

# **Republic Act No. 9851**

## **Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity**

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# RA 9851

- ▶▶ signed on 11 December 2009; came into effect in 2010
- ▶▶ penalizes crimes Against IHL, Genocide & Other Crimes Against Humanity
- ▶▶ Covers both International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC)
- ▶▶ Both parties to the conflict are held responsible for violations of IHL



# RA 9851

- ▶▶ Regional Trial Courts have jurisdiction
  - a case can be filed anywhere in the Philippines
  
- ▶▶ Violations are imprescriptible



# Prohibited Acts in NIAC:

- ▶ committing violence to life and person – willful killings, mutilation, cruel treatment and torture
- ▶ committing outrages upon personal dignity – humiliating and degrading treatment
- ▶ taking of hostages
- ▶ passing of sentences and carrying out of executions without previous judgment pronounced by a regularly constituted court



# Prohibited Acts in NIAC:

- ▶ intentionally directing attacks against the civilian population and civilian objects
- ▶ intentionally directing attacks against buildings, medical units and transports, personnel using the Red Cross/Crescent/Crystal emblems
- ▶ launching an attack in the knowledge that it will cause widespread, long term and severe damage to the natural environment



# Prohibited Acts in NIAC:

- ▶ launching an attack against works or installations containing dangerous forces
- ▶ attacking by whatever means towns, villages, dwellings or buildings which are not military objectives
- ▶ killing or wounding a person that is *hors de combat*
- ▶ perfidy
- ▶ intentionally directing attacks against buildings dedicated to religion, education, art, science, charitable purposes, historic monuments, hospitals that are not military objectives



# Prohibited Acts in NIAC:

- ▶ subjecting persons to physical mutilation or to medical or scientific experiments, or to removal of tissue or organs for transplantation
- ▶ pillaging a town or place
- ▶ ordering the displacement of civilian population, unless security of civilians and imperative military reasons so demand
- ▶ employing means of warfare which are prohibited under IHL



# Command responsibility

- ▶ There is **individual criminal responsibility**
  
- ▶ *Responsibility of Superiors.* - a superior shall be criminally responsible as a principal for such crimes committed by subordinates, where:
  - ▶▶ (a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;
  - ▶▶ (b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.





# Penal Provisions

- ▶ *Reclusion Temporal* (12 years and one day to 20 years imprisonment) and a fine from PhP100,000 to PhP500,000
- ▶ *Reclusion Perpetua* (20 years and one day to 40 years imprisonment) and a fine from PhP500,000 to PhP1,000,000 – **when violation results to death, serious bodily injury or rape**



The ICRC acts as a **point of reference on IHL**, providing technical support to legislators, but plays **NO ROLE** in the prosecution and punishment of crimes covered by RA 9851.



# Republic Act 10530

Act Defining the Use and Protection of the **Red Cross, Red Crescent** and **Red Crystal Emblems**, Providing Protection for Violations Thereof



# RA 10530

## *The Red Cross and Other Emblems Act*

- ▶ Came into effect on June 2013



# USE OF THE EMBLEMS

## Two uses

- ▶ Protective – in armed conflict
  - ▶▶ visible sign of protection
  - ▶▶ should be as large as possible with no other information
  
- ▶ Indicative – mainly in peace time
  - ▶▶ shows link to the Movement
  - ▶▶ small and must bear additional information



# Protective Use by AFP Medical Service and Religious Personnel

## ▶ AFP Medical Personnel

- ▶▶ can use the emblem in both peacetime and times of armed conflict to identify its medical personnel, units and transports on the ground, sea, air
- ▶▶ AFP Medical personnel shall wear armlets and carry identity cards displaying the Red Cross emblem

## ▶ AFP Religious Personnel

- ▶▶ shall be afforded the same protection
- ▶▶ shall be identified in the same way



# Use by Hospitals and other Civilian Medical Units and Transports

- ▶ DOH in consultation with the PRC shall authorize the use of the Red Cross emblem – ***only in times of armed conflict***
- ▶ DND shall authorize medical personnel, units and transports of uniformed personnel in government other than the AFP to be marked with the emblem – ***only in times of armed conflict***



# Use by the PRC, ICRC and IFRC

## ▶ PRC

- ▶▶ is authorized to use the emblem as a protective device for its medical personnel and units

## ▶ ICRC and IFRC

- ▶▶ may make use of the emblems **at any time** and for all their activities





# Control and Penalties

- ▶ DND, DOH and DTI shall ensure strict compliance
  - ▶▶ take appropriate steps to prevent misuse
  - ▶▶ disseminate the rules as widely as possible among the armed forces, police, government agencies and civilian population
- ▶▶ PRC shall cooperate with DND, DOH, DTI in their efforts to prevent/repress misuse



# Control and Penalties

## ▶ **Misuse** defined as:

### ▶▶ **willfully and without entitlement**

- ▶▶ make use of the Red Cross, Red Crescent, Red Crystal emblems
- ▶▶ Make use of the words Red Cross, Red Crescent, Red Crystal
- ▶▶ make use of the translations of the words Red Cross, Red Crescent and Red Crystal in any official language and dialect

### ▶▶ **irrespective of the purpose of such use**



# Penalties

- ▶ Ordinary Misuse – does not result in death or serious bodily harm
  - ▶▶ *Arresto Mayor* (1 month and one day to 6 months imprisonment)
  - ▶▶ PhP50,000 fine
  
- ▶ Misuse results in death or serious bodily harm
  - ▶▶ *Reclusion Perpetua* (20 years and one day to 40 years imprisonment)
  - ▶▶ PhP500,000 to PhP1,000,000 fine



# Thank you!

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