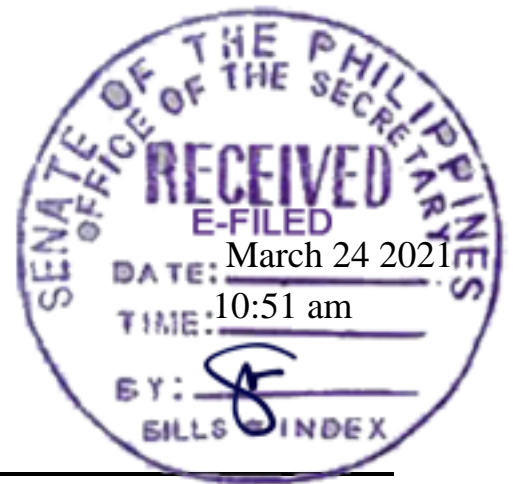


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE

S. No. 2121



Introduced by Senator Franklin M. Drilon

AN ACT DEFINING AND PENALIZING RED-TAGGING

In the past few years, we saw an unprecedented rapid escalation of red-tagging or the State's malicious labeling and stereotyping of individuals or groups as communists or terrorists.

Justice Marvic Leonen, in his dissenting opinion in *Zarate v. Aquino III* (GR No. 220028), explained that red-tagging or red-baiting is a "phenomenon of implicating progressive civil group leaders to heinous crimes." Citing the report of Philip Alston and Chaloka Beyani, two United National Special Rapporteurs on Extrajudicial, Summary or Arbitrary Executions, Justice Leonen said that red-baiting "is the vilification, labelling, or guilt by association of various democrat organizations." Professor Nymia Pimentel Simbulan wrote that red-tagging or the "act of labeling, branding, naming and accusing individuals and/or organizations of being left-leaning, subversives, communists or terrorists is a strategy used by State agents, particularly law enforcement agencies and the military against those perceived to be 'threats' or 'enemies of the State'."

Professor Philip Alston said that the result of red-tagging is that "a wide range of groups – including human rights advocates, labour union organizations, journalists, teachers, unions, women's groups, indigenous organizations, religious groups, student groups, agrarian reform advocates and others – are classified as 'fronts' and then as enemies of the State' that are accordingly considered to be legitimate targets". In the words of Justice Leonen, they then become "easy targets" of government military or paramilitary units.

This continuing governmental public branding has threatened the very life,

liberty and security of the vilified men and women. It has resulted to serious human rights violations such as harassments, arbitrary arrests, detentions, and enforced disappearances. In some instances, being red-tagged is a prelude to death.

Zara Alvarez's name was included in the Department of Justice's terrorist list. On 17 August 2020, she was fatally shot by unidentified gunmen in Negros.

Dr. Mary Rose Sancelan, the only doctor in the City of Guihulngan City, was number one on a list of 15 people accused of being a member of the Communist Party of the Philippines in Negros Oriental. On 15 December 2020, a lone gunman fatally shot her. She was the 6th person killed off from the list.

Members of the legal profession were not spared from this systemic and calculated vilification as enemies of the State. Sometime in 2018, human rights lawyer Benjamin Ramon saw his face plastered on a poster in Moises Padilla Negros Occidental as a supposed member of the Communist Part of the Philippines-New People's Army-National Democratic Front. On 6 November 2018, he was murdered. On 4 March 2021, young and promising human rights lawyer Atty. Angelo Karlo Guillen was red-tagged. Soon after, he was violently attacked but survived the assassination attempt. On 5 March 2021, Mandaluyong City Judge Quisumbing-Ignacio ordered the release of journalist and labor right activist Lady Ann Salem. Soon after, Judge Ignacio found herself a target of malicious lies linking her to the communist groups.

Justice Leonen, in *Zarate*, was also quick to point out the chilling effect of red-tagging on the freedom of expression and speech.

To make it easy for military and paramilitary units to silence or cause untold human rights abuses on vocal dissenters, government agents resort to stereotyping or caricaturing individuals. This is accomplished by providing witnesses who, under coercive and intimidating conditions identify the leaders of organizations critical of the administration as masterminds of ordinary criminal acts. Not only does this make these leaders' lives and liberties vulnerable, *a chilling effect on dissent* is also generated among similar-minded individuals. (*emphasis supplied*)

It has a "chilling effect not just on dissent but also on truth-telling". In December 2021, the arrest of red-tagged journalist Lady Ann Salem for illegal possession of firearms caused uproar within the media community.

Contrary to popular assertions, there are no sufficient and available legal remedies for victims of red-tagging. Victims are left without proper recourse against

their perpetrators and are forced to file seemingly-appropriate-but-not-quite cases, like libel and grave threats. The gravamens of these offenses, however, are far from the essence of red-tagging. Libel, or grave threats, is not appropriate where a state agent vilifies a person as an enemy of the state thereby impinging on the rights of that individual.

This bill therefore seeks to fix the legal gaps, address impunity and institutionalize a system of accountability by criminalizing red-tagging and providing for penalties as deterrence thereto.

The proposed measure defines the crime of red-tagging as the act of labeling, vilifying, branding, naming, accusing, harassing, persecuting, stereotyping, or caricaturing individuals, groups, or organizations as state enemies, left-leaning, subversives, communists, or terrorists as part of a counter-insurgency or anti-terrorism strategy or program, by any state actor, such as a law enforcement agent, paramilitary, or military personnel. Any person found guilty of red-tagging shall be imprisoned for ten (10) years and shall suffer the accessory penalty of perpetual absolute disqualification to hold public office.

The passage of this bill will reverse the “increasingly institutionalization and normalization of human rights violations” and put a stop on the attacks against the members of the legal profession. The measure will likewise serve as a reminder to the government of its primary duty under the Constitution “to serve and protect the people.”

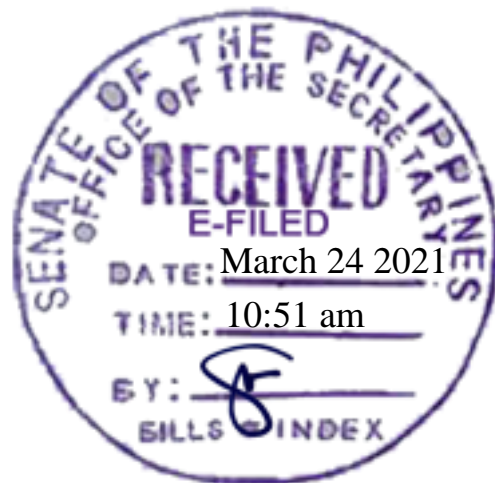
Hence, the immediate passage of this bill is hereby earnestly sought.


FRANKLIN M. DRILON
Senator

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

SENATE

S. No. 2121



Introduced by Senator Franklin M. Drilon

AN ACT DEFINING AND PENALIZING THE CRIME OF RED-TAGGING

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Red-tagging.* – Any state actor, such as a law enforcement agent, paramilitary, or military personnel, who labels, vilifies, brands, names, accuses, harasses, persecutes, stereotypes, or caricatures individuals, groups, or organizations as state enemies, left-leaning, subversives, communists, or terrorists as a part of a counter-insurgency or anti-terrorism program or strategy, shall suffer the penalty of imprisonment of ten (10) years and perpetual absolute disqualification to hold public office.

SEC. 2. *Repealing Clause.* - All laws inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 3. *Effectivity.* – This Act shall take effect upon its publication in the Official Gazette and in a newspaper of general circulation.

Approved,