any official language and dialect or the distinctive signal. 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 on their usage 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 appropriate sanctions in cases of misuse.

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

SEC. 11. *Misuse of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion and Sun 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, the Red Crescent, the Red Crystal and the Red Lion and Sun emblem; the words Red Cross, Red Crescent, Red Crystal and Red Lion and Sun, 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; as well as any person who has displayed the said emblems or word 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 *arresto mayor*, and a fine of not less than Twenty thousand pesos (P20,000.00) but not more than Forty thousand pesos (P40,000.00) at the discretion of the court.

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

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

SEC. 12. *Misuse of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion and Sun Emblem as a Protective Device in Time of Armed Conflict.* - (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, the Red Crescent, the Red Crystal or the Red Lion and Sun emblem, or a distinctive signal shall be deemed to have committed a war crime. If the act results in the death of an adversary, the penalty shall be *reclusion perpetua* and a fine of not less than Two hundred thousand pesos (P200,000.00) but not more than Five hundred thousand pesos (P500,000.00) at the discretion of the court, or *reclusion temporal* and a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00) 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, the Red Crescent, the Red Crystal or the Red Lion and Sun 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* and a fine of not less than Fifty thousand pesos (P50,000.00) but not more 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.

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

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

In addition, the court may order the forfeiture in favor of the Philippine National Red Cross of any proceeds, property or assets upon which an emblem, designation, design, wording or sign used directly or indirectly in violation of this Act, including any identity cards, insignia or uniforms used in connection therewith.

SEC. 13. *Interim Measures* - The DND, the DTI and the DOH 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, the Red Crescent or the Red Lion and Sun emblem or the words "Red Cross", "Red Crescent" and "Red Lion and Sun", 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 (Adoption of an Additional Distinctive Emblem)) 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: *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, the Red Crystal or the Red Lion and Sun emblem or any sign constituting an imitation

thereof, or the words "Red Cross, "Red Crescent", "Red Crystal" or "Red Lion and Sun" 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 the promulgation of this Act.

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

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

PART 4

RELATIONSHIP WITH OTHER LAWS

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

SEC. 16. *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 and II and the 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) Resolutions 1 of the 29th International Conference of the Red Cross and Red Crescent;

(d) International criminal law jurisprudence from the international criminal tribunals, especially 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. 17. *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 shall be 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. 18. *Relationship with the Revised Rules on Criminal Procedure.* - The Revised Rules on Criminal Procedure shall be suppletory to this statute, as well as the 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. 19. *Relationship with the Intellectual Property Code, the Corporation Code and the Department of Trade and Industry's Rules and Regulations* - The Intellectual Property Code, the Corporation Code and the DTI's rules and regulations shall be

suppletory to this statute for purposes of registration of partnerships, corporations, associations and other juridical entities; and tradenames, trademarks, service marks, collective marks, other marks of ownership, utility models and industrial designs making use of the emblem of the Red Cross, the Red Crescent, the Red Crystal or the Red Lion and the Sun and of the words "Red Cross", "Red Crescent", "Red Crystal" and "Red Lion and Sun" 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's rules and regulations.

PART 5

FINAL PROVISIONS

SEC. 20. *Implementing Rules and Regulations* - The DND, the DOH and the DTI, in consolidation with the Philippines National Red Cross, shall adopt the implementing rules and regulations (IRR) within (5) months after the effectivity of this Act.

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

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

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. *Effectivity* - This Act shall take effect fifteen (15) days after its publications in any newspaper of general circulation.

Approved,