

The Imperative for a National Food Framework Law in the Philippines

By Aurea G. Micalat-Teves
President, FIAN-Philippines
Convenor, National Food Coalition

The Philippine context

As a State-Party to, among others, the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Philippine government has an obligation to protect and fulfill the people's right to adequate food. However, the right to food is not explicitly recognized as a distinct right in the 1987 Philippine Constitution. There are scattered provisions in various Philippine domestic laws that guarantee only certain aspects of the right to adequate food. The Philippines thus lack a comprehensive legal framework embodying the right to food.

Defining the right to adequate food

The right to adequate food is defined as the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food that corresponds to the cultural traditions of the community to which a person belongs, and which ensures physical and mental, individual and collective, fulfilling and dignified life that is free from fear.

Assessment of the Philippine Legal Framework (on RTAF)

An assessment of the Philippine Legal Framework (PLF) governing the right to food was conducted in 2008.¹ The review of the policies included legally binding international instruments, the 1987 Constitution, and specific laws that are related to the RtAF. The study reveal that the Philippine Constitution does not explicitly recognize the RtAF nor does a specific law on the right to food exist. The recognition of the right to adequate food rather is inferred from various provisions and constitutional intent regarding the improvement of the quality of life for all, social justice, agrarian reform, and rights of subsistence.

Without any explicit legal instrument specifically to help mitigate it, hunger will continue to affect many people. While the gap between the rich and the poor continues to widen, social and political unrest will persist as joblessness, high prices of food and other basic commodities, and homelessness afflict the poor. A cycle of social unrest will follow as government violations of the people's human right to adequate food are certain to be met with resistance by organized groups or unorganized masses dissatisfied with the current situation.

¹ De los Reyes, Virgilio, and Maria Socorro I. Diokno. The Philippines' Right to Food: An Assessment of the Philippine Legal Framework Governing the Right to Food. Rome: FAO, 2008.
<http://www.fao.org/righttofood/publi10/PHILIPPINES_assessment_vol2.pdf>.

While the Philippines is signatory to international conventions on human rights, it has no instruments to ensure that the state fulfills the people's right to adequate food particularly that of protecting and respecting the vulnerable sectors – farmers, fisherfolk, indigenous peoples, and urban poor. Conflicts over access to and control over land and other natural resources often result in food insecurity, environmental degradation, loss of livelihood, and threats to housing and employment of urban and rural workers, among other human rights violations.

The government employs a vast array of laws purportedly to ensure the availability, accessibility as well as safe food for its citizens, yet it fails to institutionalize the right to adequate food. This is due to certain provisions of various laws that are not coherent or complementary and at times even in conflict with each other. These make the efforts of government to address the food problem highly unstable and the results unsatisfactory.

The analysis of the different policies related to food focused mainly on three criteria – availability, accessibility and safety.

Food availability laws relate to agrarian reform, agricultural policy, and trade measures as determinants of people's access to land, agricultural productivity, and food supply.

Food accessibility laws incorporate both the physical and economic dimensions of access to food. Physical accessibility laws are so far limited to mobility such as ramps for persons with disabilities and do not focus on enhancing people's physical access to land to grow their own food.²

Food safety laws refer to the nutritive quality of food, safety standards and regulations, and sanitation that ensure that food available for consumption contains enough nutrients and is free from contaminants and harmful microorganisms.

Assessment of the Philippine Legal Framework

- There is no explicit recognition of the right to adequate food in the Philippine Constitution, thus resulting in a weak Philippine legal framework on RtAF;
- The lack of a national food policy to serve as overarching framework to address hunger results in an incoherent, con-complementary and even conflicting Philippine legal framework'
- The national budget does not reflect the obligation to eradicate hunger, thus causing issues of poor performance in implementation of laws;

²Physical accessibility to food is made more difficult due to land grabbing. See report: Daniel, Shepard and Anuradha Mittal. The Great Land Grab: Rush for the world's farmland threatens food security for the poor. Oakland: The Oakland Institute, 2009.
<http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/LandGrab_final_web.pdf>.

- The national human rights institutions contribute little to redress breaches of the right to adequate food due to tremendous imposition with regard to civil and political human rights violations and to limitations in their mandates’
- The law-making processes leave much to be desired;
- Government and public awareness of the right to adequate food is lacking;
- There is weak implementation of laws and policies and there is a lack of government support to agriculture, fisheries and agrarian reform;
- Conflicting policies cause crises in program planning and implementation;
- There are no safeguards to cushion the negative effects of food price volatilities.

The inability of the government to address the persistent problem of hunger and food insecurity in the country is manifested in some of the legal shortcomings cited above. Cause-oriented groups have criticized the government for its apparently misplaced priorities in allocating funds, an issue that is closely related to the finding that *“the right to food is among the country’s lowest priority areas for national spending, while debt service interest payments constitute the second largest share of the national budget.”*³

In conclusion, the Philippine legal framework falls short of the imperatives for realizing the right to food. It does not sufficiently incorporate the State's human rights obligations to respect, protect and fulfill the right to food, including the State's obligations to provide these or request international cooperation to do so.

The following recommendations were made based on the assessment:

1. Adoption of a national food policy, with the full and active participation of all sectors concerned, especially those most vulnerable to hunger.
2. Using the national food policy to rationalize the legal framework governing food by synchronizing laws, addressing contradictions in policy objectives, correcting flaws and ambiguities, repealing laws that obstruct the realization of the RtAF, aligning the budget to the national food policy, enhancing the mandates of the national human rights institutions and improving the process of law making.
3. Capacity development on the RtAF, and the promotion of RBA (rights-based approach) for the establishment and implementation of the national policy governing the RtAF for all and to monitor the states HR accountability.

The Right to Adequate Food Framework Bill

The National Food Coalition has formed a working group, in consultation with and the participation of civil society groups, which drafted a food framework bill. The NFC is composed

³ *Id.* at 22

of more than 70 member organizations and federations with more than 10,000 members across the country. The draft bill adopts a rights-based approach and provides a comprehensive framework that will harmonize provisions of laws related to RtAF and also: (a) clarify the scope and content of the right to adequate food; (b) establish standards for compliance; (c) cite principles that will guide the process of realizing the right; and (d) penalize violations of the right to adequate food. The draft bill is founded on the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law – the PANTHER principles. The bill aims to achieve zero hunger in 10 years by increasing the area devoted to food production to 50% of all prime agricultural land in every region.

There are several salient provisions of the bill now pending approval in the Senate and the House of Representatives (HB 3795). Section 3 defines the RtAF while Section 10 targets achieving Zero Hunger in ten years and increasing the area devoted to food production to 50% of all prime agricultural lands in every region. Section 4 stipulates that the RtAF shall be realized progressively and Section 6 provides for freedom from hunger, whereby every person suffering from hunger or malnutrition, or at risk of suffering from these, would be entitled to a minimum amount of food. There should also be regular, reliable and timely delivery of the minimum food amount as stipulated in Section 15. All proposed government actions, plans and projects, including any development plan, will take into account the RtAF and will undergo objective impact assessments prior to their adoption and implementation in accordance with Section 11. Section 26 directs the harmonization of existing policies concerning food. The proposed law will create a Commission on the RtAF with an Inter-Agency Council (Sections 13–14). An Integrated Monitoring System in all government agencies at all levels will be established (Section 10). Criminal, civil and administrative penalties will be imposed on violators of the RtAF law (Sections 22–23).

The proper implementation of the proposed Food Framework Law will make a major impact on poverty reduction by directly addressing hunger and extreme poverty in the country.

The Legislative Process

The RtAF framework bill as drafted by the NFC was filed separately as House Bill No. 3795 at the House of Representatives and as Senate Bill No. 2137 at the Senate. The House and Senate bills were referred to the House Committee on Human Rights (CHR) and the Senate Committee on Agriculture, respectively.

The first House Committee hearing on the bill was held on 27 May 2014 and the second hearing this February 17, 2015. More than twenty members of Congress have endorsed the bill as of January 2015. The representatives of government line agencies also indicated support while expressing some reservations about several sections of the bill. The Senate committee in charge of the bill has yet to schedule a hearing.

If the House and the Senate versions of the same bill are passed, a conference committee composed of representatives of the House and the Senate will work on a final version which will then be sent back to the respective chambers for final approval. Once passed, the bill goes to the president for signing into law. The president, however, can still veto the bill.

Campaign for the Adoption of the Bill

Learning from the Brazil experience, the NFC has taken crucial steps in creating a nationwide constituency to push for the adoption of a national food policy with the full and active participation of all stakeholders, particularly those who are most vulnerable to hunger. While NFC builds a pro-RtAF mass movement, it is fully aware that there are individuals and/or groups in both the public and the private sectors that want to maintain their monopoly over land and other natural resources, which are critical to food production, and will therefore, at the very least, attempt to block or resist the proposed law.

The NFC is preparing the ground for a broad campaign to support the RtAF. It has found “champions” in Congress who will push for the passing of the RtAF bill. There is also an ongoing research on RtAF. A broad public information campaign has been launched through press events and a website will be created to promote studies on the RtAF and encourage public interest and discussions on RtAF. The NFC will form a “speakers bureau” composed of rights holders, particularly farmers, indigenous groups and the urban poor, are at the forefront of the campaign. To empower them, training on the human rights-based approach to food issues and workshops on lobbying methods and negotiations are being conducted.

Other advocacy measures include establishing strong communication lines with the secretariats of the two Congressional committees handling the bills. Lobby work with members of the House and Senate committees is being strengthened while committee hearings are ongoing. The NFC is networking with supporters from civil society organizations and also identifying allies within local governments.

The NFC and its supporters inside and outside Congress have to ensure that the RtAF bill advances through the legislative mill.

We call on the Special Rapporteur to push our legislators to pass the "Right to Adequate Food Bill" or the "Zero-Hunger Bill" pending in the Senate and the House of Representatives. We request the Special Rapporteur to urge senators and congressmen to give priority attention to the Zero-Hunger Bill which has already been filed in their respective chambers. The hunger situation in the Philippines must not be allowed to continue and our legislators should realize they play a crucial role in addressing this matter.

The government must make food a priority both in law and in policy. The bill is the key element in this endeavor and it is a concrete expression of the government's commitment to eradicate hunger among Filipinos.