



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

SIEGFRED D. DEDURO,

G.R. No. 254753

Petitioner,

Present:

- versus -

GESMUNDO, C.J.,*
 LEONEN,**
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M. V.,
 GAERLAN,
 ROSARIO,
 LOPEZ, J. Y.,***
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR., and
 SINGH, JJ.****

**MAJ. GEN. ERIC C. VINOYA, in
 his capacity as COMMANDING
 OFFICER of the 3rd INFANTRY
 DIVISION, PHILIPPINE ARMY,**

Respondent.

Promulgated:

July 4, 2023

X-----
[Signature]

DECISION

ZALAMEDA, J.:

This is an appeal via a Petition for Review on *Certiorari*¹ (Petition) in relation to Section 19² of the Rule on the Writ of *Amparo* (Rule), which

* On official leave.

** Acting Chief Justice per Special Order No. 2989 dated 24 June 2023.

*** On leave.

**** On official leave, but left her vote.

¹ Under Rule 45 of the Rules of Court. *Rollo*, pp. 4-39.

² Sec. 19. *Appeal*. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

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seeks to reverse and set aside the Order³ dated 26 October 2020 of Branch 24, Regional Trial Court (RTC) of Iloilo City in Spl. Proc. No. 20-14628. The RTC denied the application of petitioner Siegfred D. Deduro (petitioner) for the issuance of a writ of *amparo*.

Antecedents

In his Petition for Writ of *Amparo* with Application for Interim Relief⁴ filed before the RTC on 22 October 2020, petitioner described himself as “an activist from Iloilo and a founding member and Vice President for the Visayas for both Bayan Muna Party-list and the Makabayan Coalition.”⁵ During the 12th Congress, he was the party-list representative of Bayan Muna.⁶ He was also Manager, and then Management Consultant, for the Panay Fair Trade Center Corporation; founding member and first Secretary-General of the Madia-as Ecological Movement; active member of the Kalikasan People’s Network for the Environment; and consultant for then Department of Agrarian Reform Secretary Rafael V. Mariano.⁷ On the other hand, respondent Maj. Gen. Eric. C. Vinoya (respondent) is impleaded in his official capacity as “the commanding officer of the Third Infantry Division (3rd ID), Philippine Army, Armed Forces of the Philippines.”⁸

Petitioner alleged that military officers under respondent’s command red-tagged and accused him of being a ranking member of the Communist Party of the Philippines-New People’s Army (CPP-NPA).⁹

He narrated several instances to support his claim. He began with an event on 19 June 2020, the date nearest to the date of filing his Petition:

3. On June 19, 2020, a meeting of the Iloilo Provincial Peace and Order Council (hereafter referred to as “PPOC” for brevity) took place at the Casa Real de Iloilo, Iloilo Provincial Capitol in Iloilo City.

4. The said meeting was attended by the media, Governor Arthur Defensor, Jr. of the Province of Iloilo, and other public officials, including military officers belonging to the 3rd ID, under the respondent’s command.

5. At the aforementioned meeting, the said military officers of the 3rd ID gave a presentation and discussion wherein they

³ *Rollo*, pp. 48-52; penned by Presiding Judge Nestle A. Go.

⁴ *Id.* at 53-66.

⁵ *Id.* at 4.

⁶ *Id.* at 56.

⁷ *Id.*

⁸ *Id.* at 53.

⁹ *Id.* at 61.

alleged that certain individuals were part of the [CPP-NPA] hierarchy in Panay.

6. Petitioner was explicitly identified as part of the said CPP-NPA hierarchy.¹⁰

After the event, petitioner's alleged connection with the CPP-NPA was further publicized by Bombo Radyo Iloilo and the Philippine News Agency:

7. Print-outs of photographs posted by media outfit Bombo Radyo Iloilo on its social media (Facebook) page – showing the presentation of the military officers from the 3rd ID during the PPOC meeting on June 19, 2020 – are attached hereto as Annexes “A” to “A-3”, inclusive. Petitioner's name is shown twice in the image contained in Annex “A-2”, and sub-marked as Annexes “A-2-a” and “A-2-b”.
8. Print-outs of the entire social media (Facebook) page of Bombo Radyo Iloilo containing the aforementioned photographs are also attached hereto as Annexes “B” to “B-4”, inclusive.
9. The aforementioned PPOC meeting at Casa Real de Iloilo was also the subject of an article published by the Philippine News Agency (PNA) on June 20, 2020 with a photograph taken on the occasion thereof. The caption on the said photograph reads: “Photo courtesy of Philippine Army's 61st Infantry Battalion”. x x x
10. The 61st Infantry Battalion is a unit forming part of the 3rd ID and also under the over-all command of herein respondent.¹¹

Petitioner further described other incidents where he claimed to be subjected to red-tagging and/or surveillance. These incidents consisted of seeing posters with his image alongside that of other persons who are known activists, lawyers, and members of non-government organizations (NGOs), where they were labeled as criminals, terrorists, and members of the CPP-NPA-National Democratic Front (NDF); being followed by unidentified men from a restaurant to the Bayan-Panay office; and labelling petitioner's organizations as supporters of the CPP-NPA-NDF:

25. On December 11, 2017, the petitioner's photograph, along with those of other known activists, lawyers, and members of non-government organizations (NGOs), were reflected in posters which alleged that they were criminals, terrorists, and members of the CPP-NPA-NDF.

¹⁰ Id. at 53-54.

¹¹ Id. at 54. Emphases and citation in the original omitted.

26. The said posters were put in different locations in Iloilo City. A photograph of the said poster is attached here as Annex "K" with the petitioner's image sub-marked as Annex "K-1".
27. The posters depicting the images of the petitioner and other activists contained the following captions:

"MGA KAMPON SANG CPP-NPA-NDF SA SYUDAD!
NAGAPANG-INTO KAG NAGA-BUTIG SA PUMULUYO!
RALLY DIRI, RALLY DIDTO! WALA MAY NAUBRAHAN
PARA SA BANWA!"

("DISCIPLES OF THE CPP-NPA-NDF IN THE CITY!
FOOLING AND DECEIVING THE PEOPLE! HOLDING
RALLIES HERE AND THERE! THEY HAVE DONE
NOTHING FOR THE COUNTRY!")

"KRIMINAL, EXTORTIONISTS, SINDIKATO,
TERRORISTA."

(CRIMINAL, EXTORTIONISTS, SYNDICATES,
TERRORISTS.)

(Annex "K")

28. Another set of posters depicting the images of lawyers and paralegals of the National Union of Peoples' Lawyers (NUPL) Panay Chapter, photographs of which are attached hereto as Annexes "L" and "L-1" were also put up alongside the aforementioned posters of the petitioner and fellow activists. This second poster contained the following captions:

"CPP-NPA-NDF LAWYERS KAG PARALEGALS, PEKE NGA
'PEOPLE'S LAWYERS!' MGA KAMPON SANG CPP-NPA-
NDF! MGA ABOGADO SANG MGA TERORISTA. NUPL
KAG KARAPATAN, TUTA SANG CPP-NP-NDF"

("CPP-NPA-NDF lawyers and paralegals, fake "people's
lawyers!" Disciples of the CPP-NPA-NDF! Lawyers of terrorists.
NUPL and KARAPATAN, puppets of the CPP-NPA-NDF")

(Annex "L")

29. Apart from that of the petitioner, the posters contained photographs of members of Makabayan Coalition, Bagong Alyansang Makabayan (BAYAN), Karapatan Alliance Philippines, Inc. (KARAPATAN), Kilusang Mayo Uno (KMU), Paghugpong sang mga Mangunguma sa Panay kag Guimaras (PAMANGGAS), ANAKBAYAN, the League of Filipino Students (LFS), Confederation for Unity Recognition and Advancement of Government Employees (COURAGE),

Promotion of Church People's Response (PCPR), Kalipunan ng Damayang Mahihirap (KADAMAY), Katilingban sang Imol sa Siyudad (KAISOG), and the National Union of Peoples' Lawyers (NUPL), including, among others:

- a. Jose Reynaldo C. Porquia [(Porquia)] – Bayan Muna Coordinator for Iloilo City;

x x x x

- d. Reylan B. Vergara [(Vergara)] – Secretary-General of Panay Alliance Karapatan (PAK) and National Vice Chairperson of Karapatan Alliance Philippines, Inc. (KARAPATAN);

x x x x.

30. The exact same posters were, again, plastered in different places in Iloilo City on March 16, 2019.
31. Moreover, on January 23, 2019, during and after a meeting with other human rights activists in a restaurant in Tagbak, Terminal, Brgy. Tagbak, Jaro, Iloilo City, the petitioner and his companions were watched and followed by three unidentified (3) men from the said terminal all the way to the office of BAYAN-Panay in Brgy. Cuartero, Jaro, Iloilo City.
32. The said unidentified men even boarded motorcycles and followed the petitioner as he was driving his own vehicle.
33. A copy of the police blotter entry, Entry ICPS3-01-3355-2019, containing a report of the aforementioned incident made by Reylan B. Vergara, the petitioner's companion at the time, is attached hereto as Annex "M".
34. On August 24, 2019, during a symposium at the University of St. La Salle in Bacolod City, Negros Occidental, military officers from the 303rd Infantry Brigade (hereafter referred to as "303rd IB" for brevity), a unit of the 3rd ID under the over-all command of the respondent, reportedly red-tagged and labelled, as supporters of the CPP-NPA-NDF, various organizations, including the local chapter of the petitioner's own organization, Bayan Muna Party-list. On the same occasion, the local chapters of BAYAN and many other NGOs were also labelled as organizations of the National Democratic Front (NDF). x x x
35. Notably, almost all of the organizations whose members were red-tagged in the posters on December 11, 2018 and March 16, 2019 put up in different places in Iloilo City – including BAYAN, NUPL, KARAPATAN, LFS, ANAKBAYAN, COURAGE, KMU, Kabataan Party-list, GABRIELA, and PCPR – were similarly

red-tagged by the 303rd IB during the aforementioned symposium.

x x x x

37. On August 27, 2020, more posters were put up in public places in Mandurriao, Iloilo City and Brgy. Bitá Sur, Oton, Iloilo. These posters also bore the images of the same activists, human rights, advocates, and members of NGOs-including the petitioner-and similarly accused them of being supporters of the CPP-NPA-NDF. x x x

x x x x

40. On October 10 and 16, 2020, the petitioner was again red-tagged on social media, particularly, in a Facebook page, designated as “Western Visayas Expose”. x x x

41. In the aforementioned Facebook page x x x petitioner was explicitly named and accused to be part of the CPP-NPA-NDF, along with other members and incumbent legislators from various party-lists under the Makabayan Coalition, activists, human rights workers, and members of NGOs in Panay and Negros, including: x x x

x x x x

j. Zara R. Alvarez [(Alvarez)] – Para-legal and Education Officer for KARAPATAN – Negros, Research and Advocacy Officer of Negros Island Health Integrated Program for Community Development, Inc., and Deputy Secretary-General of BAYAN-Negros.¹²

Particularly disturbing for petitioner was the awareness that Porquia and Alvarez, two persons whose photos appeared alongside that of petitioner’s in posters, met violent deaths. On 30 April 2020, Porquia was shot and killed by at least two gunmen in Barangay Sto. Niño Norte, Arevalo, Iloilo City.¹³ Alvarez, on the other hand, was also shot and killed by unidentified gunmen in Bacolod City on 17 August 2020.¹⁴ Notably, Alvarez’s name and image were included in another tarpaulin showing alleged communist personalities, which was posted in Moises Padilla, Negros Occidental. Also included in this tarpaulin were the photos of Atty. Benjamin Ramos (Atty. Ramos), Secretary-General of Negros; and Hon. Bernardino Patigas (Hon. Patigas), Councilor of Escalante City and former Secretary-General of the Northern Negros Alliance of Human Rights Advocates. Atty. Ramos was shot and killed on 06 November 2018 in

¹² Id. at 56-61.

¹³ Id. at 59.

¹⁴ Id. at 62.

Kabankalan City, while Hon. Patigas met the same fate on 22 April 2019 in Escalante City.¹⁵

Thus, in his Petition before the RTC, petitioner sought the following reliefs:

- a) Upon the filing of this petition, a WRIT OF AMPARO be issued and that the respondent be directed to file a verified written RETURN in accordance with Sec. 9 of A.M. No. 07-9-12-SC within seventy-two (72) hours from service of the writ;
- b) Respondent be directed to include, in his verified written return:
 - i. The identities and assignments of the military officers of the 3rd ID who gave the report to the PPOC on June 19, 2020 which pertained to the petitioner;
 - ii. All information and records pertaining to the petitioner taken, collected, and/or in the possession of the respondent and his subordinates, personnel, agents and all other persons under his command;
- c) A HEARING on the petitioner's application for interim relief be conduct [sic] and, thereafter, a PRODUCTION ORDER be issued directing the respondent, his agents, or any person or public official under his command to PRODUCE any and ALL records, dossiers, files, documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized, electronic, or any other form that may be RELATED TO THE PETITIONER herein and/or RELATED TO ANY AND ALL SURVEILLANCE ACTIVITIES, if any, carried out by military personnel, agents, or persons under his command;
- d) After proper proceedings, a JUDGMENT be rendered:
 - i. ENJOINING the respondent and his subordinates, personnel, agents, and persons acting on his behalf or under his command from red-tagging, approaching, monitoring or harassing the petitioner; [and]
 - ii. DIRECTING the respondent and his subordinates, personnel, agents, and persons acting on his behalf or under their command to DESTROY any and all information, records, dossiers, files, documents, photographs or recordings – in digitized, electronic, or any other form – about or pertaining to the petitioner that had been taken, collected, and/or are being kept by the said persons.

Other reliefs just and equitable under the premises are similarly prayed for.¹⁶

¹⁵ Id. at 62-63.

¹⁶ Id. at 65-66.

Ruling of the RTC

The RTC immediately dismissed the Petition for issuance of a writ of *amparo* in an Order¹⁷ dated 26 October 2020. It found petitioner's allegations of red-tagging baseless, unsupported by evidence, and insufficient for the grant of the extraordinary writ.¹⁸ After restating the events narrated by petitioner, the RTC issued its denial of petitioner's prayer, thus:

The protective writ of *amparo* is a judicial remedy to expeditiously provide relief to violations of a person's constitutional right to life, liberty, and security, and more specifically, to address the problem of extralegal killings and enforced disappearances or threats thereof. Section 1 of A.M. No. 07-9-12-SC provides:

Sec. 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official of employee, or of a private individual or entity.

The writ shall cover **extralegal killings and enforced disappearances** or threat thereof. (*Emphasis supplied*)

To be entitled [to the protective writ of *amparo*], the applicant must establish that his right to life, liberty and security are being threatened by the acts of the respondent.

It bears stressing that the premise relied upon by the petitioner that there were threats coming from military units under the command of respondent was the meeting held on June 19, 2020, between Governor Defensor, Jr., media and military officials of the [3rd ID], wherein the name of petitioner was identified as part of the CCP (sic)-NPA hierarchy. Further, he also alleged that on different dates, petitioner's photograph, along with those of other known activists, lawyers and member of non-government organizations were reflected in posters and put up in different places which alleged that they were criminals, terrorists, and members of the CCP (sic)-NPA-NDF.

Further, he alleged that on January 23, 2019, three (3) unidentified men watched him from Tagbak terminal all the way to the Office of Bayan-Panay in Brgy. Cuartero, Jaro, Iloilo City. He also averred that in a symposium at the University of St. La Salle in Bacolod City, his organization, the Bayan Muna Party list[,] and other NGOs were red-tagged and labelled by the 303rd Infantry Brigade as supporters of the CCP (sic)-NPA-NDF. He likewise alleged that April 30, 2020, Jose Reynaldo C. Porquia-Bayan Muna Coordinator for Iloilo City[-] was shot and killed by a least two (2) gunmen in Brgy. Sto. Niño Norte, Arevalo, Iloilo City.

¹⁷ Id. at 48-50; penned by Presiding Judge Nestie A. Go.

¹⁸ Id. at 51.

Lastly, he alleged that on October 10 and 16, 2020, he was again red-tagged on social media, particularly in a Facebook page under the account of "Western Visayas Expose."

The contention of petitioner that his name [being] red-tagged or labelled by the military officials as part of the CCP (sic)-NPA hierarchy can be considered as threat to his right to life, liberty and security. This is **totally untenable**.

In *Tapuz v. Del Rosario*, the Court laid down the basic principle regarding the rule on the writ of *amparo* as follows:

To start off with the basics, the writ of *amparo* was originally conceived as a response to the extraordinary rise in the number of killings and enforced disappearances, and to the perceived lack of available and effective remedies to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules. What it is not, is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds. Consequently, the Rule on the Writ of *Amparo* – in line with the extraordinary character of the writ and the reasonable certainty that its issuance demands – requires that every petition for the issuance of the writ must be supported by justifying allegation of fact, to wit:

- “(a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- (c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
- (d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;
- (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
- (f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

Applying the foregoing, the alleged red-tagging or labelling made by the military officials under the command of the respondent as mentioned by petitioner[,] as well as the alleged act of the three unidentified men in following the petitioner[,] are not sufficient to constitute as threats to his right to life, liberty and security as defined by law. This conclusion is substantiated by the fact that the alleged surveillance made by three unidentified men transpired on January 23, 2019 or seventeen months after the alleged red-tagging incident occurred and needless to say, the said incident was reported by a certain Reylan Vergara, alleged companion of petitioner and not petitioner himself.



Likewise, the other contentions made by petitioner (i.e. Petitioner's photograph reflected in the poster placed in different places, death of Jose Reynaldo Porquia, a Bayan-Muna Coordinator, as well as petitioner being red-tagged in social media) were purely baseless and not supported by evidence as the same failed to show by *prima facie* evidence that such incidents constitute threats against petitioner's right to life, liberty and security that would warrant the issuance of the writ.

The issuance of Writ of *Amparo* requires that every petition must be supported by justifying allegations of facts. Since petitioner's allegations lack the substantial evidence require by the said writ, the Court finds the same not meritorious.

WHEREFORE, premises considered, this Court hereby denies the issuance of the Writ of *Amparo*. The Petition filed by Siegfred Deduro through counsel is **DISMISSED**.

SO ORDERED.¹⁹

Issues

Petitioner now seeks recourse before us, through the present Petition filed on 4 November 2020.²⁰ He raises the following issues:

- A. Whether or not the petitioner is entitled to the reliefs prayed for in the subject petition; [and]
- B. Whether or not the Court *a quo* seriously erred in dismissing the petition outright without requiring the respondent to file a return or even conducting a hearing.²¹

In claiming entitlement to the issuance of a writ of *amparo*, petitioner argues that the initial evidence attached to the Petition before the RTC already established a *prima facie* case sufficient to support the issuance of the writ prayed for. He laid out in detail the nature of the threat to his life, liberty, and security, and this threat is supposedly directly connected to the red-tagging carried out by the 3rd ID, among others. Petitioner posits that similar to *habeas corpus* proceedings, the allegations in his Petition should have been sufficient to grant the protective writ of *amparo* in his favor even before the conduct of an actual hearing.

Petitioner further maintains that the RTC should have ordered respondent to comment on his Petition, instead of outrightly dismissing it. Considering that the RTC doubted the veracity of petitioner's allegations, as well as the credibility of his evidence, it could have conducted a summary hearing pursuant to Section 6 of A.M. No. 07-9-12-SC. Petitioner stresses

¹⁹ Id. at 49-52. Emphases in the original.

²⁰ Rule 45, RULES OF COURT.

²¹ *Rollo*, p. 19.

that red-tagging is a serious threat to the lives, freedoms, and rights of activists, and should not be summarily ignored by the courts.

We required respondent to comment on the Petition in a Resolution²² dated 12 January 2021.

On 17 May 2021, respondent, through the Office of the Solicitor General (OSG), filed his Comment and Opposition,²³ arguing that the RTC committed no reversible error in dismissing the Petition and denying the issuance of the writ of *amparo* for lack of merit.²⁴

Respondent points out that the Petition failed to establish by substantial evidence that respondent, or any agents or subordinates under his command, threatened petitioner's right to life, liberty, and security. There were no specific allegations that respondent and his subordinates participated, authorized, or sanctioned the perceived threats to petitioner's right to life, liberty, and security.²⁵

Likewise, respondent questions the veracity of the pieces of evidence presented by petitioner. Respondent argues that the slides presented during the 19 June 2020 event with a red-tagging list do not indicate that they were official and genuine documents produced by respondent or any of his military personnel. The posters mentioned by petitioner were supposedly not sponsored by the military, but by the Panay Alliance of Victims of the CPP-NPA-NDF and Western Alliance of Victims of CPP-NPA-NDF. According to respondent, there was no evidence presented to prove the purported surveillance on 23 January 2019. Vergara, and not petitioner, made the blotter report. Respondent also holds that petitioner also failed to show a concrete link between the military and the alleged red-tagging of NGOs during the 24 August 2019 symposium. Finally, the supposed red-tagging on Facebook was allegedly done by Western Visayas Expose.

We noted respondent's Comment and required petitioner to file his reply in our Resolution²⁶ dated 15 June 2021.

Meanwhile, on 30 July 2021, petitioner's counsel, Angelo Karlo T. Guillen, filed a Compliance and Notice of Change of Address.²⁷ He admitted that his office received a copy of Our Resolution dated 12 January 2021 on 25 March 2021, but he was only able to read it on 13 April 2021. He averred that he was attacked and stabbed multiple times by masked assailants on 3 March 2021 and had to undergo surgery and physical therapy. We noted and

²² Id. at 126.

²³ Id. at 128-138.

²⁴ Id. at 132.

²⁵ Id. at 134.

²⁶ Id. at 150-151.

²⁷ Id. at 152-154.

granted the Notice of Change of Address in a Resolution²⁸ dated 9 November 2021.

In his Reply²⁹ dated 02 December 2021, petitioner explained that the RTC's outright dismissal of the Petition led to the absence of opportunity to testify or to present evidence. He reiterated that the media were able to capture the threats from the 3rd ID, specifically those done during the meeting with the Iloilo PPOC on 19 June 2020. The public labelling of activists as supposed members of the CPP-NPA-NDF precede attacks against them in the form of extrajudicial killings and other human rights violations. This is what happened to Porquia, Alvarez, Atty. Ramos, and Hon. Patigas.³⁰

For petitioner, respondent's evasiveness and dismissive attitude both highlight the error in the RTC's Order of dismissal and undermine the effectiveness of the writ of *amparo*.³¹

Ultimately, we are tasked to determine whether the RTC gravely erred in dismissing the Petition for failure to establish a *prima facie* case for a grant of a writ of *amparo*.

Ruling of the Court

We **GRANT** the instant Petition in part.

While we do not rule outright that petitioner is entitled to all of the reliefs sought, we deem it proper to reverse the RTC's Order of dismissal dated 26 October 2020 and issue a writ of *amparo* against respondent. Petitioner is ordered to submit to the RTC a Supplemental Petition impleading the Alliance of Victims of the CPP-NPA-NDF and the Western Visayas Alliance of Victims of the CPP-NPA-NDF. For its part, the RTC is directed to conduct a summary hearing on the Petition and on the interim relief of production order and to render judgment thereafter.

I. *Familiarization with the Rule on the Writ of Amparo*

As we proceed to examine the propriety of the RTC's immediate dismissal of the Petition for a writ of *amparo*, it would do well for us to review the purpose for the enactment of the Rule, as well as the procedural considerations involved.

A. *The Purpose for its Enactment*

²⁸ Id. at 282.

²⁹ Id. at 284-296.

³⁰ Id.

³¹ Id. at 292.

In 1991, now-retired Supreme Court Associate Justice Adolfo S. Azcuna, who was a member of both the 1973 and 1986 Constitutional Commissions, asked that year's Bar examinees to define the writ of *amparo*, as well as the remedy's basis under the Constitution.³² While the remedy of *amparo* was not popular in the country at the time the question was asked, Sec. 5(5), Art. VIII of the 1987 Constitution already provided the basis for this Court's power to promulgate rules concerning the protection and enforcement of constitutional rights.

Soon after his assumption of office as head of the Judiciary, Chief Justice Reynato S. Puno (CJ Puno) led the Court in examining legal procedures and recalibrating them to address the flaws that prevented justice from being properly administered. Through the National Consultative Summit on Extrajudicial Killings (Summit) held on 16 and 17 July 2007 at the Manila Hotel, the Court considered the input of the over 500 participants from vital sectors of government and civil society in the formulation of special rules to best address cases involving extrajudicial killing and enforced disappearances. CJ Puno had the vision of formulating stronger processes to make legal relief more available and helpful to victims of these human rights violations, more forceful against suspected perpetrators, and more demanding of government agencies involved in such cases.³³

The Rule, or A.M. No. 07-9-12-SC, was finally promulgated on 25 September 2007, 16 years after the Bar examination question and 20 years after the effectivity of the current Constitution. It took effect on 24 October 2007, following its publication in three newspapers of general circulation.³⁴

In 2008, CJ Puno penned the seminal case of *Secretary of National Defense v. Manalo*³⁵ (*Manalo*), which introduced the purpose of the writ of *amparo* in Philippine jurisprudence. Described as a hybrid writ of the common law and civil law traditions, and borne out of the Latin American and Philippine experience of human rights abuses, the remedy "provides **rapid judicial relief** as it partakes of a **summary proceeding that requires only substantial evidence** to make the appropriate reliefs available to the petitioner; it is not an action to determine criminal guilt requiring proof beyond reasonable doubt, or liability for damages requiring preponderance of evidence, or administrative responsibility requiring substantial evidence that will require full and exhaustive proceedings."³⁶

³² The question was formulated as follows: "What is a Constitutional Writ of *Amparo* and what is the basis of such remedy under the Constitution?"

³³ PUBLIC INFORMATION OFFICE, SUPREME COURT, COMPLETING THE CIRCLE OF HUMAN RIGHTS: THE PUNO INITIATIVE 24-29 (2010) Available at <https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/02/CCHR-01-FINAL-03SEPT2010-BB.pdf> (last accessed 20 September 2022).

³⁴ Section 27 of the Rule of Writ of *Amparo*.

³⁵ 589 Phil. 1 (2008).

³⁶ *Id.*, citing Deliberations of the Committee on the Revision of the Rules of Court, 10 August 2007; 24 August 2007; 31 August 2007; and 20 September 2007. Emphases supplied.

It is not unusual for a court to evaluate an *amparo* petition twice: first, after the filing of the petition in order to determine whether the writ ought to be issued; and second, after the issuance of the writ, the filing of the return, and the conduct of a summary hearing in order to determine whether the privilege of the writ ought to be granted or denied. It is thus conceivable for a court to initially issue a writ but subsequently deny the privilege of the writ after an evaluation of the submissions of the parties.

At this point, we underscore the need to distinguish **the issuance of the writ of *amparo*** from **the grant of the privilege of the writ**. The **initial evaluation** for the issuance of the writ of *amparo* comes after the filing of the petition and is governed by Section 6 of the Rule. Said section governs the initial evaluation and is divided into two parts: the first sentence describes the minimum weight of evidence required for the issuance of the writ, while the second sentence details the procedure for its issuance:

SECTION 6. *Issuance of the Writ*. — Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

In contrast, the **subsequent evaluation** of the petition for the grant of the privilege of the writ of *amparo* comes after the issuance of the writ, the filing of the return, and the conduct of a summary hearing. This is governed by Section 18 of the Rule, to wit:

SECTION 18. *Judgment*. — The court shall render within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

The issuance of the writ was distinguished from the grant of the privilege of the writ of *amparo* in *De Lima v. Gatdula*:³⁷

The **privilege of the Writ of *Amparo*** should be distinguished from the **actual order** called the *Writ of Amparo*. The privilege includes availment of the entire procedure outlined in A.M. No. 07-9-12-SC, the Rule on the Writ of *Amparo*. After examining the petition and its attached affidavits, the Return and the evidence presented in the summary hearing, the judgment should detail the required acts from the respondents that will mitigate, if not totally eradicate, the violation of or the threat to the petitioner's life, liberty or security.

B. *The Coverage of the Rule on the Writ of Amparo: Extrajudicial Killings, Enforced Disappearances, or Threats Thereof*

Section 1 of the Rule provides for its causes of action:

³⁷ 704 Phil. 235, 249 (2013).

Section 1. *Petition*. — The petition for a writ of *amparo* is a remedy available to any person whose **right to life, liberty and security is violated or threatened with violation by an unlawful act or omission** of a public official or employee, or of a private individual or entity.

The writ shall cover **extralegal killings and enforced disappearances or threats thereof**. (Emphasis supplied)

The fundamental function of the writ of *amparo* is to cause the disclosure of details concerning extrajudicial killings and enforced disappearances or threats thereof.³⁸ The deliberations of the Committee³⁹ that formulated the Rule are instructive in revealing the intent to limit its application:

CHIEF JUSTICE PUNO: The question really is whether the writ of *amparo* should merely supplement the existing remedies that are already in place protecting constitutional rights or whether this writ should supplant the existing remedies. For instance, the readings will show that the writ of *amparo* provides a larger remedy and that the writ of *habeas corpus* is only a subset of the writ of *amparo*. We have existing remedies against violation of constitutional rights... injunctions, prohibitions, the different ways by which the constitutionality of a law or an act or omission of the president or even members of congress can be tested and struck down in violating the Constitution. In other countries, the writ of *amparo* is available even to correct judicial errors. In the case of extrajudicial killings and enforced disappearances, it is obvious that the remedy is very inadequate. It is only the remedy of *habeas corpus* so perhaps in that particular area we can go ahead and provide for the writ of *amparo*.⁴⁰

JUSTICE VITUG: I think it would be a very ambitious project if we were to consider [all constitutional rights] in the coverage of the writ of *amparo* and it may no longer be timely to address the present problem [of extrajudicial killings and enforced disappearances]...and therefore I would appreciate the Chairman's suggestion that perhaps we should take up the most [pressing problem of extrajudicial killings and enforced disappearances first] and allow the writ to evolve.⁴¹

JUSTICE CALLEJO: I agree with the observation of Justice Vitug after all this writ is supposed to be an extraordinary remedy, akin to a writ of *habeas corpus* or even more extensive than the writ of *habeas corpus*. But we should not supplant the present rules now; we have rules on injunction,

³⁸ Sec. 1, Rule on Writ of *Amparo*. See also *Mison v. Gallegos*, 761 Phil. 657 (2015).

³⁹ The Committee was composed of the following: Chief Justice Reynato S. Puno (chairperson, [now ret.]), Senior Justice Leonardo A. Quisumbing ([now ret.]), Justice Ma. Alicia Austria-Martinez (co-chairperson, [now ret.]), Justice Adolfo S. Azcuna ([now ret.]), Justice Dante O. Tinga ([now ret.]), Justice Minita V. Chico-Nazario ([now ret.]), Justice Antonio Eduardo B. Nachura ([now ret.]), Justice Jose Y. Feria (ret.), Senior Justice Florida Ruth P. Romero (ret.), Senior Justice Josue N. Bellosillo (ret.), Justice Bernardo P. Pardo (ret.), Justice Jose C. Vitug (ret.), Justice Romeo J. Callejo, Sr. (ret.) and Justice Oscar M. Herrera (ret.).

⁴⁰ Felipe Enrique M. Gozon, Jr. & Theoben Jerdan C. Orosa, *Watching the Watchers: A Look Into the Drafting of the Writ of Amparo*, 82 Phil. L.J. 8, 17 (2008) citing 1 RECORD OF THE SUPREME COURT COMMITTEE ON RULES 4 (2007). Available at <https://journals.upd.edu.ph/index.php/law/article/view/1876/0> (last accessed 21 September 2022).

⁴¹ *Id.*, citing 1 RECORD at 3.

prohibition, etc. So this very extraordinary remedy is applicable only to specific incidents of extrajudicial killings and enforced disappearances...⁴²

JUSTICE TINGA: I am amenable to the idea of confining the proposed rules only to cases [of extrajudicial killings] and enforce[d] disappearances. All violations of the Constitution are wrongs, they are actionable wrongs and there are remedies. But in view of the times there is a need...to make the remedy more attuned to what is needed, the present remedy [of *habeas corpus*] is not adequate enough, it is not expeditious enough and responsive. That is why we have to revise the rules, so the rules have to be confined to the phenomenon of extrajudicial killings and enforced disappearances.⁴³

The Committee was extremely aware that domestic legislation at the time did not have definitions of extrajudicial killings, enforced disappearances, or threats thereof.

1. *Extrajudicial Killings*

For its working definition of extrajudicial killings, the Committee referred to the feedback of the participants of the Summit:

JUSTICE NAZARIO: ...Chief, this is in regard to your just concluded observations as to the definition of extrajudicial killing. Well in our group, initially we had to struggle with the real definition of extrajudicial killings. So in the end we categorized the term extrajudicial killings into three kinds – the first category was political killings due to the political affiliations or advocacies of the victim, or the method on top or involvement of the state in the commission of the killings. The second category was the summary killings and enforced disappearances committed by non-state actors without recourse to or disregard of legal and judicial processes. Finally the third category was summary killings or “salvagings” committed by institutionalized person or individuals who are suspected criminals. Now, I just don’t know whether what the reaction will be, of the committee regarding this categorization of extrajudicial killings.⁴⁴

The Committee later adopted the term “extralegal killings” to cover those committed by both state and non-state actors.⁴⁵ It largely relied on United Nations instruments for its working definitions:

As the term is used in United Nations Instruments, “extralegal killings” are killings committed without due process of law, i.e. without legal safeguards or judicial proceedings. As such, these include the illegal taking of life, regardless of the motive, summary and arbitrary executions, “salvagings” even of suspected criminals, and threats to take the life of persons who are openly critical of erring government officials and the like. On the other hand, “enforced disappearances” are attended by the

⁴² Id. at 18, citing 1 RECORD at 3.

⁴³ Id., citing 1 RECORD at 4.

⁴⁴ Id. at 19.

⁴⁵ Id.

following characteristics: an arrest, detention or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside the protection of law. The United Nations Rapporteur on Summary or Arbitrary Executions and the United Nations High Commission on Human Rights defined *summary executions* as those which take place after some sort of judicial or legal proceedings which fall short of international minimum procedural or substantive standards, and *arbitrary executions* consist in the arbitrary deprivation of life as the result of the killing of a person carried out by order of the government or with its complicity or tolerance or acquiescence without any judicial or legal process.

2. *Enforced Disappearances*

Similarly, the Committee referred to international declarations and conventions for its working definition of "enforced disappearances."

One of the more notable instruments considered by the Committee was the third preambular clause of the Declaration on the Protection of all Persons from Enforced Disappearance, which states that:

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.

In addition, the Committee took note of Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearance which states that:

For the purposes of this Convention, "*enforced disappearance*" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside of the protection of the law.

The Committee, however, resolved to consider possible domestic legislations which shall define the concepts of extralegal killings and enforced disappearances and to yield to such legislative definitions when, and if, such legislation shall come to pass.

The Committee worked on the Rule first, working on the processes and the remedies, as well as the possible orders, prior to discussing the definition. In the end, the Committee decided to let the definition of extralegal killings and enforced disappearances be left without a clear textual definition, because to do so may impair the workings of legislation designed for that purpose. They took notice of the fact that several bills were filed both in the House of Representatives as well as in the Senate of the Republic regarding the matter. In the end, the Committee would decide to define the nature of the petition and its coverage (what would become Section 1 of the Rule) instead of providing an elemental definition of the concept of extrajudicial killings and enforced disappearances. The Court, may, in future cases take note of definitions available through local and international laws and in so doing, amend the Rule as it stands.⁴⁶

Two years after the promulgation of the Rule, Congress enacted Republic Act No. (RA) 9851, or the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity. It provided the first statutory definition of enforced or involuntary disappearance, thus:

Section 3. For purposes of this Act, the term:

x x x x

(g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time.

Subsequently, our Decision in *Navia v. Pardico (Navia)*⁴⁷ enumerated the elements of this first statutory definition, to wit:

- (a) that there be an arrest, detention, abduction or any form of deprivation of liberty;
- (b) that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
- (c) that it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *amparo* petition; and,
- (d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.

On 21 December 2012, five years after the effectivity of the Rule and a few months after the promulgation of *Navia*, RA 10353, or the Anti-Enforced or Involuntary Disappearance Act of 2012, was approved. It modified the definition in RA 9851 and thus provided a second and more

⁴⁶ Id. at 23-25. Citations omitted. See also Annotation to the Writ of *Amparo*.

⁴⁷ 688 Phil. 266, 279 (2012).

recent statutory definition of enforced or involuntary disappearance in Section 3(b), thus:

Section 3. *Definitions.* –For purposes of this Act, the following terms shall be defined as follows:

x x x x

(b) *Enforced or involuntary disappearance* refers to the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.

Using *Navia's* template, and following the second and more recent statutory definition under RA 10353, we determine the elements of enforced or involuntary disappearance, as follows:

(a) that there be an arrest, detention, abduction or any form of deprivation of liberty;

(b) that it be carried out by agents of the State or by persons or groups of persons acting with the authorization, support, or acquiescence of the State;

(c) that it be followed by the State or the authorized group of persons' refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person; and,

(d) that the outcome of such refusal or concealment is to place the disappeared person outside the protection of the law.

3. *Threats*

What constitutes threats under the Rule was defined and illustrated in *Manalo*, thus:

In the context of Section 1 of the *Amparo* Rule, "freedom from fear" is the right and any **threat to the rights to life, liberty or security** is the **actionable wrong**. Fear is a state of mind, a reaction; **threat** is a stimulus, a **cause of action**. Fear caused by the same stimulus can range from being baseless to well-founded as people react differently. The degree of fear can vary from one person to another with the variation of the prolificacy of their imagination, strength of character or past experience with the stimulus. Thus, in the *amparo* context, it is more correct to say that the "right to security" is actually the "freedom from

threat". Viewed in this light, the "threatened with violation" Clause in the latter part of Section 1 of the *Amparo* Rule is a form of violation of the right to security mentioned in the earlier part of the provision.

X X X X

While the right to security of person appears in conjunction with the right to liberty under Article 9, the [United Nations' Human Rights] Committee [(Committee)] has ruled that the **right to security of person can exist independently of the right to liberty**. In other words, there need not necessarily be a deprivation of liberty for the right to security of person to be invoked. In **Delgado Paez v. Colombia**, [(Paez)] a case involving death threats to a religion teacher at a secondary school in Leticia, Colombia, whose social views differed from those of the Apostolic Prefect of Leticia, the Committee held, viz.:

The first sentence of article 9 does not stand as a separate paragraph. Its location as a part of paragraph one could lead to the view that the right to security arises only in the context of arrest and detention. The *travaux préparatoires* indicate that the discussions of the first sentence did indeed focus on matters dealt with in the other provisions of article 9. **The Universal Declaration of Human Rights, in article 3, refers to the right to life, the right to liberty and the right to security of the person. These elements have been dealt with in separate clauses in the Covenant. Although in the Covenant the only reference to the right of security of person is to be found in article 9, there is no evidence that it was intended to narrow the concept of the right to security only to situations of formal deprivation of liberty. At the same time, States parties have undertaken to guarantee the rights enshrined in the Covenant. It cannot be the case that, as a matter of law, States can ignore known threats to the life of persons under their jurisdiction, just because that he or she is not arrested or otherwise detained. States parties are under an obligation to take reasonable and appropriate measures to protect them. An interpretation of article 9 which would allow a State party to ignore threats to the personal security of non-detained persons within its jurisdiction would render totally ineffective the guarantees of the Covenant.**

The Paez ruling was reiterated in **Bwalya v. Zambia**, which involved a political activist and prisoner of conscience who continued to be intimidated, harassed, and restricted in his movements following his release from detention. In a catena of cases, the ruling of the Committee was of a similar import: **Bahamonde v. Equatorial Guinea**, involving **discrimination, intimidation and persecution of opponents of the ruling party in that state**; **Tshishimbi v. Zaire**, involving the abduction of the complainant's husband who was a supporter of democratic reform in Zaire; **Dias v. Angola**, involving the murder of the complainant's partner and the harassment he (complainant) suffered because of his investigation of the murder; and **Chongwe v. Zambia**, involving an assassination attempt on the chairman of an opposition alliance.

Similarly, the European Court of Human Rights (ECHR) has interpreted the "right to security" not only as prohibiting the State from arbitrarily depriving liberty, but imposing a positive duty on the State to afford protection of the right to liberty. The ECHR interpreted the "right to security of person" under Article 5 (1) of the European Convention of Human Rights in the leading case on disappearance of persons, **Kurt v. Turkey**. In this case, the claimant's son had been arrested by state

authorities and had not been seen since. The family's requests for information and investigation regarding his whereabouts proved futile. The claimant suggested that this was a violation of her son's right to security of person. The ECHR ruled, *viz.*:

x x x any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrariness. . . Having assumed control over that individual it is incumbent on the authorities to account for his or her whereabouts. For this reason, **Article 5 must be seen as requiring the authorities to take effective measures to safeguard against the risk of disappearance and to conduct a prompt effective investigation into an arguable claim that a person has been taken into custody and has not been seen since.** (Emphases supplied.)⁴⁸

Red-tagging has been acknowledged by international organizations as a form of harassment and intimidation. As early as 2007, the United Nations Human Rights Council observed the prevalence of a practice in the Philippines where groups at the left of the political spectrum are characterized as front organizations of anti-democratic groups. The report called the practice "vilification," "labelling," or guilt by association.⁴⁹

More than a decade after, red-tagging also transitioned to online social media platforms like Facebook. As noted by the United Nations High Commissioner for Human Rights in its Annual Report dated 29 June 2020, labelling certain groups or persons as "reds" oftentimes came with frequent surveillance and direct harassment. Some received death threats either through text or online direct messages. A number of women activists have reported being threatened with rape or other forms of sexual assault.⁵⁰

While some of these red-labelling remained as threats, the report also noted that some of those red-tagged individuals were eventually killed.⁵¹ Just last year, various United Nations special rapporteurs made a public plea to stop the practice of red-tagging in the country, stating: "Human rights defenders in the Philippines continue to be red-tagged, labelled as 'terrorists' **and ultimately killed** in attempts to silence them and delegitimize their human rights work. This must end."⁵²

⁴⁸ *Secretary of National Defense v. Manalo*, 589 Phil. 1, 51-52, 55-58 (2008). Emphases in the original. Citations omitted.

⁴⁹ UN Human Rights Council, UN Human Rights Council: Preliminary Note on the Visit of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, to the Philippines (12-21 February 2007), 22 March 2007, A/HRC/4/20/Add.3, <<https://www.refworld.org/docid/462390f62.html>> (visited 03 July 2023).

⁵⁰ See Annex II, UN Office of the High Commissioner for Human Rights (OHCHR), *Report of the United Nations High Commissioner for Human Rights, 2020*, p. 11. A/HRC/44/22, <<https://www.refworld.org/docid/48da06bd2.html>> (visited 3 July 2023).

⁵¹ *Id.* at 23-24.

⁵² See *Philippines: Drop murder charge against indigenous rights defender, UN experts urge*, United Nations Human Rights, Office of the High Commissioner, 28 January 2021. <<https://www.ohchr.org/en/press-releases/2021/01/philippines-drop-murder-charge-against-indigenous-rights-defender-un-experts?LangID=E&NewsID=26696>> (visited 3 July 2023).

The foregoing accounts of red-tagging depict it as a likely precursor to abduction or extrajudicial killing. Being associated with communists or terrorists makes the red-tagged person a target of vigilantes, paramilitary groups, or even State agents.⁵³ Thus, it is easy to comprehend how a person may, in certain circumstances, develop or harbor fear that being red-tagged places his or her life or security in peril.

This Court has demonstrated its understanding of this fear.

Senior Associate Justice Marvic M.V.F. Leonen, in his separate opinion in *Zarate v. Aquino*,⁵⁴ described the problems attendant to “red baiting” and the remedy made available by the Rule on the Writ of *Amparo*, thus:

This case involves the phenomenon of “red baiting.” It is our version of McCarthyism.

To make it easy for military and paramilitary units to silence or cause untold human rights abuses on vocal dissenters, government agents usually 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.

Belief in communism has historically been used as a bogey to create nonexistent exigencies for purposes of national security. History records the many human rights violations that may have been caused by this unsophisticated view of some in the echelons of military power. History, too, teaches that toleration and the creation of wider deliberative spaces are the more lasting and peaceful ways to debunk worn-out ideologies.

x x x x

Petitioners in this case allege facts that *threaten* their lives and liberty, and, therefore, their security. The Resolution of the majority correctly points out that there is still no tangible offense committed by respondents against petitioners. However, *Amparo* does not come into existence as a relevant preventive device only when there is certainty of an offense committed. In those cases, preliminary investigation or the judicial determination of probable cause affords a venue for the accused to contest the impending threats [to] his or her liberties.

Rather, *Amparo* is a remedy designed for events that reside in legal penumbra. Those conditions, which, though ambiguously legal, incrementally create the vulnerabilities that will, with the certainty of

⁵³ See *Adding red-baiting to the perils of truth-telling*, CMFR-PHIL.ORG, 20 September 2019. <<https://cmfr-phil.org/press-freedom-protection/adding-red-baiting-to-the-perils-of-truth-telling/>> (visited 03 July 2023).

⁵⁴ G.R. No. 220028, 10 November 2015.

experience, lead to the person's harassment, disappearance, or death. Certainly, "red baiting" is quintessentially paradigmatic of these cases.⁵⁵

More recently, on 23 March 2021, we issued a statement through the Public Information Office, soon after the picture and name of Judge Monique Quisumbing-Ignacio was placed on a tarpaulin along Epifanio Delos Santos Avenue (EDSA) and Shaw Boulevard. The text on the tarpaulin read: "*Maraming salamat Judge Monique Quisumbing Ignacio, RTC Br. 209, Mandaluyong City, sa mabilis na paglaya ng kasama nating Lady Ann Salem at Rodrigo Esparago. Tuloy ang laban!!! Mabuhay!!! Mula sa* [logo of the Communist Party of the Philippines]."⁵⁶ Along with various letters and manifestations concerning threats to judges and killings of lawyers, this Court found the incident as a threat to a judge worthy of an investigation and the issuance of a statement by the *En Banc*.⁵⁷ We declared:

We acknowledge and share the legitimate concerns of the public, the profession, the judiciary as well as the law enforcers and public servants in general. We are aware that there are wayward elements who, in their zeal to do what they think is necessary, would simply brush aside the limitations in our law as mere obstacles. This should never be countenanced for it is only in the enjoyment of our inalienable and indivisible rights that our freedoms become meaningful.

x x x x

Fifth. In all these processes, We will endeavor to coordinate through existing mechanisms with all concerned groups, whether belonging to civil society or law enforcement. We encourage lawyers who have experienced harassment, or whose clients have experienced threats or harassment, to file the necessary motions in pending cases, petitions, or complaints in order that our courts may receive the evidence, determine the facts, and, based on the issues framed, provide the relevant reliefs for each case.

General invocations of policy will be better supported by experience with the system. In so doing, We can assess what revision or institutional change is necessary to effectively and efficiently further protect our basic rights. The Supreme Court has always operated within institutional restraints but it is far from resigned to spectate as clear breaches of constitutional rights are carried out beyond its halls. We remain conscious of Our role to ensure that the rule of law is resilient and effective in a just, fair, and timely manner. The Bench and the Bar, as well as the public, can rest assured that We will continue to unflinchingly comply with Our constitutional duty to act decisively when it is clear that injustices are done.

⁵⁵ Italics in the original. Citations omitted.

⁵⁶ See Tetch Torres-Tupaz, *Mandaluyong judge gets red-tagged after dismissing case vs 2 activists*, INQUIRER.net, 17 March 2021. Available at <https://newsinfo.inquirer.net/1407871/mandaluyong-judge-who-freed-2-activists-gets-red-tagged> (last accessed 24 September 2022).

⁵⁷ A video of the media briefing is available at <https://www.youtube.com/watch?v=i-vigiv9HB0> (visited 24 September 2022).

Viewed from this perspective, this Court declares that red-tagging, vilification, labelling, and guilt by association constitute threats to a person's right to life, liberty, or security, under the second paragraph of Section 1 of the Rules, which may justify the issuance of a writ of *amparo*.

C. *Parties in a Petition for a Writ of Amparo*

1. *Petitioner*

Section 2 of the Rule does not limit those who may file the petition to the aggrieved party. It enumerates "qualified" or authorized persons or entities, and prescribes the order of preference for filing the petition, such that the filing of the petition by the aggrieved party suspends the right to file of the other qualified parties:

SECTION 2. *Who May File*. — The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

(a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;

(b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or

(c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

The filing of a petition by the aggrieved party suspends the right of all other authorized parties to file similar petitions. Likewise, the filing of the petition by an authorized party on behalf of the aggrieved party suspends the right of all others, observing the order established herein.

2. *Respondent*

Section 1 of the Rule acknowledges that "a public official or employee," as well as "a private individual or entity," may equally violate or threaten another person's right to life, liberty, and security.

The difference between these two types of respondents lies in the standard of diligence required. Section 17 of the Rule provides in relevant part:

SECTION 17. *Burden of Proof and Standard of Diligence Required*. — x x x x

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

Passive certifications issued by government offices to the effect that the aggrieved party was not detained have been considered by this Court as severely inadequate and noncompliant with the requirement of a detailed return. We ruled that these amounted to a general denial for failure to indicate who conducted the search and how thoroughly the allegedly continuous searches were conducted.⁵⁸

There may be occasions when the remedy of the writ of *amparo* can be made effective only through the State and its agencies. This is because the State is vested with the authority and responsibility for securing every inhabitant's life, liberty, and property. In addition, the State controls the legal, moral, and material resources by which to fully enforce the Constitution and the laws guaranteeing life, liberty, and property.⁵⁹ While respondents may oppose motions for production of evidence relevant to the return on the ground of national security or the privileged nature of the information, the court may conduct a hearing in *camera* to determine the opposition's merit.⁶⁰

That a respondent retired, died, or is otherwise no longer an incumbent are not obstacles to the operation of the writ.⁶¹ In affirming a Decision of the CA granting the privilege of the writ, we declared in *Razon v. Tagitis (Razon)*⁶² that the government institution with which the respondent is affiliated is accountable through its incumbent chief. In turn, the incumbent chief carries the personal responsibility of applying extraordinary diligence in addressing the *amparo* petition.

Further, in our Resolution on the motion for reconsideration therein,⁶³ we clarified that a respondent's intervening death does not necessarily signify the loss of information received from his or her network of assets during his or her lifetime, and neither does it erase the burden of disclosure and investigation that rests on respondent's affiliated institution. The affiliated institution is directly responsible for the disclosure of material facts known to their offices regarding the events related to the *amparo*

⁵⁸ See *Republic v. Cayanan*, 820 Phil. 452 (2017).

⁵⁹ *Id.*

⁶⁰ See Sec. 14 (c), Rule.

⁶¹ See also *Mamba v. Bueno*, 805 Phil. 359 (2017); *Burgos v. Macapagal-Arroyo*, 668 Phil. 699 (2011); *Balao v. Macapagal-Arroyo*, 678 Phil. 532 (2011); *Roxas v. Macapagal-Arroyo*, 644 Phil. 480 (2010).

⁶² 621 Phil. 536 (2009).

⁶³ 626 Phil. 581 (2010).

petition. The conduct of proper investigation with extraordinary diligence subsists as a continuing obligation that will be terminated only when the events related to the *amparo* petition are fully addressed by the responsible or accountable parties.

D. Process

1. Venue and Docket Fees

The Rule liberalized the procedural convention on venue and manner of filing. The petition may be filed on any day at any time with any of the following courts: (1) the RTC of the place where the threat, act, or omission was committed, or where any of its elements occurred; (2) the Sandiganbayan; (3) the CA; (4) this Court; (5) or any justice of such courts.⁶⁴

The Rule explicitly requires that the *amparo* petition be filed with the RTC where the threat, act, or omission was committed, or where any of its elements occurred, for two reasons: (1) to prevent the filing of the petition in some far-flung area for purposes of harassing the respondent; and (2) to promote the effective dispensation of justice, as the witnesses and the evidence are located within the jurisdiction of the RTC where the act or omission was committed.⁶⁵ On the other hand, the Rule includes the *Sandiganbayan* because public officials and employees may be respondents in an *amparo* petition.⁶⁶ The writ shall be enforceable anywhere in the country.⁶⁷

The petitioner is exempt from the payment of docket and other lawful fees when filing the petition. The court, justice, or judge shall docket the petition and act upon it immediately.⁶⁸

2. Filing of the Petition

We reiterate the contents required in an initiatory pleading for the writ of *amparo*. The submission of these requirements falls under the **initial evaluation** stage, where the court decides whether the writ ought to be issued:

SECTION 5. *Contents of Petition.* — The petition shall be signed and verified and shall allege the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or

⁶⁴ See Sec. 3, Rule on Writ of *Amparo*.

⁶⁵ See Annotation to the Writ of *Amparo*.

⁶⁶ *Id.*

⁶⁷ See Sec. 3, Rule on Writ of *Amparo*.

⁶⁸ See Sec. 4, Rule on Writ of *Amparo*.

uncertain, the respondent may be described by an assumed appellation;

(c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;

(d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;

(e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and

(f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

The Annotation to the Writ of *Amparo* explains the contents of the petition in the following manner:

The petition should be verified to enhance the truthfulness of its allegations and to prevent groundless suits.

Paragraphs (a) and (b) are necessary to identify the petitioner and the respondent. The respondent may be given an assumed appellation such as "John Doe," as long as he or she is particularly described (*descriptio personae*). Paragraph (c) requires the petitioner to allege the cause of action in as complete a manner as possible. The requirement of affidavit was added, and it can be used as the direct testimony of the affiant. Affidavits can facilitate the resolution of the petition, consistent with the summary nature of the proceedings. Paragraph (d) is necessary to determine whether the act or omission of the respondent satisfies the standard of conduct set by this Rule. Paragraph (e) is intended to prevent the premature use, if not misuse, of the writ for a fishing expedition.

It should be clarified that the requirement of a supporting affidavit should not be read as an absolute one that necessarily leads to the dismissal of the petition if not strictly followed. There is substantial compliance with the requirement when a verified petition sufficiently details the facts relied upon, or when the petitioner and his or her witnesses personally testify in the summary hearing.⁶⁹

3. *Evaluation of the Petition For the Issuance of the Writ*

⁶⁹ See *Razon v. Tagitis*, 621 Phil. 536 (2009). *Supra* note 59.



In *Razon*, we explained how initial evaluations of petitions for writs of *amparo* should be made:

The framers of the *Amparo* Rule never intended Section 5 (c) to be complete in every detail in stating the threatened or actual violation of a victim's rights. As in any other initiatory pleading, the pleader must of course state the ultimate facts constituting the cause of action, omitting the evidentiary details. In an *Amparo* petition, however, this requirement must be read in light of the nature and purpose of the proceeding, which addresses a situation of uncertainty; the petitioner may not be able to describe with certainty how the victim exactly disappeared, or who actually acted to kidnap, abduct or arrest him or her, or where the victim is detained, because these information may purposely be hidden or covered up by those who caused the disappearance. In this type of situation, to require the level of specificity, detail and precision that the petitioners apparently want to read into the *Amparo* Rule is to make this Rule a *token gesture* of judicial concern for violations of the constitutional rights to life, liberty and security.

To read the Rules of Court requirement on pleadings while addressing the unique *Amparo* situation, **the test in reading the petition should be to determine whether it contains the details available to the petitioner under the circumstances, while presenting a cause of action showing a violation of the victim's rights to life, liberty and security through State or private party action. The petition should likewise be read in its totality, rather than in terms of its isolated component parts, to determine if the required elements — namely, of the disappearance, the State or private action, and the actual or threatened violations of the rights to life, liberty or security — are present.**⁷⁰

Given the extraordinary circumstances that normally give rise to an *amparo* petition, we acknowledge that a petitioner may not be able to describe with specificity the circumstances and the persons responsible for alleged threats to his or her right to life, liberty, and security, since these violations or threats are normally purposely hidden or concealed by the perpetrators. Evidently, this view on *amparo* petitions is meant to give full effect to the remedy for aggrieved individuals or other authorized party-complainants, who normally do not possess the resources to give precise and exact information on such matters.

Any petition for a writ of *amparo* must be examined from the perspective of the petitioner. Specifically, the courts will look into whether petitioner alleged adequate details that are available to him or her under the circumstances, while presenting a cause of action showing the State's actual or threatened violation of the supposed victim's rights to life, liberty, or security. In other words, upon the filing of the petition, the court evaluates

⁷⁰ Id. Emphasis added. Citations omitted.

whether its allegations, *prima facie* or on its face, proffer a violation of the rights protected by a writ of *amparo*.⁷¹

Ultimately, the writ of *amparo* was meant to be both a preventive and curative remedy. It is preventive in that it breaks the expectation of impunity in the commission of these offenses; it is curative in that it facilitates the subsequent punishment of perpetrators since it will inevitably yield leads for subsequent investigations and actions. In the long run, the goal of both the preventive and curative roles is to deter the further commission of extralegal killings and enforced disappearances.⁷²

4. *Effect of the Issuance of the Writ*

Should the writ be issued, the court requires the respondent to file a return and conducts a summary hearing to determine whether the privilege of the writ ought to be granted.

a) *Filing of a Return*

Sections 9 to 12 of the Rule are instructive as to the filing of a return and its required contents, the waiver of defenses that are not pleaded, prohibited pleadings and motions, and the effect of a failure to file a return:

The Rule despises delay. It specifically requires the filing of a verified written return and its supporting affidavits within 72 hours after service of the writ.⁷³ Furthermore, to prevent delay, the following motions and pleadings are prohibited: (a) motion to dismiss; (b) motion for extension of time to file return, opposition, affidavit, position paper, and other pleadings; (c) dilatory motion for postponement; (d) motion for a bill of particulars; (e) counterclaim or cross-claim; (f) third-party complaint; (g) reply; (h) motion to declare respondent in default; (i) intervention; (j) memorandum; (k) motion for reconsideration of interlocutory orders or interim relief orders; and (l) petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order.⁷⁴

Unlike an answer, the return has other purposes aside from identifying the issues in the case. A respondent is also required to detail the actions they have taken to determine the fate or whereabouts of the aggrieved party.⁷⁵ More specifically, the return should contain the following:

SECTION 9. *Return; Contents.* — x x x x

- (a) The lawful defenses to show that the respondent did not

⁷¹ See *Canlas v. Napico Homeowners Association, Inc.*, 577 Phil. 92 (2008).

⁷² See *Secretary of National Defense v. Manalo*, 589 Phil. 1 (2008).

⁷³ See Sec. 9, Rule on Writ of *Amparo*.

⁷⁴ See Sec. 11, Rule on Writ of *Amparo*.

⁷⁵ *De Lima v. Gatdula*, 704 Phil. 235 (2013).

violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;

(b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;

(c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and

(d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken:

(i) to verify the identity of the aggrieved party;

(ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;

(iii) to identify witnesses and obtain statements from them concerning the death or disappearance;

(iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;

(v) to identify and apprehend the person or persons involved in the death or disappearance; and

(vi) to bring the suspected offenders before a competent court.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed.

Defenses not raised in the return are deemed waived.⁷⁶ Failure to file a return will not delay the proceedings as the petition will be heard *ex parte*.⁷⁷

b) *Interim Reliefs*

There are four interim reliefs available upon the filing of the petition or at any time before final judgment.⁷⁸

A temporary protection order and a witness protection order may be issued upon motion or *motu proprio* by the court, justice, or judge.⁷⁹ The

⁷⁶ See Sec. 10, Rule on Writ of *Amparo*.

⁷⁷ See Sec. 12, Rule on Writ of *Amparo*.

⁷⁸ See Sec. 14, Rule on Writ of *Amparo*.

⁷⁹ See Sec. 14 (a) and (d), Rule on Writ of *Amparo*.

temporary protection order is available to petitioner, or the aggrieved party and any member of the immediate family, as well as witnesses.⁸⁰ This recognizes the possibility that their safety is put at greater risk upon filing of the *amparo* petition.

Meanwhile, the interim reliefs of inspection order and production order may only be issued upon verified motion and after due hearing.⁸¹ These reliefs are available to both petitioner and respondent.⁸²

5. *Summary Hearing: Evaluation of the Grant of the Privilege of the Writ*

The summary hearing of the *amparo* petition is done after the issuance of the writ and the filing of the return. It shall be conducted from day to day until completed. A preliminary conference may be carried out to simplify issues and obtain stipulations and admissions from the parties.⁸³ However, despite the summary nature of an *amparo* hearing, it would be error to apply the 1991 Revised Rules on Summary Procedure to this special proceeding.⁸⁴

Section 17 of the Rule requires the parties to establish the sufficiency of their claims by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.⁸⁵ A petitioner cannot merely rely on respondents' supposed failure to prove either their defenses or their exercise of ordinary diligence.⁸⁶ The liberality accorded to *amparo* petitions does not mean that a claimant is relieved of the burden of proving his or her case.⁸⁷

Indeed, the evidentiary difficulties attendant to the filing of a petition for the privilege of the writs of *amparo* and *habeas data* make it necessary to consider not only direct evidence, but also circumstantial evidence, indicia, and presumptions, so long as they lead to conclusions consistent with the admissible evidence adduced.⁸⁸

Judges should be mindful, and especially cognizant, of the different power dynamics in their assessment of an actual or future threat to a petitioner's life, security, or liberty, as well as in their evaluation of the existence of substantial evidence to support a grant of the privilege of a writ of *amparo*. A stubborn refusal to acknowledge this reality leads to denial of

⁸⁰ See Sec. 14 (a).

⁸¹ See Secs. 14 (b) and (c) and 15, Rule on Writ of *Amparo*.

⁸² Id.

⁸³ See Sec. 13, Rule on Writ of *Amparo*.

⁸⁴ See *De Lima v. Gatdula*, 704 Phil. 235 (2013).

⁸⁵ Section 6, Rule 133 of the Revised Rules of Evidence.

⁸⁶ See *Lozada, Jr. v. Macapagal-Arroyo*, 686 Phil. 536 (2012).

⁸⁷ See *Saez v. Macapagal-Arroyo*, 695 Phil. 781 (2012).

⁸⁸ Id.

protection to those who are vulnerable.⁸⁹

6. *Judgment: Grant or Denial of the Privilege of the Writ*

Section 18 of the Rule mandates the rendition of judgment within ten (10) days from the time the petition is submitted for decision. The privilege of the writ is granted and proper reliefs are provided if the allegations of the petition are proven by substantial evidence.

The judgment should contain essential measures for the continued protection of the *amparo* petitioner. These measures must be detailed enough so that the judge may be able to verify and monitor the actions taken by the respondent.⁹⁰

Simply granting “the privilege of the writ” is tantamount to a failure of the judge to intervene and grant judicial succor to the petitioner. Because *amparo* petitions arise out of very real and concrete circumstances, judicial responses cannot be as tragically symbolic or ritualistic as “granting the privilege of the Writ of *Amparo*.”⁹¹

The judgment will be satisfied only when, as evaluated by the court that rendered the judgment, the threats to petitioner’s life, liberty, and security cease to exist. Until the full satisfaction of the judgment, the extraordinary remedy of *amparo* allows vigilant judicial monitoring to ensure the protection of constitutional rights.⁹²

Corollarily, the Rule does not preclude the filing of separate criminal, civil, or administrative actions.⁹³ However, no separate petition for the writ shall be filed if the criminal action has already commenced. Instead, the reliefs under the writ shall be available by motion in the criminal action.⁹⁴ If a criminal action is filed after the filing of a petition for the writ, then the petition shall be consolidated with the criminal action. After consolidation, the procedure under the Rule continues to apply in the disposition of the reliefs in the *amparo* petition.⁹⁵

7. *Appeal*

Either the petitioner or respondent may appeal the final judgment or order to this Court under Rule 45. The appeal may raise questions of fact or law or both. The filing of the appeal shall be made on or before five working

⁸⁹ See *Sanchez v. Darroca*, G.R. No. 242257, 15 June 2021.

⁹⁰ See *De Lima v. Gatdula*, 704 Phil. 235 (2013).

⁹¹ *Id.*

⁹² *Id.*

⁹³ See Sec. 21, Rule on Writ of *Amparo*.

⁹⁴ See Sec. 22, Rule on Writ of *Amparo*.

⁹⁵ See Sec. 23, Rule on Writ of *Amparo*.

days from the date of notice of the grant or denial of the privilege of the writ.⁹⁶

II. *Application*

We evaluate the assailed RTC Order against the standards established by the Rule and that of its framers.

In defining the petition for a writ of *amparo*, the RTC reproduced Section 1 of the Rule and listed the allegations required in the petition in accordance with Section 5 of the same Rule. Thereafter, it declared petitioner's allegations as "insufficient to constitute as threats to life, liberty, and security as defined by law."

The RTC derived its conclusion from the combination of the alleged red-tagging made by officials under respondent's command, as well as the alleged surveillance on 23 January 2019. That it was petitioner's companion, Vergara, and not petitioner himself, who reported the incident was also considered against petitioner. Finally, the RTC did not deem necessary to require respondent to file a return.

A. *Classification of Petitioner's Allegations as Threats to Life, Liberty, and Security*

Based on the definition and elements discussed above, we affirm the RTC's classification of petitioner's allegations as "threats to life, liberty, and security." Evidently, petitioner is not a current subject of an extrajudicial killing or of an enforced disappearance. Petitioner does not even claim that he was released from an enforced disappearance. Rather, due to the confluence of circumstances, petitioner deems that his life, liberty, and security are threatened.

B. *Sufficiency of Petitioner's Allegations as Threats to Life, Liberty, and Security*

Contrary to the RTC's ruling, however, we find that the Petition and its allegations, on its face, merit the issuance of a writ.

First. Manalo taught us that the right to security of a person can exist independently of the right to liberty. In other words, deprivation of liberty is not necessary for the right to security of person to be invoked. Hence, even if petitioner was not subjected to an actual extrajudicial killing or enforced disappearance, such lack does not disqualify his claim for the right to security.

⁹⁶ See Sec. 19, Rule on Writ of *Amparo*.

Second. The quantum of evidence required for the issuance of a writ of *amparo* is merely *prima facie*. Without ruling on petitioner's eventual entitlement to the privilege of the writ, we find that the Petition contains sufficient allegations upon which the RTC could grant the issuance of the writ. Aside from his personal circumstances, petitioner alleged facts that constitute threats to his right to life, liberty, or security. The supposed meeting on 19 June 2020 of the Iloilo PPOC, where petitioner and other activists were allegedly identified by officers under respondent's command, when viewed in consonance with the killing of some of these identified persons may, if true, justify the issuance of the extraordinary writ. Notably, the Petition attached photos that ostensibly showed the alleged meeting and the slide presentation made by a member of the military. Thus, the Petition adequately created a *prima facie* link to respondent and his subordinates.

Third. Neither mere membership in a nongovernment organization nor inclusion in an order of battle of the military equates to actual threats. What constitutes threats should include the totality of every individual petitioner's circumstance.

To illustrate, the circumstances of the present case should be distinguished from that of *Ladaga v. Mapagu (Ladaga)*,⁹⁷ where it was similarly alleged that inclusion in the military's order of battle made petitioners targets of extrajudicial killings and unexplained disappearances. In *Ladaga*, the Court affirmed the RTC's denial of therein petitioners' prayer for the issuance of the writs of *amparo*. We held that the inclusion of their names in the subject order of battle was not, in itself, sufficient to constitute an actual threat as to warrant the issuance of a writ of *amparo*. Further, we emphasized that the parties in *Ladaga* were allowed to present evidence in support of their allegations: respondents were directed to file their return, a summary hearing was conducted, and parties were required to file position papers.

Going back to the incident which prompted our statement in March 2021, we compare petitioner's circumstances with that of Judge Quisumbing-Ignacio. The tarpaulin posted along EDSA-Shaw Boulevard had only the picture of Judge Quisumbing-Ignacio. On the other hand, petitioner's image was placed alongside that of several other individuals in various posters. The tarpaulin and the posters were placed in locations that were easily visible to the public. Finally, in both instances, the materials contained statements implying the supposed association of Judge Quisumbing-Ignacio and petitioner with the Communist Party of the Philippines.

Even as we then condemned "in the strongest sense every instance where a lawyer is threatened or killed, and where a judge is threatened and

⁹⁷ 698 Phil. 525 (2012).

unfairly labeled,”⁹⁸ we now emphatically declare that **we do not view the lives of civilians as less precious than that of lawyers and judges.** We considered a tarpaulin connecting a judge to the CPP as a threat. With equal fervor, we hold that a similar tarpaulin harping on alleged ties between civilians and the CPP is also a threat.

The Petition filed before the RTC is thus neither manifestly groundless nor lacking in merit. It was error for the RTC to cursorily dismiss the case without requiring respondent to file a return. The RTC effectively denied both parties’ due process: it not only prevented petitioner from fully ventilating his cause, but it also deprived the State of the occasion to effectively define its side on the matter.

Dismissal is proper if the Petition and the supporting affidavits do not show that petitioner’s right to life, liberty, or security is under threat, or the acts complained of are not unlawful.⁹⁹ As stated above, the evils sought to be addressed by the extraordinary writs of *amparo*, specifically extrajudicial killings and enforced disappearances and threats thereof, commonly occur clandestinely, and thus direct evidence, especially at the onset of the case, may not be available or not exist at all.

Petitioner should not be expected to await his own abduction, or worse, death, or even that the supposed responsible persons directly admit their role in the threats or violations to his constitutional rights, before the courts can give due course to his Petition.¹⁰⁰ In such cases, the consummation of the threat to petitioner’s life, liberty, or security, or the commission of the abduction or killing may be the subject of proper administrative or criminal proceedings.¹⁰¹

Inherent in the practice of red-baiting is the use of threats and intimidation to discourage “subversive” activities. Whether such threats ripen into actual abduction or killing of supposed “reds” is largely uncertain.¹⁰² It is at this phase where the petitioner is at risk of enforced disappearance or extrajudicial killing when the writ of *amparo* becomes necessary. Owing to the covert nature of red-baiting, the judge must carefully discern whether the petition clearly contains amorphous grounds. However, when it appears that there is a substantial likelihood that the labelling of petitioner as a subversive might result in an abduction or killing, the nature and purpose of the writ justify its preliminary issuance, along with

⁹⁸ A video of the media briefing is available on <https://www.youtube.com/watch?v=i-vigjv9HBo> (visited 03 July 2023). *Supra* note 54.

⁹⁹ *De Lima v. Gatdula*, 704 Phil. 235 (2013).

¹⁰⁰ See *Bautista v. Dannug-Salucon*, 824 Phil. 293 (2018).

¹⁰¹ See Separate Opinion of Justice Leonen in *Zarate v. Aquino III*, G.R. No. 220028, 10 November 2015.

¹⁰² See Holger Stoltenberg-Lerche and Dominik Hammann, *Red-Baiting In The Philippines: Civil Society Under General Suspicion*, *Observer: A Journal on Threatened Human Rights Defenders in the Philippines* Vol. 3, No. 2, p. 4 (2011), http://www.ipon-philippines.info/fileadmin/user_upload/Observers/Observer_Vol.3_Nr.2/Observer_Vol.3_Nr.2_Red-Baiting.pdf (visited 03 July 2023).

the order for the respondent/s to file a return to further evaluate the genuineness and authenticity of the threat.

C. *Impleading Additional Respondents*

For full resolution of the merits of the instant case, this Court orders petitioner to submit to the RTC a Supplemental Petition to implead the two private organizations mentioned, namely, the Alliance of Victims of the CPP-NPA-NDF, and Western Visayas Alliance of Victims of the CPP-NPA-NDF. These organizations allegedly caused the circulation of tarpaulins and posters that red-tagged petitioner and other individuals.¹⁰³ Under Section 5(b) of the Rule, if the name is unknown or uncertain, the respondent may be described by an assumed appellation.

III. *Conclusion*

We deem it proper to reverse the order of dismissal and require the RTC to conduct a summary hearing. This ensures that petitioner's cause of action and respondent's defense are fully ventilated because this Court is not a trier of facts.

It must be underscored that we are not making a categorical ruling on the merits of the prayer for the grant of the privilege of the writ of *amparo*. Ultimately, the RTC must still determine the relevance and consistency of the evidence presented by both parties, while bearing in mind the surrounding circumstances and the protection that the writ is meant to provide.¹⁰⁴

Quite like the development of the Rule on *Amparo*, the damages inflicted by red-baiting evolve too: They start from the psychological before they turn physical. Amid a history of shifting social and political ties, we affirm the Judiciary's sworn duty to see to it that the protection of every right guaranteed in the Constitution remains constant for all.

WHEREFORE, the Petition is **PARTIALLY GRANTED**. The assailed Order dated 26 October 2020 of Branch 24, Regional Trial Court (RTC) of Iloilo City in Spl. Proc. No. 20-14628, is hereby **REVERSED** and **SET ASIDE**.

A writ of *amparo* is **ISSUED** in favor of petitioner **SIEGFRED D. DEDURO** returnable to the RTC. Said writ shall be issued against respondent Maj. Gen. Eric C. Vinoya, in his capacity as Commanding Officer of the 3rd Infantry Division, Philippine Army, or his replacement in his official post if he has already vacated the same.

¹⁰³ See *Navia v. Pardico*, 688 Phil. 266 (2012).

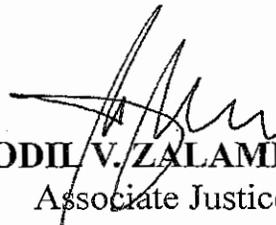
¹⁰⁴ See *Razon v. Tagitis*, 621 Phil. 536 (2009). *Supra* note 59.

Petitioner is **ORDERED** to submit to the RTC **within three (3) days from notice of this Decision** a Supplemental Petition impleading the Alliance of Victims of the CPP-NPA-NDF and the Western Visayas Alliance of Victims of the CPP-NPA-NDF, or persons acting on their behalf.

All respondents are hereby **ORDERED** to make a verified **RETURN** with the RTC **within seventy-two (72) hours** from receipt of the writ.

The RTC is **REQUIRED** to conduct a summary hearing on the Petition and the interim relief of Production Order within ten (10) days from receipt of this Decision. After hearing, the RTC shall **DECIDE** the case within ten (10) days from the time it is submitted for decision. It is further ordered to **FURNISH** this Court with a copy of the decision within five (5) days from its promulgation.

SO ORDERED.


RODIL V. ZALAMEDA
Associate Justice

WE CONCUR:

(On official leave)

ALEXANDER G. GESMUNDO
Chief Justice

su separate opinion

MARVIC M.V. F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL E. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

(On Leave)
JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

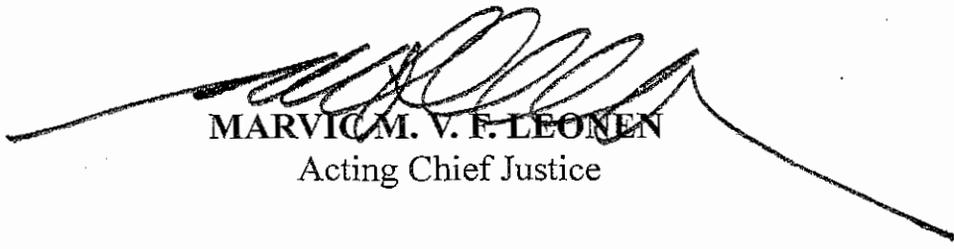
ANTONIO T. KHO, JR.
Associate Justice

an official leave but left her vote

(On official leave but left her vote)
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARVIC M. V. F. LEONEN
Acting Chief Justice