

**The Philippine Right to Adequate Food:
An Alternative Report**

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Table of Contents

I. The RtAF Situation in the Philippines

- A. Hunger
- B. Malnutrition
- C. Economic Situation
- D. Political Condition
- E. Cases of Right to Food Violations in the Philippines
 - 1. The Case of Hacienda Luisita Farmers
 - 2. The Case of Hacienda Matias Tenant-Farmers
 - 3. Yolanda Victims: The Situation in Sicogon
 - 4. The Yolanda Victims: Food Distribution Problems
 - 5. Major Causes of Hunger and Poverty

II. The Legal Framework Governing the Right to Food in the Philippines

III. Laying the Ground for the Food Framework Law in the Philippines

- A. Background
- B. Steps being Undertaken by the National Food Coalition to Produce the RtAF Framework Law
- C. The Right to Adequate Food Framework Bill
- D. The Legislative Process
- E. Campaigning for the Adoption of the Bill

IV. Recommendations

The Philippine Right to Adequate Food: An Alternative Report

The right to adequate food is a fundamental human right. The right to adequate food is both freedom and entitlement. Freedom from hunger and entitlement to food that meets dietary needs, that is free from adverse substances, that is culturally acceptable, is in large enough quantities, is physically and economically accessible and with sustainable supply for present and future generation

I. The RtAF Situation in the Philippines¹

In 2008, Gallup International Voice of the People ranked the Philippines as the fifth country in the world with the most number of hungry people, half of whom were women and children.² Out of about 95 million Filipinos then, over 70% lived on less than US\$1.25 a day.³ Many Filipinos cannot meet their basic food needs because the daily minimum wage has not kept pace with rising food prices.

In the last quarter of 2014, a survey conducted by the Social Weather Stations indicate that 17.2% or 3.8 million families in the Philippines have experienced involuntary hunger at least once during the period.⁴ This is around 7% lower than the self-rated hunger in March 2012 where 23.8% of Filipino households claimed to have experienced hunger or have gone hungry at least once in the past three months.⁵ This was virtually the same as the 23.7% record high hunger rate in December 2008 in the middle of a food price crisis, an indication that little has improved over two years. This hunger figure translated to an estimated 4.8 million hungry families. Meanwhile, the 2012 first quarter data from the survey showed that 55% considered themselves poor and 37.3% considered themselves food-poor.

The number of Filipinos living in poverty increased by 4.4% from 2006 to 2009 – from 22.2 million to 23.1 million.⁶ According to the most recent statistical data compiled by the National Statistics Coordination Board, as of 2012, 19.7% of Filipino Families remain impoverished.⁷ Slower economic growth in Philippines and abroad, and a soft domestic labor market threatened to push more Filipinos into poverty.

¹ Parts of the RtAF situationer are excerpts from the Ateneo Law Thesis of Jose Emilio Teves entitled “To Eat is to Live: A Study for the Determination of the Applicability of Accion de Tutela in relation to the Right to Adequate Food,” Ateneo de Manila University College of Law, 2015.

² Digal, Santosh. “Hunger Growing as 40 per cent of Filipinos Lack of Food.” *Asia News*. 11 June 2008. <<http://www.asianews.it/news-en/Hunger-growing-as-40-per-cent-of-Filipinos-lack-of-food-13682.html>>.

³ Papademetriou, Minas K., et al., eds. *Rice Production in the Asia-pacific Region: Issues and Perspectives*. Bangkok: FAO, 2000. <<http://www.fao.org/docrep/003/x6905e/x6905e04.htm>>

⁴ “Fourth Quarter 2014 Self-Rated Hunger Incidence Survey.” *Social Weather Stations*. 23 January 2015. <<http://www.sws.org.ph/>>.

⁵ “First Quarter 2012 Self-Rated Hunger Incidence Survey.” *Social Weather Stations*. 11 May 2012. <<http://www.sws.org.ph/>>.

⁶ Virola, Romulo, A., “One Family Per 100 was Lifted Out of Food Poverty in 2009”. *National Statistics Coordination Board*. 8 Feb. 2011. <<http://www.nscb.gov.ph/poverty/2009/default.asp>>.

⁷ NCSB – Family Income Statistics, available at http://www.nscb.gov.ph/secstat/d_income.asp

In 2013, the country's Gross Domestic Product grew by 7.2 percent, surpassing its 6.8 percent growth the previous year. The 2012 and 2013 GDP were the strongest successive years of GDP growth since the 1950s.⁸ A global think tank has described the country as potentially one of the world's fastest-growing economies.⁹ For the 4th Quarter of 2014, the GDP growth rose to 6.9%, the fastest growth pace since the 3rd Quarter of 2013.¹⁰ While the final quarter had a high growth rate, the GDP for the year is 6.1%,¹¹ down 1.1% the previous year's record.

Despite the lower GDP for 2014, it can be said that the economic growth of the Philippines remains strong. However, it has not been inclusive. In 2011, the 40 richest Filipinos accounted for 76% of the country's GDP, reflecting entrenched elite control over the country's vast resources.¹² Meanwhile, a significant number of Filipinos are still suffering from hunger due to widespread poverty in the country. According to the Global Hunger Index, the Philippines is currently 28th in global hunger prevalence.¹³

The Social Weather Stations in its 2013 fourth quarter survey of self-rated hunger showed that 18.1% of an estimated 3.90 million families experience involuntary hunger at least once in the past three months.¹⁴ Around 41% or 8.8 million households considered themselves food poor.¹⁵ For its 2014 fourth quarter survey, the percentage for self-rated hunger has dropped from the original 18.1% to 17.2% of Filipino families; roughly around 3.80 million families.¹⁶ While there has been a decrease, such decrease is little in comparison to those families still suffering today.

It can be seen that as a result of these conditions, the Philippines will most likely miss the Millennium Development Goals of halving the proportion of poor households living below the food threshold and halving the proportion of underweight children below five years old by 2015.¹⁷

⁸ Philippines' GDP growth at 7.2% in 2013, available at <http://www.mb.com.ph/philippines-gdp-grows-at-7-2-in-2013/>, last accessed October 14, 2014

⁹ Moody's: PH A Rising Star, available at <http://business.inquirer.net/118547/moodys-ph-a-rising-star/comment-page-8>, last accessed October 20, 2014

¹⁰ Philippines GDP Grows Faster than Expected, available at <http://www.marketwatch.com/story/philippines-gdp-grows-faster-than-expected-in-q4-2015-01-28>, last accessed February 19, 2015

¹¹ Gross Domestic Product || Official Gazette of the Philippines, available at <http://www.gov.ph/report/gdp/>, last accessed February 19, 2015

¹² Cielito Habito: Economic Growth for All, available at <http://opinion.inquirer.net/31439/economic-growth-for-all>, last accessed October 20, 2014

¹³ 2013 Global Hunger Index: The Challenge of Hunger - Building Resilience to Achieve Food and Nutrition Security, p.15

¹⁴ Fourth Quarter 2013 Social Weather Survey: Hunger at 18.1% of families; Moderate Hunger 15.4%, Severe Hunger 2.7%, available at <http://www.sws.org.ph/pr20140122.htm>, last accessed October 20, 2014

¹⁵ *Id.*

¹⁶ Fourth Quarter 2014 Social Weather Survey, available at <http://www.sws.org.ph/pr20150126.htm>

¹⁷ The results of the 7th National Nutrition Survey (NNS) in 2008 conducted by the FNRI show that there was a significant increase in the proportion of children aged 0-5 years who were underweight (a direct hunger indicator) from 24.6 percent in 2003 to 26.2 percent in 2008. <<http://www.sph.emory.edu/wheatflour/ttspublic/NNS.pdf>>

The Philippines has ratified most of the important international treaties dealing with the right to adequate food (RtAF),¹⁸ the government has adopted a vast array of laws purportedly to ensure the availability, accessibility and safety of food for its population. Yet it fails to realize the RtAF. This is due to certain provisions of various laws that are not coherent, not 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 Visayas region was hit in November 2013 by super typhoon Yolanda, the strongest typhoon is unprecedented. It displaced more than 4 million people and caused roughly in damage to infrastructure and agriculture, resulting in widespread hunger and malnutrition in the affected areas.¹⁹

According to the Official Gazette, the official death toll from Yolanda has reached at least 6,340.²⁰ Recently, an insidious problem has come to light. Local media have reported that developers have been grabbing land abandoned by residents who fled in the wake of the disaster. The Philippine Daily Inquirer has reported that developers have blocked 6,000 families returning from their homes by claiming ownership over their properties.²¹ From recent natural disasters are emerging signs of an age-old problem, which is fundamental to many disaster-ridden areas: lack of access to land.

Typhoon Yolanda destroyed landholdings, killed title-holders, erased boundaries and displaced survivors in areas where land meant not only shelter, but also livelihood. The confusion over land tenure following Typhoon Yolanda is one of the most significant factors in turning a short-term humanitarian problem into a long-term economic plague in the affected areas. As a natural disaster inevitably changes the land and destroys documentation, there will be a lot of confusion as to who owns what, and disputes over the location of both public and private lands. This situation opens up the opportunity for land grabbing. In cases where corruption is rampant, unscrupulous people can take advantage of the situation.

Judging from recent history, Typhoon Yolanda may pose a very real threat to the property rights of millions of victims who have scrambled to escape its path, leaving their land and other properties. Land distribution in the Philippines is highly skewed, and despite agrarian reform, the majority of the rural population does not own the land they live on.

¹⁸ International Covenant on Economic Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, Protocol II to Geneva Conventions, and the International Code of Marketing of Breast Milk Substitutes.

¹⁹ National Disaster Risk Reduction and Management Council Situation Report #108, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/NDRRMC%20Update%20-%20Sitrep%20No%20108%20re%20TY%20Yolanda%20-%202003%20April%202014.pdf>, last accessed October 20, 2014

²⁰ Official List of Casualties, available at <http://www.gov.ph/crisis-response/updates-typhoon-yolanda/casualties/>, last accessed October 20, 2014

²¹ Land Grabbing Now Prevails in Yolanda Disaster Areas, available at <http://newsinfo.inquirer.net/544803/land-grabbing-now-prevails-in-yolanda-disaster-areas-right-groups>, last accessed October 20, 2014.

A. Hunger

Official government reports indicate that the reduction of hunger as a Millennium Development Goal²² target in 2015 is probable. The Philippine Statistics Authority²³ reported in May 2014 that the proportion of the population below the national subsistence or food threshold was 16.5% in 1991. It declined to 10.4% in 2012 and will hit the MDG target of 8.25% by 2015.²⁴

The PSA also reported that the number of Filipinos below the poverty line had gone down from 34.4% of the population in 1991 to 25.2% in 2012. The government says that the target of reducing the number of poor to 17.2% is achievable in 2015.²⁵

The optimism suggested by the government's poverty reports are being questioned after the statistics agency "refined" its methodology for identifying the poor. It lowered the poverty level in February 2011 to 7,017 pesos monthly from 7,953 pesos for a family of five. This resulted in a drop to 46 pesos from 52 pesos per person per day for food and non-food expenses.²⁶

The official MDG figures in 2010 also were revised downward because of this. The statistics agency reported in 2010 that the poor accounted for 45.3% in 1991.²⁷ But with the revised methodology and the lowering of the poverty line the poverty level was down, in 1991, to just 34.4% in the 2014 statistical report. The PSA report also indicated those below the food threshold accounted for 20.4% of the population in 1991, but represented only 16.5% in the 2014 report.

Mahar Mangahas, president of the Social Weather Stations, said that by lowering the poverty threshold, the government reclassified 5.4% of all families or about 1 million families from "poor to non-poor."²⁸ He also said that growth over the last decade did not improve the life of the poor.

"There is no escaping the conclusion that the substantial growth in 2003-2009 of real GNP per capita by 24 percent, and of real Personal Consumption Expenditures by 20 percent, had no effect on poverty,"²⁹ he said.

Mangahas said the National Statistics Coordination Board reduced food standards for the poor. He said that due to the refinement of the poor man's menu the tomato omelet previously included for breakfast was replaced with plain scrambled egg, and milk for children was removed but allowed coffee with milk for adults. Fried rice was replaced by boiled rice. Only boiled rice was allowed for all meals for the poor in their new menu. Meat, including chicken and beef, also was

²² hereinafter MDG

²³ hereinafter PSA

²⁴ PSA-Makati, Philippine Millennium Development Goals Indicators, available at http://www.nscb.gov.ph/stats/mdg/mdg_watch.asp, last accessed October 22, 2014

²⁵ *Ibid.*

²⁶ Mangahas, Mahar, "The Lowering of the Official Poverty Line," *Philippine Daily Inquirer*, 12 February, 2011, p. 12.

²⁷ Philippines 2010 Progress Report on the Millennium Development Goals, p.41

²⁸ *Ibid.*

²⁹ *Ibid.*

removed from all meals in the new poor man's menu, and there is only one banana for the entire day instead of the previous three.³⁰

The socio-economic think tank group, IBON, said that the methodology used by the NSCB reduced the number of poor by 5.3 million *"without really improving the poverty situation."*³¹ Thus, the claim of the government that the hunger situation has improved in 2014 is highly questionable.

B. Malnutrition

The National Nutrition Survey 2013 by the Food and Nutrition Research Institute³² reported a slight drop in the number of underweight children 0-5 years old from 20.2% in 2011 to 19.9% in 2013.³³ Reducing the number of underweight children is another MDG target.

Stunting, or the condition in which children are too short for their age, dropped from 33.6% to 30.3%, or three out of 10 children in the 0-5 age group during the same period. Stunting is due to *"long-term food and nutrient deprivation that retards physical growth and cognitive development, and increases the risk to illnesses which may later affect economic productivity."*³⁴

Regional figures show a marked difference in the amount of nutrition between children in the National Capital Region and those in the provinces. Stunting among children in NCR was 22.4%, lower than the national average, while the highest rates were in the Bicol region, 39.8%, and the Autonomous Region in Muslim Mindanao, or 39%.³⁵

Wasting, the low weight-for-height indicator, rose from 7.3% to 7.9%. The NRI said those suffering from severe wasting were nine times more at risk to mortality compared to mildly wasted or well-nourished children.

C. Economic Situation

Over the last decade the country has experienced tremendous growth but this has not been inclusive. In 2011, according to Forbes wealth list, 40 families own 76% of the country's gross domestic product. According to the Forbes 2012 annual rich list, the two wealthiest people in the Philippines, Chinese-Filipino Tycoons Henry Sy and Lucio Tan, were worth a combined \$13.6 billion. Such wealth comprises 6% of the entire Philippine economy.³⁶

³⁰ Mangahas, Mahar, No Meat Allowed For the Poor, *Philippine Daily Inquirer*, 8 Oct 2011, p. 11

³¹ New poverty methodology reduces number of poor by 5.3 million, available at http://ibon.org/ibon_articles.php?id=131, last accessed October 21, 2014

³² hereinafter FNRI

³³ 7th National Nutritional Survey: Anthropometric Survey Component, available at http://www.fnri.dost.gov.ph/images/stories/7thNNS/anthrop/anthrop_preschool_adoles.pdf, last accessed October 24, 2014 See Also FNRI releases anthropometric results of NNS 2013, available at <http://www.manilatimes.net/fnri-releases-anthropometric-results-nns-2013/115689/>, last accessed October 24, 2014

³⁴ FNRI releases anthropometric results of NNS 2013, available at <http://www.nnc.gov.ph/home/item/1783-fnri-releases-anthropometric-results-of-nns-2013>, last accessed October 24, 2014

³⁵ *Id.*

³⁶ Philippines' elite swallow country's new wealth, available at <http://business.inquirer.net/110413/philippines-elite-swallow-countrys-new-wealth>, last accessed October 24, 2014

The amount these individuals have is in stark contrast to 19 million people, roughly a quarter of the Philippine population, that live on less than \$1.25 a day.³⁷ Former Socio-Economic Planning Secretary Cielito Habito notes that this has allowed the rise of the greatest rich-poor divides.³⁸

The last officially accepted measurement of gini coefficient to determine inequality in the Philippines is for 2009. It is .44, the highest in Southeast Asia and ranks the Philippines as one of the highly unequal countries in the world.

In addition, among the three productive sectors of the economy -- Service, Industry and Agriculture -- the contribution of the agriculture sector to GDP has declined from 30% in 1991 to just barely over 11% in 2012.³⁹ Industry has grown sluggishly. Service has grown faster than either industry or agriculture but it cannot provide jobs that can absorb the large unemployed and underemployed in both city and countryside. The outcome is jobless growth.

This structural imbalance is the result of the failure of the government to adopt an industrial policy and to modernize agriculture on the basis of agrarian reform. This in turn is the outcome of a neo-liberal development framework that assigns to foreign and domestic private capital the role of main engine of economic development and limits the State to being the facilitator and guarantor through laws and police power of the “ free market “ private corporate development.

The resulting bias against agriculture is inconsistent with its character as an important cornerstone in our country, seeing as it contributes 20% to the national output in terms of trade and employs about one-third of workers. Roughly one in every four families depends on agriculture for livelihood.⁴⁰

D. Political Condition

In the political arena, the country has been embroiled in a scandal involving corruption by members of the Philippine Senate and House of Representatives, and members of the President’s Cabinet. The scandal involves the use of the Priority Development Assistance Fund (PDAF), which is an allocation in the Philippine budget used by legislators to fund their chosen projects, which purportedly are intended to help the poor but which investigations have shown to have lined up the pockets of corrupt officials and their associates.

The Philippine Supreme Court has ruled that the PDAF “as well as all other provisions of law which similarly allow legislators to wield any form of post-enactment authority in the

³⁷ Poverty headcount ratio at \$1.25 a day (PPP) (% of population), available at <http://data.worldbank.org/indicator/SI.POV.DDAY>, last accessed October 24, 2014

³⁸ See supra note 439

³⁹ Agriculture: The Decline of the Poor Man's Sector, available at <http://www.gmanetwork.com/news/story/306370/economy/agricultureandmining/agriculture-the-decline-of-the-poor-man-s-sector>, last accessed October 24, 2014

⁴⁰ Edillion, Rosemarie G., Right to Food Assessment Philippines: Social Protection to Secure the Right to Food of Every Filipino - An Assessment of Safety Nets and Social Protection Policies and Programs, p. 17 (2008 ed.)

implementation or enforcement of the budget, unrelated to congressional oversight, (was) violative of the separation of powers principle and thus unconstitutional.”⁴¹

The corruption scandal involves the transfer of hundreds of millions in PDAF funds from legislators to fake non-governmental organizations who then divert the funds back into the pocket of legislators as well as the organizers of these “NGOs.” Already three sitting Senators, among others, have been charged with plunder before the anti-graft court, Sandiganbayan. But it seems there could be many more Senators, and Cabinet members, involved in the scam, as names and lists of those allegedly involved continue to surface in the media.

PDAF and other variants of pork barrel are among the main pillars of political patronage that sustains political dynasties and worsens corruption. The abolition of pork barrel therefore is a major step towards democratizing the political system and making the budget process truly transparent, accountable and attuned to the real needs of the people like food security. There are strong indications however that the Aquino administration is limiting its anti-pork, anti-corruption campaign to its political rivals.

Recently, President Benigno Aquino III has come under sharp criticism for his handling of an anti-terrorism operation that resulted in the death of 44 police commandos, 18 Muslim rebels and at least seven civilians. The Jan. 25, 2015 secret operation to get Malaysian terror suspect Zulkifli bin Hir resulted in the police and the military blaming each other for the lack of coordination and placed Aquino in the middle of the controversy as a commander-in-chief who is unable to control his troops. A far worse consequence could be the scuttling of a new Muslim autonomous region under a peace agreement to end more than four decades of Muslim rebellion for self-rule that has killed over 120,000 people in the southern Philippines. Legislators have suspended debates on the proposed law creating the new Muslim region pending results of the official investigation into the police debacle despite an existing cease-fire agreement between the rebels and the government. The Philippine Senate is conducting its own investigation.

The political fallout from the Mamasapano incident is likely to go beyond the Mindanao peace process to seriously questioning the transparency and competence of Aquino’s governance. A new round of political uncertainty and instability may jeopardize civil society’s chances of success in pushing for progressive legislations and their effective implementation.

E. Cases of Right to Food Violations in the Philippines

The marginalized sectors – farmers, rural workers, urban poor, indigenous peoples, fisherfolks, and factory workers – have always asserted their economic, social and cultural rights to be able to feed their families, send their children to school, and live in decent homes. As they try to defend or improve their sources of livelihood – their lands, jobs and wages – their human rights are violated by government and non-government forces, which range from landowners, mining companies, and other local and foreign companies. Many labor, urban poor, indigenous peoples, peasant and fisherfolk leaders have been arrested, charged in criminal cases, abducted or summarily killed.

⁴¹ “Belgica, et. al. v. Ochoa, et. al.,” GR No. 208566. 19 November 2013.

1. The Case of Hacienda Luisita Farmers

The country's Comprehensive Agrarian Reform Law⁴² took effect on June 15, 1988.⁴³ In the CARL's Declaration of Policies and Principles, the State emphasized the importance of pursuing a Comprehensive Agrarian Reform Program⁴⁴ to ensure the welfare of landless farmers and farmworkers so that they "will receive the highest consideration to promote social justice and to move the nation toward sound rural development and industrialization, and the establishment of owner cultivatorship of economic-size farms as the basis of Philippine agriculture."⁴⁵ Thus, an equitable distribution of ownership of the land shall be undertaken to provide an opportunity for farmers and farmworkers to enhance their quality of living, taking into consideration just compensation for landowners and the "the ecological needs of the nation."⁴⁶

In 2011, only 111,000 hectares of agrarian lands have been reportedly distributed by the government out of the targeted 243,000 hectares nationwide. (Source: Department of Agrarian Reform Accomplishment Report, 1988-2011).

DAR Secretary Gil de los Reyes already admitted that DAR was not able to finish land distribution, leaving around 500,000 hectares – almost half of DAR's overall land distribution target – undistributed in 2014. The non-implementation of the amended land reform law will affect 1.1 million farmers.

One of the landholdings to be distributed under the CARP was Hacienda Luisita, owned by the Cojuangco-Aquino clan.⁴⁷ Section 31 of the law allowed corporate landowners the option to voluntarily transfer ownership over its agricultural landholdings either to the Republic pursuant to Section 20, or to qualified beneficiaries under terms and conditions they may agree upon, provided that it is consistent with RA 6657 and approved by the Department of Agrarian Reform.⁴⁸ One form of land distribution became known as the "Stock Distribution Option,"⁴⁹ which was the form of relinquishing ownership chosen by Hacienda Luisita Inc.⁵⁰ Thus, instead of obtaining a portion of the land to call their own, farmer-beneficiaries received shares "which

⁴² hereinafter CARL

⁴³ DOJ Opinion No. 044, s.1990, see also *Junio v. Garilao*, G.R. No. 147146. July 29, 2005, wherein the court declared: "Lands already classified and identified as commercial, industrial or residential **before June 15, 1988 -- the date of effectivity of the Comprehensive Agrarian Reform Law (CARL)** -- are outside the coverage of this law. Therefore, they no longer need any conversion clearance from the Department of Agrarian Reform (DAR)." [emphasis supplied]

⁴⁴ hereinafter CARP

⁴⁵ RA 6657, Section 2

⁴⁶ *Ibid.*

⁴⁷ FIAN International: Urgent Action - Philippines, Hacienda Luisita, available at <http://www.fian.org/get-involved/take-action/urgent-actions/urgent-action-philippines-hacienda-luisita/#c1585>, last accessed June 18, 2014, hereinafter FIAN INTERNATIONAL LUISITA

⁴⁸ *Id.*, see also RA 6657, Section 31. Relevant to the discussion is: "...Upon certification by the DAR, **corporations owning agricultural lands may give their qualified beneficiaries the right to purchase such proportion of the capital stock of the corporation that the agricultural land, actually devoted to agricultural activities, bears in relation to the company's total assets, under such terms and conditions as may be agreed upon by them.** In no case shall the compensation received by the workers at the time the shares of stocks are distributed be reduced..." [emphasis supplied]

⁴⁹ *Id.*

⁵⁰ hereinafter HLI

were computed based on the number of work days.”⁵¹ However, HLI gradually started to convert large areas of the hacienda for residential, commercial, and other purposes which reduced the size of the agricultural land, which led to “less production, person-days, lower take-home pay and eventual retrenchment of the farmworkers.”⁵²

The retrenched farmworkers were then removed from the payroll, and consequently, did not receive any shares of stock.⁵³ Farmworkers of the Hacienda consistently opposed the Stock Distribution Option, and after a decades-long struggle, the Supreme Court in a decision on April 24, 2012, revoked such option and ordered the redistribution of 4,102 hectares of farmland to the farmworkers.⁵⁴ However, the beneficiaries still faced problems. FIAN Philippines with FIAN International, or the Food First Information and Action Network, an international human rights group focused on food availability, reported that:

“On February 27, 2013, the Department of Agrarian Reform (DAR) released the list of the beneficiaries, whereby the hacienda will be distributed to 6,212 farmworkers, each to acquire a 6,600 square-meter lot. **While the majority of the farmworkers have received their land titles till date, they are not yet in possession of the lands awarded to them and thus cannot till the land and exercise their right to access to land and to food.** There are several obstacles. Firstly, the DAR is still conducting ground survey and placing boundary markers for the remaining half of the concerned landholding. **It has, however, been reported that some of the boundary markers have been removed or destroyed.** Survey and marking of boundary markers must be completed before the farmworker beneficiaries can be fully installed in their lots. Secondly, **majority of the plots to be distributed is planted with sugar cane by middlemen/middlewomen ('ariendador').**”⁵⁵ [emphasis supplied]

Since 2004, farmworkers have been renting out their lands via informal contracts with these ariendadors in order to survive.⁵⁶ The system lets farmers rent out land for two to three years, for a maximum of 7,000 pesos as loans.⁵⁷ Such informal contracts are controversial as there are unjust conditions connected with such arrangements. For instance, some agreements do not allow farmworkers to grow their own crops for their own needs on parts of their land; in others some are not given access to their land or given a share of the profit.⁵⁸ Now, as much as 95% of these lands are rented by the ariendadors, most of which have been planted with sugar cane.⁵⁹ Since the harvest of the sugar cane takes a long time, farmers might be forced to rent out these lands to the ariendadors once again, despite having legal right to such farmlands.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*, see generally *HLI v. Luisita Industrial Park*, G.R. 171101, promulgated April 24, 2012. The decision also fixed the amount of just compensation for HLI.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Hacienda Luisita farmers: "Help us Resist Reversal of Agrarian Reform," available at <http://afrim.org.ph/newafrim/2014/04/25/hacienda-luisita-farmers-help-us-resist-reversal-of-agrarian-reform.html>, last accessed June 24, 2014

⁵⁸ *Id.*

⁵⁹ *Id.*

Another major problem the farmers are experiencing is that the Department of Agrarian Reform has *“failed to deliver social protection measures as well as support services, i.e. start up capital/credit, irrigation facilities, seeds, farming machineries (tractors), especially to those farmworkers who did not lease their lands to the arriendador.”*⁶⁰ This increases the problems of the farmers in obtaining access to their land which could strengthen their food security.

The Department of Agrarian Reform has released a statement stating that it had in fact marked 90.6% of the area with boundaries, and had installed 5,527 farmer beneficiaries on the property.⁶¹ However, no statement has been released relating to social services, nor any statement made about protecting the Hacienda Luisita farmers from these arriendadors. FIAN notes that the Philippine government has an obligation, being a state party to the ICESCR, to protect and fulfill the people's right to adequate food.

“The Philippine government breached its protect-bound obligation under the right to food by not regulating the unjust conditioned contracts of the arriendador, as these had detrimental impact on the farmworkers' right to adequate food. Finally, the government of the Philippines has failed to fulfil the right to adequate food of the Hacienda Luisita farmers by not duly implementing the CARP – a program which aims to distribute land to landless farmers and to provide sufficient support services to guarantee their right to adequate food.”⁶²

2. The Case of the Hacienda Matias Tenant-Farmers

Since 2004, 500 farmers have been petitioning that 1,176 hectares of farmland in Hacienda Matias, in San Francisco, Quezon province, be covered by CARP.⁶³ However, these lands have not yet been distributed to the beneficiaries, who are in fact experiencing food insecurity and harassment from the owners of the Hacienda.⁶⁴ The hacienda owners have made ingress and egress to the farmlands difficult by constructing barricades around the property.⁶⁵ Farmers and their children are forced to walk “considerable distances just to go in and out of the hacienda, or take a hazardous boat rides to gain access to their homes.”⁶⁶

⁶⁰ *Id.*

⁶¹ 91% of Lots Given to Luisita Beneficiaries Marked with Boundaries, available at <http://www.dar.gov.ph/dar-in-the-news/713-91-of-lots-given-to-luisita-beneficiaries-marked-with-boundaries>, last accessed June 17, 2014, see also

⁶² *FIAN INTERNATIONAL LUISITA*, supra note 479

⁶³ RA 6557, Section 7, to wit: " The Department of Agrarian Reform (DAR) in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the acquisition and distribution of all agricultural lands through a period of ten (10) years from the effectivity of this Act. Lands shall be acquired and distributed as follows:... all private agricultural lands in excess of fifty (50) hectares, insofar as the excess hectareage is concerned, to implement principally the rights of farmers and regular farmworkers, who are the landless, to own directly or collectively the lands they till, which shall be distributed immediately upon the effectivity of this Act, with the implementation to be completed within a period of not more than four (4) years."

⁶⁴ FIAN International: Urgent Action - Philippines, Hacienda Matias, available at <http://fian.org/index.php?id=311>, last accessed June 18, 2014, hereinafter *FIAN INTERNATIONAL MATIAS*

⁶⁵ Human Rights Advisory, CHR (IV) - A2012-004, p.3

⁶⁶ *Id.*, at p. 4

Compounding the difficulty experienced by the farmers is that they are forced to work under a share tenancy agreement under which they only receive a 30% of the net income.⁶⁷ As a result, these farmers have applied for a leasehold system with the Department of Agrarian Reform in a bid to increase their share to 75% of the net income.⁶⁸ The application has been delayed by the landowner's resistance to the increased sharing arrangement. Thus, the income that farmers receive is still under the old regime, and it is too paltry a sum that they cannot feed themselves properly.⁶⁹

The landowner of the Hacienda has attempted, twice, to file “a Petition for Exclusion” of the coconut lands from CARP, but it was also twice denied by the Department of Agrarian Reform.⁷⁰ Undeterred, the landowner elevated the case to the Office of the President, which also denied the same and reaffirmed the previous decisions.⁷¹ In response, a Motion for Reconsideration was filed by the landowner, and the case is currently pending resolution before the Office of the President.⁷² Additionally, the issuance of the DAR Administration Order 7 restrained the Department from “taking possession of the land unless the protest or exemption application has become final and executory.”⁷³ In the light of these developments the process of the land distribution has come to a stalemate in Hacienda Matias. FIAN has criticized the Philippines as state-party:

“By delaying the implementation of the CARP due to negligence of the DAR in the past, and by the issuance of the A.O. No. 7 Series 2011, Philippines failed to fulfil the right to adequate food of the tenant-farmers on Hacienda Matias. Furthermore, the government of the Philippines has failed to protect the tenant-farmers and their families from harassment, criminalization and violence. The failure to meet these obligations amounts to violations of their human rights.”⁷⁴

3. Yolanda Victims: The Situation in Sicogon

On April 12, 2014, residents of Sicogon under the Federation of Sicogon Island Farmers and Fisherfolk Association, and the Save Agrarian Reform Alliance, reported that five months after the devastation wrought by Typhoon Yolanda, they have yet to receive government assistance.⁷⁵ The typhoon ruined their crops and destroyed their fishing gear. The group has also alleged that the Sicogon Development Corporation⁷⁶ has prevented them from returning to their long-held lands. Raul Ramos, President of the Federation reported that:

⁶⁷ FIAN INTERNATIONAL MATIAS, *supra* note 482

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Yolanda Displaced Families in Philippines Forced to Occupy Forests, Harassed by Land Developers, | Focus on the Global South, available at <http://focusweb.org/content/yolanda-displaced-families-philippines-forced-occupy-forests-harassed-land-developers>, last accessed June 18, 2014, hereinafter Yolanda-Focus

⁷⁶ hereinafter SIDEKO

“the government has completely failed to protect the land rights of Sicogon’s residents from land-grabbers like SIDEKO ... Up to today, **we are still being forcibly prevented by SIDEKO’s private security guards from rebuilding houses that we, our families and other agrarian reform beneficiaries have been living in for decades. This is not helped at all by the no-dwelling zone policy of the government, which practically rendered more than 1,000 families homeless** ... With no options left to rebuild our communities, we are being forced by the government and by SIDEKO to occupy public forest lands as a resettlement site, even without support and approval from official authorities. **Because government agencies have systematically failed to protect our rights in the face of SIDEKO’s post-Yolanda land-grabbing efforts, we have nowhere else left to go.**”⁷⁷

Since March 28, the Federation has been attempting to establish a camp in a public forest land located near Barangay Buaya, Sicogon.⁷⁸ However, the Federation claimed that SIDEKO had prohibited the residents from reconstructing or repairing their houses. The company, instead, offered two choices for the displaced farmers and fisherfolk: a) 150,000.00 pesos for each family that voluntarily leaves the island; or b) move to a relocation site in Barangay Jolog, in Iloilo.⁷⁹ As of May 5, 2014, 100 families have taken either offer, but according to Commission of Human Rights Investigator Leo Sapanan, the offer was “not appropriate,” as “there is no free, prior and informed consent from those who were affected.”⁸⁰ To compound the problem, SIDEKO and several officials from the Department of Environment and Natural Resources have threatened to file cases against the Federation for the occupation of public forest lands.⁸¹ DENR representative Salvador Manglinog Jr. stated that “Under the law, their entry there is illegal. ... Just because it's classified as public land doesn't mean they can occupy it. They cannot just occupy the area without any authority or if they did not ask permission.”⁸²

Ayala Land has stepped in to provide housing assistance to these displaced folks of Sicogon.⁸³ However, this is sidestepping the issue. As early as April 2, 2014,⁸⁴ there have been reports that Ayala has interest in redeveloping the area. On April 9, 2014, it was reported that Ayala has explicitly expressed interest in developing Sicogon, not for farming or fishing, but for tourism. Former Ayala Land President and CEO Antonino Aquino was quoted saying, “We’re [Ayala Land] looking around for properties in Sicogon. We’re interested in expanding our tourism portfolio.”⁸⁵

⁷⁷ Yolanda-Focus, supra note 493

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Sicogon Folks Harassed | Panay News, available at <http://panaynewsphilippines.com/2014/05/03/sicogon-island-folks-harassed/>, last accessed June 18, 2014

⁸¹ Yolanda-Focus, supra note 493

⁸² Ayala to bankroll Sicogon Island Project, available at <http://www.thedailyguardian.net/index.php/local-news/39934-ayala-to-bankroll-sicogon-project>, last accessed June 18, 2014

⁸³ Sicogon's typhoon survivors get housing succor, <http://www.mb.com.ph/sicogons-typhoon-survivors-gets-housing-succor/>, see also Ayala Land Builds Houses for Yolanda Survivors, <http://www.sunstar.com.ph/bacolod/lifestyle/2014/06/17/ayala-land-builds-houses-yolanda-survivors-348658>

⁸⁴ Ayala land to bankroll, supra note 500

⁸⁵ <http://www.rappler.com/nation/55319-haiyan-displaced-families-forced-occupy-forests>, see also <http://focusweb.org/content/yolanda-displaced-families-philippines-forced-occupy-forests-harassed-land-developers>; <http://www.businessmirror.com.ph/index.php/en/news/regions/30513-resort-bars-yolanda-survivors-in-iloilo-from-rebuilding-homes>; <http://thedevelopmentadvisor.com/news/philippines-ayala-exploring-sicogon-island-resort/>

In other words, Ayala Land's assistance was not to ensure the right to food of the farmers, but to make headway in building a tourist haven. In fact, SIDECO has entered into a joint-venture with Ayala Land and is finishing up the contract.⁸⁶ Ayala Land is committed to the project for "sustainable tourism development" which "can provide thousands of jobs."⁸⁷ Two non-government organizations, Focus on Global South and the Rural Poor Institute for Land and Human Rights Services Network, have urged the Philippine Government to "stop investments in land and agriculture that not only displace the rural poor but also violate human rights and land laws. ... Now is the time to stop bickering in government and look at our issues, especially when funding for CARP is uncertain beyond 2014 and Typhoon Yolanda has made us more land insecure. ... We need public investments that support progressive realization of the right to adequate food in the context of national food security."⁸⁸

The lack of immediate government response violates Section 11, paragraph 2 of the General Comment, which says that State parties have a core obligation to mitigate and alleviate hunger, even in times of natural or other disasters.⁸⁹ The fact that a private corporation had to step in, and that local officials even aggravated the situation, highlights the violation on the people of Sicogon.

4. Yolanda Victims: Food Distribution Problems

On November 20, 2013, Secretary Dinky Soliman announced that relief distribution in Tacloban for Typhoon Yolanda victims had been turned over to the Local Government Units.⁹⁰ After a week there were reports of hoarding of relief goods by several mayors and officials in different parts of Eastern Visayas, mostly in Leyte.⁹¹ Worse, local officials reportedly have been selectively distributing food to their political allies instead of giving it to all their constituents, denying other hungry people access to much needed food.⁹²

Another startling incident occurred later in the year, when reports of food dumping in a barangay dumpsite.⁹³ The Commission on Audit reported that *"7,527 family food packs worth P2.7 million; 95,472 assorted canned goods; 81 packs of noodles; and, 21 sacks of rice went to waste*

⁸⁶ <http://www.philstar.com/region/2014/05/07/1320321/land-dispute-delays-sicogon-islands-redevelopment>

⁸⁷ Ayala Land Builds houses for Yolanda Survivors, available at <http://www.sunstar.com.ph/bacolod/lifestyle/2014/06/17/ayala-land-builds-houses-yolanda-survivors-348658>, last accessed June 18, 2014

⁸⁸ Land Grabbing Now Prevails in Yolanda Disaster Areas, <http://newsinfo.inquirer.net/544803/land-grabbing-now-prevails-in-yolanda-disaster-areas-right-groups>

⁸⁹ ICESCR General Comment No. 12, Section 11(2)

⁹⁰ News Archive - November 20, 2013, available at <http://www.pcoo.gov.ph/archives2013/nov20.htm>, last accessed November 5, 2014

⁹¹ Hoarding of relief goods probed, available at <http://newsinfo.inquirer.net/536249/hoarding-of-relief-goods-probed>, last accessed November 5, 2014

⁹² *Ibid.*

⁹³ Probe dumping of rotten relief in Leyte, Yolanda survivors demand, available at <http://www.interaksyon.com/article/82700/probe-dumping-of-rotten-relief-in-leyte-yolanda-survivors-demand>, last accessed November 5, 2014, *see also* Thousands of DSWD food packs for Yolanda relief lost to spoilage – COA <http://www.gmanetwork.com/news/story/378162/news/nation/thousands-of-dswd-food-packs-for-yolanda-relief-lost-to-spoilage-coa>, last accessed November 5, 2014

due to improper handling in Yolanda devastated areas, particularly in Central and Eastern Visayas." Food that was supposed to be distributed to victims of the typhoon was instead left to rot.

II. The Legal Framework Governing the Right to Adequate Food in the Philippines⁹⁴

An assessment of the Philippine Legal Framework (PLF) governing the right to food was conducted in 2008.⁹⁵ The review of the policies included the legally binding international instruments, the 1987 Constitution, and specific laws governing the RtAF. The Philippine Constitution does not explicitly recognize the RtAF nor does a specific law on the right to food exist. RtAF recognition is rather 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.

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 of farmers, fisherfolk, indigenous people, 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.

⁹⁴ Written by Aurea Miclat-Teves and Maria Socorro Diokno. Final paper was published in the RtAF Watch 2012 AUREA G. MICLAT-TEVES is formerly the Vice President of FIAN International and concurrently the President of FIAN Philippines. In the Philippines she is the founder and President of the Peoples Development Institute (formerly Project Development Institute), an organization working on asset reform and rural development for peasants and Indigenous communities. She is an expert on rural development work and has written extensively on the rights-based approach to governance, specifically asset reform.

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⁹⁵ 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](http://www.fao.org/righttofood/publi10/PHILIPPINES_assessment_vol2.pdf). Rome: FAO, 2008. <http://www.fao.org/righttofood/publi10/PHILIPPINES_assessment_vol2.pdf>.

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. The main conclusions of the assessment were that in response to the accession of the Philippines to the 1994 General Agreement on Tariffs and Trade (GATT) and the inclusion of agricultural products to this commitment, the Philippines passed several laws that provided trade remedies that could mitigate unfair trade practices, or undesirable reactions to sudden surges in imports due to the opening of the Philippines' borders. These laws⁹⁶ came even later than Republic Act (RA) 8435 that defines measures to modernize the country's agriculture and fisheries sectors to make them competitive in the market.⁹⁷ The tariffication of quantitative restrictions in agricultural products similarly gave way to the passage of RA 8178 (Agricultural Tariffication Act).

These laws were meant to protect local producers from the vagaries of liberalized trading in agricultural products. However, the Agricultural Tariffication Act had the effect of repealing laws that provided for prohibitions and quantitative restrictions on the importation of agricultural products such as onions, potatoes, garlic, coffee, livestock, seeds, and tobacco.⁹⁸ In general, the Agricultural Tariffication Act removed the protection granted to small farmers from importation of agricultural products that are produced in sufficient quantity in the country.⁹⁹

The 2008 study also showed that there are no safeguards to cushion the negative effects of food price volatility that affects first the most vulnerable groups. In addition, it warned that the obligation to respect the RtAF could be seriously affected by the implementation of laws such as the Biofuels Act, if their implementation is not integrated into an overall agricultural plan and national food policy.

In terms of agrarian reform, the redistribution of land under the comprehensive agrarian reform program remains unfinished after more than 36 years.¹⁰⁰ Access to land by farmers tilling or working on private agricultural land remains unreachable to around 1.4 million supposed beneficiaries working on 1.8 million hectares of land.¹⁰¹

⁹⁶ Republic Act No. 8751 of the Philippines (Subsidies), Republic Act No. 8752 of the Philippines (Anti-Dumping) and Republic Act No. 8800 of the Philippines (Safeguard Measures).

⁹⁷ Republic Act 8435 is also known as AFMA or Agriculture and Fisheries Modernization Act. It is an act defining measures to modernize the country's agriculture and fisheries sectors to make them competitive in the market. The law took effect February 9, 1998

⁹⁸ See Section 4 of Republic Act No. 8178 of the Philippines.

⁹⁹ See Section 4 of Republic Act No. 8178 of the Philippines in relation to Section 23(10) of Republic Act number 7607 of the Philippines.

For the impact of the ASEAN Free Trade Agreement on the Philippines see also:

http://www.seacouncil.org/seacon/images/stories/publications/afta_philippine.pdf.

For the impact of the Agriculture and Fisheries Modernization Act see also:

<http://www.ifpri.org/sites/default/files/publications/ifpridp008.27.pdf>.

¹⁰⁰ This is reckoned from October 21, 1972 upon the passage of Presidential Decree 27(1972).

¹⁰¹ Agrarian reform is very slow. CARPER has so much backlogs: in Luzon Island alone, farmers reported 58,101.87 has affecting 13,325 ARBs of land yet to be released under the agrarian reform program.

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.¹⁰² Existing laws on economic accessibility do not have sufficient impact as they do not make food affordable for everyone. Laws on prices just refer to the requirement of price tags, while price regulation or price control is only used during calamities or emergency situations. Laws on wages and income are insufficient and to some extent have negative effects like the one-year ban on wage hikes. Credit laws do not address easy access to loans for small holders but enumerate rigid requirements and guidelines. Worse, most existing laws are not properly or fully implemented. On the other hand, there are special laws for the most vulnerable; for example, one requires day care centers to provide a feeding program, nutritional monitoring and supplementary feeding considering that food deprivation is a form of child abuse. Also, the Senior Citizens Law provides discounts for elderly people, especially on basic food items. However, the right to food of people with disabilities or people living with HIV and the specific obstacles they face are not legally recognized nor subject to particular attention. Widely discussed is the Government's Pantawid Pamilyang Pilipino Program (4Ps) Conditional Cash Transfer Program (CCT) that entitles all extremely poor families with children below 14 years old to receive financial support if regular health checks are received and the children attend school. The program improves children's economic access to food. Despite the remarkable coverage, the 4Ps CCT is criticized because of the limited quality and availability of the conditioned services and the focus on one aspect of poverty, whereas others are neglected. It is not part of a coherent food policy.

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 nutritive values and is free from contaminants and harmful microorganisms. These include aspects of food fortification, salt iodization, breastfeeding/milk code or food safety standards, whose inspection, monitoring and regulation are the responsibilities of the Food and Drug Administration, National Meat Inspection Service, and Local Government Units.

The findings of the 2008 study by Maria Socorro Diokno and Virgilio de los Reyes assessing the Philippine legal framework governing the right to adequate food reveal the following:

1. The absence of an explicit recognition of the right to food in the 1987 Constitution though it may be inferred from the various human rights provisions and from the constitutional intent to address mass poverty.¹⁰³

Save Agrarian Reform Alliance. "Luzon-Wide Consultation and Assessment on Agrarian Reform/CARPER: Synthesis". *Focus on the Global South*. 11 April 2012. <<http://www.focusweb.org/philippines/state-of-agrarian-reform-report-2012/article/584-luzon-wide-consultation-and-assessment-on-agrarian-reformcarper-inisyal-na-buod>>.

¹⁰²Physical 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>.

¹⁰³ Diokno et al, supra note 509, at 8.

2. The country's national human rights institutions contribute very little to address the hunger situation in the country, and punish breaches of the right to food.¹⁰⁴ In general, the law making process fails to meet human rights principles.¹⁰⁵
3. The right to food is among the country's lowest priority areas for national spending.¹⁰⁶
4. The food legal framework does not enhance physical access to food,¹⁰⁷ especially by those most vulnerable to hunger while the laws on availability need to be harmonized.¹⁰⁸
5. The food legal framework does not sufficiently address human rights obligations arising from the right to food which reflect on the Philippine government falling short of the Voluntary Guidelines to Support the Realization of the Right to Adequate Food in the Context of Food Security.¹⁰⁹
6. Special laws and regulations for those most vulnerable to hunger or in special situations both positively and negatively influence the hunger situation of these special groups.¹¹⁰
7. The laws governing food prices do not significantly contribute to hunger mitigation, while laws governing wages and employment are generally unfavorable to workers, and other laws relating to income generating opportunities are generally flawed.¹¹¹
8. The laws governing access to credit influences the hunger situation in limited ways, as these do not actually enlarge access to credit.¹¹²
9. The food safety laws fully recognize the notion of safe food that meets dietary needs; while these laws may not directly contribute to alleviating hunger, these laws nonetheless ensure that food available for consumption contains enough nutrition and is free from contaminants and microorganisms.¹¹³
10. Government agencies supposedly concerned with the right to adequate food are largely unaware of their obligations related to the right.¹¹⁴

The inability of the government to address the persistent problem of hunger and food insecurity in the country is exhibited 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*

¹⁰⁴ *Id.* at 26

¹⁰⁵ *Id.* at 28

¹⁰⁶ *Id.* at 22

¹⁰⁷ *Id.* at 40

¹⁰⁸ *Ibid.*

¹⁰⁹ *Id.* at 31

¹¹⁰ *Id.* at 13

¹¹¹ *Id.* at 10

¹¹² *Id.* at 12

¹¹³ *Id.* at 13

¹¹⁴ *Id.* at 31

areas for national spending, while debt service interest payments constitute the second largest share of the national budget.”¹¹⁵

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 main issues to tackle are:

- The lack of a national food policy to serve as overarching framework to address hunger that results in incoherent, non-complementary and even conflicting legal mechanisms. This situation has led to major problems in program planning and implementation.
- The weak political will of the government to eradicate hunger is reflected in the yearly national budget.
- Complaint and recourse mechanisms with regard to violations of the RtAF are formally in place but are insufficient and inefficient in practice.
- The national human rights institutions have limitations in their mandate and give less attention to economic, social and cultural rights violations, especially to the right to food, in comparison to civil and political human rights violations.

Strategies to regain control: Moving forward

The participation of all sectors in the design and implementation of changes affecting the RtAF is required. Therefore a consultation process at the local, national and regional levels has been done in order to review, revise and monitor laws, policies and programs related to food, and to conduct a massive information and education campaign on RtAF, including the development of an RtAF curriculum for training and education. This is necessary to be able to build a campaign on the RtAF to advocate for a coherent national food policy.

Three crucial steps are needed to resolve the complex, serious and persistent problems brought about by hunger:

- ⤴ **First**, the adoption of a national food policy, with the full and active participation of all actors concerned, including those most vulnerable to hunger, along the lines recommended by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in *General Comment No. 12* (1999) and the FAO's Voluntary Guidelines on the Right to Food (2004).
- ⤴ **Second**, 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 national budget to the national food policy, enhancing the mandates of the national human rights institutions, and improving the process of law-making.

¹¹⁵ *Id.* at 22

- ▲ **Third**, capacity development on the right to adequate food, and the promotion of the rights based approach for the establishment and implementation of the national policy governing the right to adequate food for all and to monitor the State's human rights accountability.

In sum, what is most needed in the Philippines is a strong, right-to-adequate-food approach in order to straighten out the current legal framework which, through inefficient and unproductive measures, undermines the efforts of civil society to claim their rights and monitor state actions.

The new focus must be consistent with the human rights system. This will allow the Philippines to overcome the historical trend of inequality and have the chance to base its development on consensus, inclusion and dignity. Toward this end, various civil society organizations (CSOs) deemed fit to initiate a campaign focusing on the right to adequate food as a means of highlighting the issues and to encourage other sectors to participate in addressing the problems brought about by hunger and poverty in the country.¹¹⁶

III. Laying the Ground for the Food Framework Law in the Philippines¹¹⁷

A. Background

The Philippines, which ranks 28th in the global hunger prevalence according to the 2013 Global Hunger Index, has no comprehensive law on food, or more specifically a National Food Framework Law. The archipelago of more than 97 million people lies in the path of destructive typhoons and sits in the Pacific Ring of Fire where earthquakes and volcanic eruptions are common, resulting in periodic disasters that cost numerous lives and exacerbate hunger and poverty. This was tragically displayed in the aftermath of the November 2013 Super Typhoon Haiyan (local name Yolanda), which killed more than 6,000 people, displaced over 4 million others and caused Php89.6 billion (\$2 billion) in damages, including Php31.4 billion (\$707.3 million)¹¹⁸ in infrastructure and production. Thousands of people still live in makeshift shelters more than a year after the typhoon struck. Nearly every family head who has survived has lost his means of livelihood.

This national calamity has demonstrated the need for protecting the people's livelihood from such shocks and to strengthen their capacity to recover from natural or man-made catastrophes. But more important in the long-term is for the Philippine government to align its disaster response programs not just to immediate relief and rehabilitation but also to climate change mitigation policies that ensure adequate food for all at all times from a human rights perspective.

¹¹⁶ Campaign on the Right to Adequate Food contact person: Aurea Miclat-Teves, President, FIAN Philippines
E-mail: fian.philippines@gmail.com

¹¹⁷ Written by Aurea G. Miclat-Teves. Final paper was published in RtAF Watch 2014

¹¹⁸

<http://ndrrmc.gov.ph/attachments/article/1177/Update%20Effects%20TY%20YOLANDA%2017%20April%202014.pdf> viewed 20 April 2014

Climate change-induced super typhoons and other similar events highlight the degree to which food production is compromised and undermine the right to adequate food (RtAF)¹¹⁹. In the Philippines, those that have been food insecure before a disaster strikes are the same people who suffer most from hunger and deprivation after a catastrophe. Concrete and meaningful steps must be taken early on to prevent similar crises from happening again, or at least to soften their impact, in order to save precious lives. In embarking on disaster risk reduction, the Philippine government should consider climate change mitigation from an RtAF perspective, to be more comprehensive.

B. Steps being Undertaken by the National Food Coalition to Produce the RtAF Framework Law

Clear and comprehensive policies that promote the RtAF are urgently needed. It is in this backdrop that the National Food Coalition (NFC)¹²⁰ was formed. It has issued an urgent call for the immediate adoption by the Philippines of a right to adequate food framework law. On October 16, 2013, the NFC called on President Benigno Aquino III and Congress to immediately pass an RtAF framework law.

There is no law guaranteeing the right to adequate food in the Philippines. At most, this right is implied from the right to life and related provisions in the 1987 Constitution. The Philippines is a party to the International Covenant on Economic, Social and Cultural Rights, which expressly guarantees the right to food. It is still necessary to have a domestic law that declares that food is not just a matter of charity but also a legal entitlement of all Filipinos.

The NFC has formed a working group, in consultation and participation of civil society groups, which drafted a food framework bill. 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.

¹¹⁹ Right to Adequate Food (RtAF) is the right of the people to have regular, permanent and unrestricted access, either directly or through purchases, to quantitatively and qualitatively adequate and sufficient food, which corresponds to their cultural traditions, and which ensure a physical and mental, individual and collective, fulfilling and dignified life that is free from fear

¹²⁰ NFC was formed to respond to the growing hunger and impoverishment in the country. The NFC aims to push the Philippine government to establish a coherent legal framework that recognizes and protects the right to adequate food of every Filipino. The NFC is composed of more than 70 organizations and federations with more than 10,000 members.

C. The Right to Adequate Food Framework Bill

There are several salient provisions of the bill. 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 amount of food 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.

D. 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 - with the strong support of NFC members, particularly representatives of the sectors that suffer most. 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 this writing (specify the date, e.g. 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 Congress and Senators 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.

E. Campaigning 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 who want to maintain their monopoly over land and

other natural resources that 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 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” that will also attend Congressional hearings, appear in television programs, and participate in press conferences, public forums and debates on the RtAF. The 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. The research base of the campaign is being established to back the “speakers’ bureau” and the bill’s supporters and “champions” in Congress in order to ramp up information that will allow them to discuss RtAF more authoritatively. Plans for creative activities to spark the interest of legislators and stakeholders (e.g. photo exhibits in Congress, poster-making in schools and communities) and to popularize the RtAF campaign are underway.

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. Moreover, the NFC must be conscious of the various obstacles that could potentially derail its efforts. Among them are the internal constraints within the Philippine legislature, especially given the tradeoffs made in the inherent bargaining and negotiations system between the Senate and the House, and between the executive and the legislative branches on what bills should be given priority. The NFC must make an effort on multiple fronts to make legislators accept it as a national priority that is also in their interest.

IV. Based on the Philippine Right to Adequate Food: An Alternative Report, the following recommendations are provided:

1. The Philippine Congress should pass immediately the zero-hunger bill. Both Senators and Members of the House of Representatives ought to consider ways to expedite the process of approving the bill. The House Committee on Human Rights should complete as soon as possible its consideration of the bill. For its part, the Senate Committee on Justice and Human Rights should immediately start holding its own hearings on the zero-hunger bill, with a view to getting the bill through soon. The plenaries of both chambers ought to tackle the bill then, and approve it with utmost dispatch.

2. The Office of the President should consider certifying the zero-hunger bill as urgent. Ending hunger is not a matter that can be put off. The different agencies of the executive branch, especially those whose work relates to food, should come together in support of the bill, with a view to ensuring the right to adequate food for all immediately.

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