

2. **Malicious purpose or motive** to "silence," "discourage" or "delegitimize" the legitimate exercise of various constitutional freedoms, especially of political dissent, critical discourse and human rights advocacy
3. **Unfounded**, "without showing any factual basis," "not grounded in truth and facts"

Without these crucial elements, the mere publicly-made connection, linking or association of aboveground open and legal organizations and individuals as cohorts or partisans of the CPP-NPA-NDFP or its "front organizations" **is not red-tagging**.

Without these crucial elements, the act of publicly-made connection, etc. may in fact be one also in the legitimate exercise of various constitutional freedoms, rights and duties. Such as when made in the course of say media opinion columns and broadcasts, academic works and discussions, and other truthful public information services whether governmental or non-governmental on the "important public interest" which is the local communist armed conflict. The warranted push-back against red-tagging should not result in a likewise "chilling effect" on the same constitutional rights and liberties that are meant to be protected by the criminalization of red-tagging.

The following existing Ordinance's definition of red-tagging, unfortunately, does not carry the above-said crucial elements that are inherent in red-tagging:

Red-tagging is the act of publicly labelling, vilifying, branding, naming, accusing, or caricaturing individuals, groups or organizations of being state enemies, subversives, armed rebels, communists, terrorists, recruiters, enablers, or fronts, thereof, implying or insinuating involvement or engagement in armed rebellion, acts of terrorism, or any felonious acts, without any official documentary basis.

Only the last phrase, "without any official documentary basis" pertains, but in a more limited scope, to red-tagging's crucial element of "unfounded." Absent are the two other crucial elements of (1) accompaniment by threats to personal security, and (2) the malicious purpose or intent of impeding or impairing constitutional rights and liberties, especially those of political activists, human rights defenders and critical journalists. These two crucial elements are reflected in the most important *Deduro* pronouncement on red-tagging that "Inherent in the practice of red-baiting is the use of threats and intimidation to discourage 'subversive' activities."

Retired Judge Santos' proposed redefinition of red-tagging in the existing Ordinance is accompanied by other legal points and proposed amendments on the existing Ordinance in consensus with the City Legal Officer Atty. McGyver Gerard S. Orbina, as follows:

1. Adding the words "especially or more so when done" immediately before the phrase "to silence, discourage or delegitimize their legitimate exercise of various constitutional freedoms, especially of political dissent, critical discourse and human rights advocacy," in the

redefinition made of red-tagging in Section 2 of the Amended Ordinance.

2. The proviso "with use of public position, public influence, and/or public funds" is not essential for the commission of red-tagging. And that the latter may also be committed by private persons, not only public officials. And so, the last two proviso paragraphs under Section 2.a. in the existing Ordinance pertaining to public officials may be dispensed with.

3. Relatedly, Sections 2.b and 2.c. in the existing Ordinance defining a "Public official or employee" and a "Person in authority," respectively, may be dropped as unnecessary or superfluous, as these terms are anyway defined in law, such as in the Revised Penal Code.

4. Also relatedly, the reference to "public official, employee, persons in authority and/or their agents" in Section 4 on Penalty in the existing Ordinance may be simply replaced by "person."

5. The three (3) forms of red-tagging enumerated under Section 3 of the existing Ordinance, are presented, could be interpreted as exclusive or limited thereto, when in fact there may be the other forms of red-tagging existing or still to emerge in practice. And so, inserting the phrases "may be" and "but not limited to" before the enumerated three (3) forms would better ensure that all acts of red-tagging are prevented or deterred. Be that as it may, it is also made explicitly clear that the various forms of red-tagging are to be necessarily understood "all in accordance with the above definition" of red-tagging in the amended Section 2.

6. The last paragraph of Section 4 on Penalty in the existing Ordinance in so far as it provides this to be "without prejudice to the filing of administrative and civil cases against the offender/s" overlooks other possible criminal cases, and so this should be now included.

7. The last three Sections 5 to 7 of the existing Ordinance are retained as is.

The herein below Amended Ordinance reflects the foregoing consensus changes and improvements, to be made, as underscored. To reflect its amended character, the words "as Amended" and "Amended" are now added to Section 1 on Title of the existing Ordinance.

This Amended Anti-Red Tagging Ordinance of Naga City is its own human rights, justice and peace contribution to putting an end to the practice of red-tagging not only in Naga City. While the City Ordinance is enforceable only within the city limits, it may well serve as a positive example beyond its borders, especially for other local government units, if not also for Congress when it legislates a Republic Act defining and penalizing red-tagging. This is also why the City Government of Naga must get its own Ordinance definition of red-tagging as right as possible, under current governing jurisprudence and in the absence of a national law thereon. Thus, this amendatory Ordinance to definitionally improve the existing one.

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Finally, this Amended Anti-Red-Tagging Ordinance of Naga City is now expressly stated to be built on the foundation of its traditions and history that include: **the old Jardin**, now Plaza Rizal, as the local freedom park version of London's Hyde Park and Manila's Plaza Miranda of free speech and public debate; **the Naga press**, especially during martial law, that was once "the freest in the Philippines;" **the Naga Peace Zone**, as declared in Sangguniang Panlungsod Resolution No. 92-169 so as to be off-limits to armed conflict; and **the Naga City Justice Zone**, the sixth in the country and launched on September 30, 2019.

BE IT ORDAINED by the Sangguniang Panlungsod of Naga in session duly assembled:

SECTION 1. TITLE. This Ordinance shall be known as "**An Ordinance Defining and Penalizing Red-tagging in Naga City, as Amended,**" or simply "**The Amended Anti Red-tagging Ordinance of Naga City.**"

SECTION 2. DEFINITION OF RED-TAGGING. Red-tagging is the malicious and/or unfounded publicly-made connection, linking or association of aboveground open and legal organizations and individuals as cohorts or partisans of the Communist Party of the Philippines (CPP), New People's Army (NPA) and/or the National Democratic Front of the Philippines (NDFP), including but not limited to calling or labelling them as "reds," "communists," "(communist) terrorists," "subversives," or the like, especially or more so when done to silence, discourage or delegitimize their legitimate exercise of various constitutional freedoms, especially of political dissent, critical discourse and human rights advocacy, in ways or under circumstances that constitute threats to a person's right to life, liberty or security, such as by intimidation, harassment and surveillance, on the part of State agents or civilian proxies of the State's counter-insurgency efforts against the CPP-NPA-NDFP.

SECTION 3. FORMS OF RED-TAGGING. Red-tagging may be committed through, but not limited to, any of the following forms, and all in accordance with the above definition:

1. Public statements, announcements, or declarations, verbal or written, by public officials or employees and private persons in public gatherings, meetings, and the like, which may cause or influence the public to label, vilify, accuse, or name individuals, groups, or organizations as terrorists, recruiters, enablers, and the like.

2. Social media posts in the pages and accounts of public officials or employees, private persons, or government agencies, bearing the logo and/or name of said person or agency labelling, vilifying, branding, naming, accusing, or caricaturing individuals, groups, or organizations of being state enemies, subversives, armed rebels, communists, terrorists, recruiters, enablers, or fronts.

3. Signage, streamers, placards, public fora, and other similar venues of media containing photos and/or names of individuals, groups, or organizations, insinuating or implying involvement or engagement in armed rebellion, acts of terrorism, or any felonious acts.

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SECTION 4. PENALTY. Any person who red-tags any individual, group, or organization in accordance with Sections 2 and 3 of this Ordinance shall be imposed the following:

- 1st Violation: Fine of ₱5,000.00 or imprisonment of 1-30 days or both
- 2nd Violation: Fine of ₱5,000.00 or imprisonment of 2-3 months or both
- 3rd Violation: Fine of ₱5,000.00 or imprisonment of 4-6 months or both

The penalties for the violation of this Ordinance and their probable consequences shall be without prejudice to the filing of administrative, criminal, and civil cases against the offender/s.

SECTION 5. FILING OF COMPLAINT. Any violation of this Ordinance shall be filed at the Naga City Human Rights Action Center stationed at the City Legal Office that shall assist in the preparation and filing of the complaint.

SECTION 6. SEPARABILITY CLAUSE. Should any provision of this Ordinance be subsequently declared unconstitutional, other provisions in so far as they may be separable from the invalid ones shall remain in full force and effect.

SECTION 7. EFFECTIVITY. This Ordinance shall take effect immediately upon its publication in the Naga City Government pages and website or in a newspaper of general circulation.

ENACTED: March 18, 2025.

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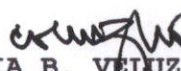
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WE HEREBY CERTIFY to the correctness of the foregoing Ordinance.

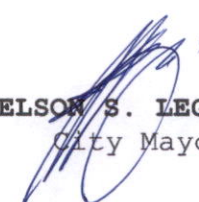


GIL A. DE LA TORRE
Secretary to the
Sangguniang Panlungsod



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City Vice Mayor
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APPROVED:



NELSON S. LEGACION
City Mayor 4/8/25