

Ghana, National Legislation Concerning the Emblem

N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

[Source: N.R.C.D. Red Cross Emblem (Control) Decree (1973), p. 216]

RED CROSS EMBLEM (CONTROL) DECREE, 1973

Whereas the Geneva Conventions of the 12th day of August 1949, contain some provisions which seek to confer protection on certain persons, organisations and agencies by the use of the Red Cross Emblem and other similar emblems:

And whereas the Government of Ghana acceded to the said Conventions on the 2nd day of August, 1958:

And whereas all parties to the said Conventions are obliged to make appropriate laws prohibiting the abuse of the Red Cross Emblem, similar emblems and the arms of Switzerland:

And whereas it is decided to give effect to the said Conventions so far as they relate to the protection of the Red Cross Emblem, similar emblems and the arms of Switzerland, to provide so far as necessary that the appropriate provisions of the said Conventions shall have the force of law in Ghana, and to make provisions prohibiting the abuse or misuse of the Red Cross Emblem, similar emblems and the arms of Switzerland:

Now, therefore, in pursuance of the National Redemption Council (Establishment) Proclamation, 1972 this Decree is hereby made: [...]

2. The emblem may, in time of war and in the field of operations, be used by the parties to the armed conflict, to designate establishments, units, personnel (including chaplains), materials, vehicles, hospitals, ships and other craft, of the medical services of the respective parties, and those of the Ghana Red Cross and other relief societies authorised by the National Redemption Council to aid military medical services.

3. The National Redemption Council, may in time of war, authorise by writing or by a notice published in the Gazette, the use of the emblem to designate the establishments and employees of civilian hospitals, hospital zones, and localities reserved for the wounded and the sick; and trains, ambulances and other vehicles, vessels or aircraft used for the transport of wounded, sick and infirm civilians, and maternity cases.

4. The National Redemption Council may, in peace time, authorise by writing or by a notice published in the Gazette, the use of the emblem on vehicles in use as ambulances, and on relief posts whose sole object is to give first aid free of charge to injured or sick persons.

5. (1) The International Red Cross agencies and their authorised personnel are entitled, at all times, to use the emblem.

(2) The Ghana Red Cross Society may, subject to any law for the time being in force, at all times, use the emblem in its activities which conform to the principles prescribed by the International Red Cross Conferences, and its own statutes.

(3) The Ghana Red Cross Society may, with the prior approval of the Commissioner responsible for Internal Affairs, make bye-laws regulating its own use of the emblem.

6. Any person, who, before the commencement of this Decree, has acquired any right under any enactment to the use of the emblem generally or for a particular purpose, shall not use the emblem after the expiry of three years from such commencement for any purpose whatsoever.

7. (1) Any person who contravenes any of the provisions of this Decree, shall be guilty of an offence, and shall on summary conviction, be liable to a term of imprisonment not exceeding 3 months or to a fine not exceeding ₵100 or to both.

(2) Where the offence is committed by a body of persons then

(a) in the case of a body corporate (other than a partnership) every director or officer of that body corporate shall be deemed to be guilty of that offence; and

(b) in the case of a firm or partnership, every partner shall be deemed to be guilty of that offence;

Provided that no such person shall be deemed to be guilty of the offence if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence. [...]

10. In this Decree unless the context otherwise requires

“Red Cross Emblem” includes the arms of the Federation of Switzerland [sic], the red cross, the red crescent, or the red lion and sun emblem, or the words “Red Cross” or “Geneva Cross” or any designation, sign or mark constituting an imitation or likely to be confused with any of the said emblems or words describing any of the said emblems.

11. This Decree shall come into force on the 1st day of October, 1973.

Discussion

1. Who may use the red cross and red crescent emblems? In what circumstances? (HR, Art. 23(f); GC I, Arts 38-44 and 53; GC II, Arts 41-43; GC IV, Art. 18; P I, Arts 8(1) and 18; P II, Art. 12)
2. Why have the Geneva Conventions laid down detailed provisions on the use of the emblem? Which problems did these Conventions try to overcome?
3. Which issues has Art. 44 of Geneva Convention I sought to clarify?
4. What is the difference between the protective and indicative uses of the emblem? Does the use of the emblem differ in time of armed conflict and in peacetime? (GC I, Art. 44)
5. Why has Geneva Convention I extensively clarified the use of the emblem by National Red Cross and Red Crescent Societies?
6. Under which conditions may National Societies use the emblem? When are they entitled to use the emblem for protection? And for indicative purposes?
7. When may the ICRC and the International Federation of Red Cross and Red Crescent Societies use the emblem? Do they also have to comply with the provisions on the protective and indicative uses of the emblem? (GC I, Art. 44)
8. Why does a country, in this case Ghana, have to adopt legislation on the use of the emblem? If a country's constitutional system makes international treaties part of the law of the land, is legislation on the emblem nevertheless necessary? Are there any points in the Ghanaian legislation which may be perceived as incompatible with IHL? (GC I, Art. 44)
9. Does this legislation provide another safeguard against abuse of the emblem in time of armed conflict? Or does it limit in precise terms the objects and persons entitled to display and use the emblem in time of peace or armed conflict?
10. Why and on which points has Protocol I clarified Arts 39, 42 and 44 of Geneva Convention I and Art. 18

of Geneva Convention IV? (P I, Arts 8, 18, 37, 38 and 85; P II, Art. 12)

11. On which aspects should Ghana have modified its legislation after it became party to the Protocols? (P I, Arts 8, 18, 37, 38 and 85; P II, Art. 12)

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