

H.No. 4314
S. No. 3209

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[REPUBLIC ACT NO. **10539**]

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

PART 1

INTRODUCTORY PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as "The Red Cross and Other Emblems Act of 2013".

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 Conventions 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 emblem of the Red Cross, Red Crescent, and Red Crystal; and of the words Red Cross, Red Crescent, and Red Crystal 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 1949 Geneva Conventions 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* mean any of the distinctive signals specified in Chapter III of Annex I to the Protocol Additional to the 1949 Geneva Conventions, 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, Red Crescent, and Red Crystal 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 Red Cross and Red Crescent Movement. 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 an adversary in order to deceive and make the latter believe that the person 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 background, as illustrated in Article 4, Chapter IV of Annex I of 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 background, formed by reversing the colors of the Swiss Confederation, as illustrated in Article 4, Chapter IV 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 background, as illustrated in Additional Protocol III to the Geneva Conventions.

PART 2

RULES IN THE USE OF THE RED CROSS, THE RED CRESCENT,
AND THE RED CRYSTAL EMBLEMS

SEC. 4. *Protective Use by the Medical Service and Religious Personnel of the Armed Forces of the Philippines.* – Under the supervision and 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 to identify its medical personnel, medical units and transports on the ground, sea and air.

Medical personnel, organic or attached to the AFP, shall wear armlets and carry identity cards displaying the Red Cross emblem. These armlets and identity cards shall be issued by the DND.

Religious personnel, organic or attached to the AFP, shall be afforded the same protection as medical personnel and shall be identified in the same way.

Where this may enhance protection, medical and religious personnel, organic or attached to the AFP, may, without prejudice to the use of their present emblem, make temporary use of any of the other distinctive emblems recognized by, and enjoying equal status, under the 1949 Geneva Conventions and their Additional Protocols.

SEC. 5. *Protective Use by Hospitals and Other Civilian Medical Units and Transports.* – The Department of Health (DOH), exercising supervision and control over hospitals and other civilian medical units, civilian medical personnel, civilian medical transports assigned in particular to the transport and treatment of the wounded, sick and shipwrecked, shall authorize their marking by the Red Cross emblem used as a protective device in time of armed conflict, in consultation with the Philippine Red Cross (PRC). 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 AFP to be marked with the emblem used as a protective device in time of armed conflict.

Civilian medical and religious personnel attached to hospitals and other medical units shall wear armlets and carry identity cards displaying the Red Cross emblem. These armlets and identity cards shall be issued by the DOH.

SEC. 6. *Protective Use by the Philippine Red Cross.* – The PRC shall be authorized to place medical personnel and medical units and transports at the disposal of the Medical Service of the AFP.

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 1949 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 PRC 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 Red Cross and National Societies.* – The PRC is authorized to use the emblem as an indicative device. It may, in exceptional circumstances as determined by the PRC, 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 PRC, be entitled to use the emblem under the same conditions.

SEC. 8. *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 Red Cross or the 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 duly 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, and 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 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 1949 Geneva Conventions and their Additional Protocols and by providing appropriate sanctions in cases of misuse.

SEC. 10. *Role of the Philippine Red Cross.* – The PRC 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, or the Red Crystal Emblem as Indicative Device in Peacetime and in Times 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", and "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; as well as any person who 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 the penalty of *arresto mayor*, or a fine of not less than Fifty thousand pesos (P50,000.00), or both, at the discretion of the court for each and every violation.

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 or she may be ordered deported and blacklisted after serving his or her sentence.

In addition, the court may order the forfeiture in favor of the PRC 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, or the Red Crystal Emblem as Protective Device in Times of Armed Conflict.* – (a) Any person who willfully commits or gives the order to commit acts resulting in the death of, the wounding, or the capture 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. When the crime results in death or serious physical injury of an adversary and considering the individual circumstances of the offender, the penalty of *reclusion perpetua* and a fine ranging from Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00) shall be imposed.

Perfidious use of the Red Cross, the Red Crescent, or the Red Crystal emblem, or a protective device, 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 the penalty of *reclusion temporal* in its medium to maximum period and a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00) 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, Red Crescent, or the Red Crystal emblem, or a distinctive signal or any other sign or 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 or she may be ordered deported and blacklisted after serving his or her sentence.

In addition, the court may order the forfeiture in favor of the PRC 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, 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, Red Crescent or the Red Crystal emblem or the words "Red Cross", "Red Crescent", or "Red Crystal", or their translation in any official language and

dialect at the expense of the offender 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 1949 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, or the Red Crystal emblem, 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 the promulgation of this Act.

Objects, materials and products abovementioned shall be disposed of by the PRC accordingly.

SEC. 14. *Prohibition on the Use and Registration of Tradenames, Businessnames, Trademarks, Etc.* – Tradenames, businessnames, 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, or the Red Crystal emblem, or of the words "Red Cross", "Red Crescent", or "Red Crystal" or their translation in any official language and dialect cannot be used or registered.

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 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, 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 supplementary 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 supplementary to this statute as well as the additional special rules on 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 supplementary 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, or the Red Crystal, and of the words "Red Cross", "Red Crescent", or "Red Crystal", or their translation in any official language and dialect under this Act. For these purposes, in case of conflict, this statute shall prevail over the Intellectual Property Code, the Corporation Code and the DTI's Rules and Regulations.

PART 5

FINAL PROVISIONS

SEC. 20. *Implementing Rules and Regulations.* – The DND, the DOH and the DTI, in consultation with the PRC, shall adopt the implementing rules and regulations (IRR) within five (5) months after the effectivity of this Act.

SEC. 21. *Supplementary Effect.* – This Act shall be supplementary 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, 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 and modified accordingly.

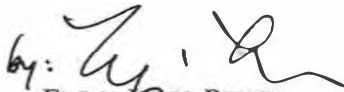
SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

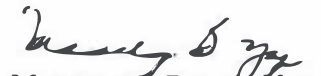
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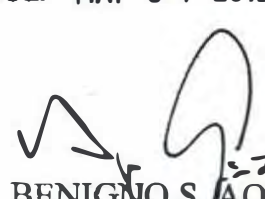

 JUAN PONCE ENRILE FE ICIANO BELMONTE JR.
President of the Senate *Speaker of the House of Representatives*

This Act which is a consolidation of House Bill No. 4314 and Senate Bill No. 3209 was finally passed by the House of Representatives and the Senate on February 5, 2013.

by: 
 EMMA LIRIO-REYES
Secretary of the Senate


 MARILYN B. BARUA-YAP
Secretary General House of Representatives

Approved: **MAY 07 2013**



 BENIGNO S. AQUINO III
President of the Philippines