

## Summary Review, *An Assessment of the Philippine Legal Framework Governing the Right to Adequate Food*<sup>1</sup>

This summary review is based on *An Assessment of the Philippine Legal Framework Governing the Right to Food*, co-authored by Virgilio R. de los Reyes and Maria Socorro I. Diokno (October 2008). The authors were contracted by the Asia-Pacific Policy Center for the Food and Agriculture Organization's project "Developing methods and instruments to implement the right to food." *Words, phrases, sentences and paragraphs in quotation marks are direct quotes from the original work.*

In assessing the country's legal framework, De los Reyes and Diokno (2008) were guided by the definition and normative elements of the right to adequate food, as well as obligations arising from it, articulated by the United Nations Committee on Economic, Social and Cultural Rights in *General Comment 12, The right to adequate food (Art.11)*.<sup>2</sup>

The Committee defines the right to adequate food as the right of "every man, woman and child, alone or in community with others, [to have] physical and economic access at all times to adequate food or means for its procurement." The right to adequate food is both freedom from hunger and entitlement to food that meets dietary needs, is free from adverse substances, is culturally acceptable, is in large enough quantities, is physically and economically accessible, and constitutes a sustainable supply for present and future generations.

The Committee also described the obligations arising from the right to adequate food, including (a) the *obligation of progressive realization*, which requires states to take steps, through all appropriate means, with maximum use of available resources, to progressively achieve the right to adequate food; (b) *core obligations*, which require states to ensure the satisfaction of the minimum essential level required to be free from hunger; (c) *obligations of equality and nondiscrimination*, which require states to ensure both *de jure*<sup>3</sup> and *de facto*<sup>4</sup> equality, without distinction of any kind, exclusion, restriction or preference based on race, color, gender, language, disability, age, religion, political or other opinion, national or social origin, property, birth and other status; (d) *obligations of international cooperation and assistance*, which require states to conduct their trade, lending, technical and financial assistance and related activities with due regard for the right to food of the people of other states and require states that are unable to guarantee the right to food of their people to seek assistance from other states; (e) the *obligation to respect* the right to food, which forbids states from acting in any way that directly encroaches upon it; (f) the *obligation to protect* the right to food, which compels states to take steps to prohibit others from violating it; (g) the *obligation to fulfill (facilitate or promote)* the right to food, which requires states to actively create conditions aimed at the right's full realization; and (h) the *obligation to fulfill (provide)* the right to food, which requires states to actually provide food whenever, for reasons beyond their control, individuals or groups are unable to realize the right by the means at their disposal.

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<sup>1</sup> Maria Socorro I. Diokno, 2012, contracted by the Food First Information and Action Network Philippines, Inc.

<sup>2</sup> 05 December 1999, UN Doc. E/C.12/1999/5.

<sup>3</sup> Equality achieved when laws or policies treat women and men in a neutral manner.

<sup>4</sup> Equality achieved when the effects of laws, policies and practices do not maintain but alleviate the inherent disadvantages that women experience.

## Philippine Legal Framework

De los Reyes and Diokno (2008) define the Philippine legal framework as “the set of applicable domestic and international laws, jurisprudence and processes” related to the right to adequate food. These include legally and customarily binding international instruments, the 1987 Philippine Constitution, food availability laws, food accessibility laws, and food safety laws.

Legally binding international instruments are those ratified by the Philippines and include the *International Covenant on Economic, Social and Cultural Rights*,<sup>5</sup> the *Convention on the Rights of the Child*,<sup>6</sup> the *Convention on the Elimination of All Forms of Discrimination Against Women*,<sup>7</sup> and the *Additional Protocol to the Geneva Conventions and Relating to the Protection of Victims of International and Non-International Armed Conflicts*.<sup>8</sup> Because of a constitutional process called transformation, which “may also entail the passage of domestic legislation,” the *International Code of Marketing of Breastmilk Substitutes*<sup>9</sup> is now part of Philippine law by virtue of Executive Order 51.<sup>10</sup>

Customarily binding international instruments are general norms of international law principles and practice and include the *Universal Declaration of Human Rights*,<sup>11</sup> the *Declaration on the Rights of the Child*, the *Universal Declaration on the Eradication of Hunger and Malnutrition*,<sup>12</sup> the *Declaration on Protection of Women and Children in Emergency and Armed Conflicts*,<sup>13</sup> the *Code of Ethics for International Trade*,<sup>14</sup> the *Declaration on the Right to Development*,<sup>15</sup> the *Rome Declaration on World Food Security*,<sup>16</sup> the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (hereafter referred to as the *Right to Food Guidelines*),<sup>17</sup> and the *High-Level Conference on World Food Security: the Challenges of Climate Change and Bioenergy*.<sup>18</sup>

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<sup>5</sup> Adopted on 16 December 1966; the Covenant was ratified by the Philippines on 19 December 1966 and entered into force on 3 January 1976.

<sup>6</sup> Adopted on 20 November 1989; the Convention was ratified by the Philippines on 26 January 1990 and entered into force on 2 September 1990.

<sup>7</sup> Adopted in 1979; the Convention was ratified by the Philippines on 5 August 1981 and entered into force on 3 September 1981.

<sup>8</sup> Adopted on 8 June 1977; Protocol II was ratified by the Philippines on 11 December 1986.

<sup>9</sup> Adopted by the Member States of the World Health Organization on 21 May 1981.

<sup>10</sup> *Adopting a National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Related Products, Penalizing Violations thereof and for Other Purposes*, 28 October 1986.

<sup>11</sup> Adopted on 10 December 1948.

<sup>12</sup> Adopted on 16 November 1974 by the World Food Conference, convened under United Nations General Assembly Resolution 3180 (XXVIII) dated 17 December 1973 and endorsed by United Nations General Assembly Resolution 3348 (XXIX) dated 17 December 1974.

<sup>13</sup> Adopted by the United Nations General Assembly through Resolution 3318(XXIX) on 14 December 1974; *see* Paragraph 6.

<sup>14</sup> Adopted by the Codex Alimentarius Commission through CAC/RCP 20-1979 (Rev. I-1985) in December 1979.

<sup>15</sup> Adopted by the United Nations General Assembly through Resolution 41/128 on 4 December 1986; *see* Article 8.

<sup>16</sup> Adopted by the Heads of State and Government or their representatives during the World Food Summit on 13 November 1996. The *Declaration* is accompanied by a *Plan of Action*, which provides specific details on the commitments adopted by the Declaration.

<sup>17</sup> Adopted at the 127<sup>th</sup> session of the Food and Agriculture Organization (FAO) Council in November 2004.

<sup>18</sup> Paragraph 1, *Declaration of the High-Level Conference on World Food Security: the Challenges of Climate Change and Bioenergy*.

Food availability laws are laws governing agrarian reform, agricultural policy and trade measures, as these relate to access to land, agricultural productivity, and food supply (*see Table I*).

Behind the agrarian reform law is the dual spirit of “re-distribution of wealth and providing access to land for food production,” which are reflected in the leasehold program, acquisition of land, profit sharing,<sup>19</sup> and stock distribution. The law also includes provisions on support services such as training, credit support, infrastructure and organization. The law is accompanied by other laws that provide credit support for agrarian reform beneficiaries and agriculture in general,<sup>20</sup> support services for irrigation,<sup>21</sup> creation of sources of revenue for support services to agriculture,<sup>22</sup> and automatic appropriation of the ill-gotten wealth from President Ferdinand Marcos<sup>23</sup> and his family.

<b>Table 1. Food Availability Laws</b>
<p><i>On Agriculture, Agrarian Reform and Fisheries</i></p> <ul style="list-style-type: none"> <li>• RA 3844, October 1963</li> <li>• PD 27, <i>Rice and Corn Land Reform</i>, 21 October 1972</li> <li>• PD 717, <i>Providing an Agrarian Reform Credit and Financing System for Agrarian Reform Beneficiaries through Banking Institutions</i>, also known as the <i>Agri-Agra Law</i>, 29 May 1975; amended by EO 83, <i>Strengthening the Enforcement of the Agri-Agra Law and Launching the NDC Agri-Agra Erap Bonds for Rural Development</i>, 25 December 1998; Monetary Board Resolution No. 442, 7 April 1999 and Monetary Board Circular No. 196, Series of 1999</li> <li>• RA 6657, <i>Comprehensive Agrarian Reform Law</i>, 10 June 1998</li> <li>• RA 8435, <i>Agriculture and Fisheries Modernization Act of 1997</i>, 22 December 1997</li> <li>• RA 7607, <i>Magna Carta of Small Farmers</i>, 4 June 1992</li> <li>• RA 7900, <i>High Value Crops Development Act of 1995</i>, 23 February 1995</li> <li>• RA 9168, <i>Plant Variety Protection Act</i>, 7 June 2002</li> <li>• RA 7308, <i>Seed Industry Development Act of 1992</i>, 27 March 1992</li> <li>• RA 7884, <i>National Dairy Development Act of 1995</i>, 20 February 1995</li> <li>• RA 8550, <i>Philippine Fisheries Code</i>, 25 February 1998</li> </ul>
<p><i>On Irrigation</i></p> <ul style="list-style-type: none"> <li>• RA 6978, <i>An Act to Promote Rural Development by Providing for an Accelerated Program within a 10-Year Period for the Construction of Irrigation Projects</i>, 24 January 1991</li> </ul>
<p><i>On Trade</i></p> <ul style="list-style-type: none"> <li>• RA 8178, <i>Agricultural Tariffication Act</i>, 28 March 1996</li> <li>• RA 8752, <i>Anti Dumping Act of 1999</i>, 12 August 1999</li> <li>• RA 8800, <i>Safeguard Measures Act</i>, 19 July 2000</li> <li>• RA 8751, <i>Countervailing Duty Act of 1999</i>, 7 August 1999</li> </ul>
<p><i>On Bio-Fuels</i></p> <ul style="list-style-type: none"> <li>• RA 9367, <i>Biofuels Law</i>, 12 January 2007</li> </ul>

Philippine agricultural policy is enunciated in RA 8435 (Agriculture and Fisheries Modernization Act or AFMA), which aims to promote “industrialization and full employment based on agricultural development and agrarian reform. The AFMA also clearly and unequivocally provided for self-sufficiency in food staples of rice and white corn” and “committed state support for these objectives. This law, similar to RA 6657 (CARL), built on

<sup>19</sup>Profit sharing was a temporary measure prior to distribution of commercial farms under the deferment program.

<sup>20</sup> PD 717.

<sup>21</sup> RA 6978.

<sup>22</sup> RA 8178 (Agricultural Competitiveness Enhancement Fund)

<sup>23</sup> RA 6657, Section 65.

the twin goals of achieving equity and agricultural productivity. These objectives were to be achieved taking into account market approaches to the development of the agriculture and fisheries sectors. The law also indicated a clear bias towards ensuring the welfare of food consumers particularly those in lower income groups.” AFMA is “supplemented by RA 8550 (Philippine Fisheries Code), RA 7607 (Magna Carta for Small Farmers), RA 7884 (National Dairy Act), and RA 7900 (High Value Crops Act). All of these laws provide for state support to agriculture both as a means to ensure availability of food and as a means to increase incomes. Similarly, all these laws subscribe to the use of market forces with state support as the primary levers of development. These laws also provide for mechanisms for the involvement of stakeholders in the policy-development process.”

Trade measures arose as a result of accession to the GATT 1994 package and the inclusion of agricultural products to the commitments under the GATT. “The Philippines passed several laws that provide for trade remedies that can mitigate unfair trade practices of trading partners or react to sudden surges in imports due to the opening of the Philippines to imports. These laws<sup>24</sup> came even later than RA 8435 (AFMA). 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<sup>25</sup> such as onions, potatoes, garlic, coffee, livestock, seeds, and tobacco. In general, the Agricultural Tariffication Act removed the protection granted to small farmers from importation of agricultural products that are produced in sufficient quantity.<sup>26</sup>” The Philippines also “passed laws that sought to address the issue of development and intellectual property in seeds and planting materials. RA 7308 (Seed Industry Development Act) and RA 9168 (Plant Variety Protection Act) provided for means to develop the seed industry by providing incentives as well as protection to creators of new strains of plants.”

Food accessibility laws are laws that incorporate *physical* and *economic* access to food (*see Table 2*). Two Philippine laws<sup>27</sup> recognize food physical accessibility but access is “limited to enhancing the mobility of persons with disabilities—and not to enhancing physical access to food, especially by those most vulnerable to hunger.” Food economic accessibility is recognized in various laws on prices, income, access to credit, and special laws for those most vulnerable to hunger or in special situations.

**Table 2. Food Accessibility Laws**

*On Physical Accessibility*

- *Batas Pambansa 344, An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices, also known as the Accessibility Law, 25 February 1983*

<sup>24</sup> RA 8751 (Subsidies), RA 8752 (Anti-Dumping) and RA 8800 (Safeguard Measures)

<sup>25</sup> See Section 4 of RA 8178.

<sup>26</sup> See Section 4 of RA 8178 in relation to Section 23(10) of RA 7607

<sup>27</sup> BP 344 (Accessibility Law) and RA 7277 (Magna Carta for Disabled Persons).

**Table 2. Food Accessibility Laws (continued)**

<p><i>On Prices</i></p> <ul style="list-style-type: none"> <li>• RA 7581, <i>An Act Providing Protection to Consumers by Stabilizing Prices of Basic Necessities and Prime Commodities and by Prescribing Measures against Undue Price Increases during Emergency Situations and Like Occasions</i>, 27 May 1992</li> <li>• RA 71, <i>An Act Requiring Price Tags to be Affixed on all Articles of Commerce Offered for Sale at Retail and Penalizing Violations of Such Requirement</i>, 21 October 1946</li> <li>• RA 7394, <i>Consumer Act of the Philippines (particularly Articles 81-84)</i>, 13 April 1992</li> </ul>
<p><i>On Wages and Employment</i></p> <ul style="list-style-type: none"> <li>• PD 442 as amended, <i>The Labor Code of the Philippines</i>, 16 February 1976; amended by series of PDs, <i>Batas Pambansa laws, EOs and RAs</i>; see provisions in Title II, Book III on wages and Chapter 3, Title III, Book III on employment of house-helpers</li> <li>• RA 6727, <i>Wage Rationalization Act</i>, 9 June 1989; <i>Department of Labor and Employment Rules Implementing RA 6727</i>, 7 July 1989, revised by <i>National Wages and Productivity Commission of Department of Labor and Employment NWPC Guidelines No. 001-95, Revised Rules of Procedure on Minimum Wage Fixing</i>, 29 November 1995</li> <li>• RA 6971, <i>Productivity Incentives Act of 1990</i>, 22 November 1990; <i>Department of Labor and Employment Implementing Rules</i></li> <li>• RA 1161 as amended by RA 8282, <i>Social Security Law of 1997, May 1, 1997</i></li> <li>• RA 8291, <i>Revised Government Service Insurance System Act of 1977</i>, 30 May 1997</li> <li>• RA 7658, <i>An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for this Purpose Section 12, Article VIII of RA 7610</i>, 9 November 1993</li> <li>• RA 8042, <i>Migrant Workers and Overseas Filipinos Act of 1995</i>, 7 June 1995; <i>Secretary of Foreign Affairs and Secretary of Labor and Employment Omnibus Rules and Regulations Implementing RA 8042</i>, 29 February 1996</li> </ul>
<p><i>On Income Generating Opportunities</i></p> <ul style="list-style-type: none"> <li>• RA 7900, <i>High Value Crops Development Act of 1995</i>, 23 February 1995</li> <li>• RA 8289, <i>Magna Carta for Small Enterprises, amending RA 6977</i>, 30 September 1997</li> <li>• RA 8550, <i>Philippine Fisheries Code</i>, 25 February 1998.</li> <li>• RA 7277, <i>Magna Carta for Disabled Persons</i>, 24 March 1992</li> <li>• RA 8371, <i>the Indigenous Peoples Rights Act of 1997</i>, 29 October 1997</li> <li>• RA 8972, <i>Solo Parents' Welfare Act of 2000</i>, 7 November 2000</li> </ul>
<p><i>On Access to Credit</i></p> <ul style="list-style-type: none"> <li>• RA 7394, <i>Consumer Act of the Philippines</i>, 13 April 1992</li> <li>• RA 7192, <i>Women in Development and Nation Building Act</i>, 12 February 1992</li> <li>• RA 8425, <i>Social Reform and Poverty Alleviation Act</i>, 11 December 1997</li> </ul>
<p><i>Special Laws and Regulations for Those Most Vulnerable or in Special Situations</i></p> <ul style="list-style-type: none"> <li>• RA 6972, <i>Barangay-Level Total Development and Protection of Children Act</i>, 23 November 1990</li> <li>• RA 7610, <i>An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination Providing Penalties for its Violation and for Other Purposes</i>, 17 June 1998</li> <li>• <i>Rules and Regulations on Children in Situations of Armed Conflict, Secretary of Justice with conformity of Secretary of Social Welfare and Development</i>, 21 January 1994.</li> <li>• RA 9257, <i>Expanded Senior Citizens Act of 2003</i>, 26 February 2004; <i>Department of Social Welfare and Development Rules and Regulations Implementing RA 9257</i>, 25 May 2004</li> <li>• RA 8504, <i>the Philippine AIDS Prevention and Control Act of 1998</i>, 13 February 1998</li> </ul>

Laws governing food prices “do not significantly contribute to hunger mitigation.” “RA 7581 (Price Act) is a temporary special measure designed to keep food prices stable only during emergency situations.”<sup>28</sup> While the law allows the imposition of price ceilings on food staples

<sup>28</sup> Those brought about by natural disasters or calamities, or during the suspension of the privilege of the writ of *habeas corpus*, or during martial law, a state or emergency, or state of rebellion, or acts of war.

under certain circumstances, the law is so vaguely written<sup>29</sup> that it becomes virtually impossible to determine exactly when price ceilings should be imposed. RA 71 (Price Tag Law) merely requires that price tags be affixed to all articles of commerce offered for sale at retail outlets. In like manner, Articles 81 through 84 of RA 7394 (Consumer Act of the Philippines) mandate that no products may be sold at a price higher than what is stated in its price tag, which must be written clearly, without erasures or alterations. RA 7394 also stipulates additional label requirements for food products, such as its expiry date, processing status (i.e., semi-processed, fully processed, ready to cook, ready to eat, prepared food or plain mixture), nutritive value, and natural or synthetic ingredients used.”

Laws on wages and employment “are generally unfavorable to workers.” “PD 442 as amended (Labor Code of the Philippines) statutorily sets minimum wage rates while RA 6727 (Wage Rationalization Law) sets the standards for increasing minimum wages. While statutorily setting minimum wages may contribute to easing hunger, this contribution is compromised when wage levels do not allow minimum wage earners the opportunity to access food.” In addition, “RA 6727 (Wage Rationalization Law) requires that wages be set ‘as nearly adequate as is economically feasible to maintain minimum standards of living necessary for health, efficiency and general well being of employees within the framework of the national economic and social development program.’ Considering that information on food expenditures and family living wages are available to NWPC, it appears that when it comes to wage increases, other standards (i.e., fair return of capital invested, productivity and inducing industries to invest) weigh more heavily than the needs of workers and their families.” More importantly, “while minimum wage rates may be increased ‘whenever conditions warrant,’ no additional wage increases are allowed for a period of one year from the date of increase; however, if prices rise faster than wages, as they most commonly do, the one year delay in setting wage increases could exacerbate the hunger situation among workers.”

Other laws generally unfavorable to workers include: RA 6971 (Productivity Incentives Act), which “provides incentives to capital and ties productivity bonuses—which are not salary increases—to increases in the company’s productivity, resulting in limited contributions to hunger alleviation among wage earners;” and RA 7658 (An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings), which “allows the employment of children below the age of 15 only under two circumstances;<sup>30</sup> because the law does not include provisions on who manages the child’s income and how such income should be managed, it is not possible to determine the nature or extent of its influence over the hunger situation of working children.”

The authors also looked into three laws, which, while not directly related to the right to adequate food, impact nonetheless on it; these include RA 1161 as amended by RA 8282 (Social Security Law of 1997) and RA 8291 (Revised Government Service Insurance System Act of 1977), which “deal more with the right to social security than with right to food; however, benefits under both

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<sup>29</sup> For example, price ceilings may be imposed whenever there are “widespread acts of illegal price manipulation” but when exactly does this condition exist?

<sup>30</sup> When under sole responsibility of parents/legal guardian and only members of employer’s family are employed or where the child’s employment or participation in public entertainment or information through cinema, theater, radio or television is essential.

programs may conceivably be used to address hunger;” and RA 8042 (Migrant Workers and Overseas Filipinos Act), which “contains contradictory state policies; while on the one hand it claims not to promote overseas employment, on the other hand, it encourages the deployment of Filipinos overseas. Such contradictory policy could indicate a bias towards promoting overseas employment opportunities rather than building domestic employment opportunities.”

The authors also reviewed laws that potentially provide income-generating opportunities, noting “while these laws could contribute to easing the hunger situation, some contain inherent defects, while others require strict and effective implementation.” The authors note, for example, that “RA 7900 (High Value Crops Development Act of 1995) promotes agricultural productivity of high value crops for export to increase foreign exchange earnings of the country; while income generated from the cultivation of high value crops could conceivably ease the hunger situation among farmers, diverting agricultural lands from the production of food staples like rice and corn into high value crop production may compromise the availability of food.”

Among the income-generating opportunity laws requiring strict implementation are RA 8550 (Philippine Fisheries Code), which “reserves fishery and aquatic resources for exclusive use of Filipinos and gives preference to municipal fisher folk in the grant of Fishpond Lease Agreements and access to municipal waters, fishery and aquatic resources, requires at least 10 percent of all credit and guarantee funds of government financing institutions to be made available for post harvest and marketing projects, mandates support for municipal fisher folk through various mechanisms and requires the formulation of a comprehensive post harvest and ancillary industries plan;” RA 8289 (Magna Carta for Small Enterprises), which “simplifies rules of procedure and requirements for the registration of small and medium scale enterprises and coordinates all efforts and services of government that focus on small enterprises,” including development initiatives in terms of finance, technology, production, management and business linkages for globally competitive small and medium scale enterprises, direct and indirect project lending, venture capital, financial leasing, secondary mortgage and/or rediscounting of loan papers to small businesses; RA 7277 (Magna Carta for Disabled Persons), which “reserves, for persons with disabilities, 5% of *casual*, *emergency* and *contractual* positions—not regular or permanent positions—in the Departments of Social Welfare and Development, Health, Education and other government agencies, offices or corporations engaged in social development;” RA 8371 (Indigenous Peoples Rights Act of 1997), which “recognizes the rights of indigenous peoples to water, basic services, health and infrastructure, and their rights to full ownership and control over indigenous seeds and other indigenous plant genetic resources;” and RA 8972 (Solo Parents’ Welfare Act of 2000), which “provides a comprehensive package of support facilities for disadvantaged solo parents, including livelihood development services for solo parents living below the poverty threshold.”

Laws governing access to credit “influence the hunger situation in limited ways since they do not actually enlarge access to credit.” The authors considered RA 7394 (Consumer Act of the Philippines), which “protects food consumers by mandating stricter standards governing credit transactions and practices, requiring full disclosure of all information required to allow consumers to make informed credit decisions, and providing avenues for consumer complaints related to credit transactions and practices;” RA 7192 (Women in Development and Nation Building Act), which “grants women the capacity (*not the right*) to borrow and obtain loans and

execute security and credit arrangements under the same conditions as men, equal access to all government and private sector programs granting agricultural credit, loans and nonmaterial resources, and equal treatment in agrarian reform and land resettlement programs. This law does not include special credit quotas and other similar temporary special measures that will enhance women's access to credit;" and RA 8425 (Social Reform and Poverty Alleviation Act), which emphasizes the extension of credit facilities and microfinance to the poor, establishes a microfinance program, and requires existing government financing institutions to extend savings and credit services to the poor through special credit windows. "Interestingly, this law, which creates the National Anti-Poverty Commission and serves as the country's centerpiece law for poverty alleviation, does not include targeted temporary special measures to mitigate hunger among the poor such as feeding programs, food aid, food subsidies etc."

Special laws that help improve the hunger situation among those most vulnerable include: RA 6972 (Barangay-Level Total Development and Protection of Children Act), which requires the establishment of day care centers in every barangay for children up to 6 years old with feeding programs within the center and at home, the conduct of growth and nutritional monitoring with supplementary nutrition feeding and supervision of nutritional intake at home, and the creation of a prenatal and neonatal care referral and support system for pregnant mothers; RA 7610 (Special Protection against Child Abuse, Exploitation and Discrimination Act), which explicitly declares deprivation of food a form of child abuse that carries criminal liability; and RA 9257 (Expanded Senior Citizens Act of 2003), which grants older persons discounts for basic commodities, including food.

Special laws and regulations that could exacerbate the hunger situation of those most vulnerable include: the Rules and Regulations on Children in Situations of Armed Conflict, which "allow government to prevent or limit the delivery of goods (including food items) into areas of armed conflict if the delivery will directly interfere with ongoing combat operations or will endanger the lives or safety of those delivering goods for no longer than three days, so long as the restriction will not lead to starvation of those inside combat areas; once combat operations cease, the Peace and Order Council is required to expedite the release of the goods. This may compromise the right to food of children in situations of armed conflict;" and RA 8504 (Philippine AIDS Prevention and Control Act of 1998) and BP 344 (Accessibility Law), since neither law recognizes the right to food of persons living with HIV and persons with disabilities, nor contain provisions that could significantly influence the hunger situation of these vulnerable groups.

Food safety laws are laws on the nutritive quality of food, safety standards and regulation, and sanitation and "ensure that food available for consumption contains enough nutritive values and is free from contaminants and other microorganisms" (*see Table 3*).

Two laws that deal with the nutritive quality of food "have the potential to enhance food safety, if these are properly implemented. RA 7600 (Rooming-In and Breastfeeding Act) recognizes the right of the mother to breastfeed and the right of the child to mother's breast milk and requires all private and government health institutions that have adopted rooming in and breastfeeding practices to provide equipment, facilities and supplies for breast milk collection, storage and utilization. RA 8172 (Act for Salt Iodization Nationwide) requires all food grade salt producers

and manufacturers to iodize the salt produced, manufactured, imported, traded or distributed in the country, to use iodized salt in the processing of food products, and to make iodized salt available in areas endemic to iodine deficiency disease.”

<i>Table 3. Food Safety Laws</i>
<p><i>On Nutritive Quality of Food</i></p> <ul style="list-style-type: none"> <li>• <i>EO 51, Adopting a National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Related Products, Penalizing Violations thereof and for Other Purposes, 20 October 1986</i></li> <li>• <i>RA 7600, Rooming-In and Breastfeeding Act of 1992, 2 June 1992</i></li> <li>• <i>RA 8172, An Act for Salt Iodization Nationwide, 29 December 1995; Implementing Rules and Regulations</i></li> <li>• <i>RA 8976, Philippine Food Fortification Act of 2000, 7 November 2000</i></li> </ul>
<p><i>On Safety Standards and Regulation</i></p> <ul style="list-style-type: none"> <li>• <i>RA 3720, An Act to Ensure the Safety and Purity of Goods, Drugs and Cosmetics being made available to the Public by Creating the Food and Drug Administration which shall Administer and Enforce the Laws Pertaining Thereto, 22 June 1963; amended by EO 175, 22 May 1987</i></li> <li>• <i>RA 7394, Consumer Act of the Philippines, 13 April 1992</i></li> <li>• <i>RA 7160, the Local Government Code of 1991, 10 October 1991; see Article 8, Title 5, Book III on powers and duties of Health Officer, including those related to sanitation</i></li> <li>• <i>EO 292, Revised Administrative Code of 1987, 25 July 1987; see Section 48 (4), Chapter 6, Title IV on specific functions of the National Meat Inspection Service (formerly Commission)</i></li> <li>• <i>EO 137, Providing for the Implementing Rules and Regulations Governing the Devolution of Certain Powers and Functions of the National Meat Inspection Commission to the Local Government Unit pursuant to RA No. 7160, otherwise known as the Local Government Code of 1991, 28 November 1993</i></li> </ul>
<p><i>On Sanitation</i></p> <ul style="list-style-type: none"> <li>• <i>RA 7160, Local Government Code of 1991, 10 October 1991; see Article 8, Title 5, Book III on powers and duties of Health Officer, including those related to sanitation.</i></li> </ul>

Two other laws, however, may need to be enhanced: EO 51 (Milk Code) has the potential to promote food safety, but a Supreme Court case, which allows the advertising, promotions and sponsorships of infant formula, breast milk substitutes and other related products,<sup>31</sup> may compromise that potential. “RA 8976 (Philippine Food Fortification Act of 2000) requires the fortification of food to compensate for inadequacies in the Filipino diet.” “Unfortunately, the law does not contain clear standards or criteria governing the selection of vehicles for voluntary food fortification, such as, for instance, requiring fortification only for food that already has some nutritional value or clearly identifying specific food that should not be eligible for fortification (for example, food containing high levels of fat, salt or sugar). Such standards would prevent indiscriminate marketing and promotion of fortified food products of questionable nutritional quality.”

Laws setting food safety standards include: RA 3720 (An Act to Ensure the Safety and Purity of Foods, Drugs and Cosmetics being made available to the Public by Creating the Food and Drug Administration which shall Administer and Enforce the Laws Pertaining Thereto), which “requires the Bureau of Food and Drugs to collect, analyze, test and inspect food products and materials, establish analytical data, recommend standards of identity, purity, quality and fill of container, issue certificates of compliance with technical requirements, conduct spot checks for compliance, and regulate shipments of incoming food;” RA 7394 (Consumer Act of the Philippines), which “requires local government units to regulate the preparation and sale of meat,

<sup>31</sup> *Pharmaceutical and Health Care Association of the Philippines v. Health Secretary Francisco T. Duque III, et. al.* G.R. No. 173074, October 9, 2007.

fresh fruits, poultry, milk, fish, vegetables and other foodstuff for public consumption,” and various government agencies to inspect and analyze consumer products related to agriculture, establish standards and quality measures for food, and develop and adopt a consumer education program; RA 7160 (Local Government Code, Title 5, Article 8), which “requires the Sangguniang Bayan and the Sangguniang Panlungsod to enact ordinances to regulate the construction and operation of public markets, slaughterhouses, and animal corrals and creates the position of veterinarian at the provincial, city and, if necessary, municipal levels;” EO 292 (Revised Administrative Code of 1987, particularly Section 48 (4), Chapter 6, Title IV), which “designates the National Meat Inspection Service to conduct actual *ante mortem* inspection of all animals presented for slaughter and *post mortem* inspection of all carcasses intended for human consumption in all abattoirs,” and “exercise overall supervision and control over the management and operations of all abattoirs, dressing plants, meat processing plants and meat markets;” and EO 137 (Providing for the Implementing Rules and Regulations Governing the Devolution of Certain Powers and Functions of the National Meat Inspection Commission to the Local Government Unit pursuant to Republic Act No. 7160, otherwise known as the Local Government Code of 1991), which “further clarifies the powers and functions of the National Meat Inspection Service by requiring it to exercise technical supervision over the establishment and operations of slaughterhouses and formulate policies, guidelines, rules and regulations setting quality and safety standards over the establishment and operations of slaughterhouses, the marketing, preservation, and inspection of meat and meat products, and the import and export of meat and meat products.”

The law on sanitation, “RA 7160 (Local Government Code, Title 5, Article 8) directs local health officers to conduct sanitary inspections of all business establishments selling food and recommend the prosecution of any violation of sanitary laws, ordinances or regulations.”

### **Legal Framework Analysis: Findings**

De los Reyes and Diokno (2008) assessed the Philippine legal framework, and looked into available recourse mechanisms, national human rights institutions, law-making process, and awareness of the right to adequate food. The authors found the “Philippine legal framework governing the right to food falls short of the imperatives for realizing the right to food. The Philippine legal framework does not sufficiently incorporate human rights obligations arising from the right to food; neither does it heed the *Right to Food Guidelines*.” The authors’ specifically found:

- 1 *Lack of explicit recognition of the right to adequate food in the Philippine Constitution, thus resulting in weak Philippine legal framework.*

De los Reyes and Diokno (2008) found that the 1987 Philippine Constitution “**does not** explicitly recognize the right to food” but the right “may be inferred from various human rights provisions and from the constitutional intent to address mass poverty,” such as provisions mandating policies to improve the quality of life for all,<sup>32</sup> foster social justice,<sup>33</sup> promote agrarian reform,<sup>34</sup>

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<sup>32</sup> Section 9, Article II in relation to Section 1, Article XII, 1987 Philippine Constitution.

<sup>33</sup> Section 10, Article II in relation to Sections 1 and 3, Article XII, 1987 Philippine Constitution.

<sup>34</sup> Section 21, Article II in relation to Sections 4, 5 and 6, Article XIII, 1987 Philippine Constitution,

and recognize the rights of subsistence fishermen to the preferential use of communal inland and offshore marine and fishing resources.<sup>35</sup>

The authors point out: “If the right to food is inferred from various constitutional provisions, a Supreme Court decision weakens the right by ruling that some human rights are ‘not judicially enforceable rights.’ In *Tondo Medical Center Employees Association, et. al. v. The Court of Appeals, et. al.*,<sup>36</sup> the Supreme Court ruled that several provisions of the 1987 Constitution<sup>37</sup> are ‘not judicially enforceable rights. These provisions, which merely lay down a general principle, are distinguished from other constitutional provisions as non-self-executing and, therefore, cannot give rise to a cause of action in the courts; they do not embody judicially enforceable constitutional rights.’”

Thus, the authors conclude: the “Constitution’s failure to explicitly recognize the right to food and the suggested ‘Guidelines for legislation,’ weaken the legal framework governing the right to food.”

2 *Lack of national food policy to serve as overarching framework to address hunger, thus resulting in incoherent, non-complementary and even conflicting Philippine legal framework.*

De los Reyes and Diokno (2008) evaluated 47 Philippine laws affecting food availability, food accessibility, and food safety. The authors assessed the compatibility of these laws with international human rights obligations and looked into related implementation issues. The authors found that despite the vast number of laws and Constitutional provisions, the country has not adopted a national food policy that could serve as its overarching framework to address hunger. The lack of a national food policy explains why the Philippine legal framework is not coherent, not complementary, and at times, even conflicting.

The authors found that the Philippine legal framework is “a good base upon which to ensure availability of food, but it does not increase physical access to food, and its contributions towards strengthening food economic accessibility are marginal, at best. The most positive aspect of the food legal framework is its emphasis on improving food safety.”

On the extent of compatibility with human rights obligations, the authors found mixed results: some laws were compatible with some obligations, while others were not.

The obligation of progressive realization<sup>38</sup> was partially complied with, but the steps taken “are clearly insufficient to alleviate the hunger situation in the country. In the area of food prices, for

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<sup>35</sup> Section 7, Article XIII, 1987 Philippine Constitution.

<sup>36</sup> G.R. Number 167324, 17 July 2007.

<sup>37</sup> Rights to health, education, work, and rights of the family, youth, workers, and persons with disabilities.

<sup>38</sup> Among the steps taken are: crafting a land reform law, facilitating mobility for persons with disabilities; providing limited employment and income opportunities for persons with disabilities; requiring the use of price tags; stabilizing prices in emergency situations; creating a social security regime for employees in the public and private sectors; requiring growth and nutritional monitoring; enhancing access to credit; supporting the development of small and medium scale industries; guaranteeing the rights of indigenous peoples; reserving fishery and aquatic resources for the exclusive use of Filipinos, with priority given to municipal fisher folk; developing a comprehensive

instance, the laws only really mandate the use of price tags, while defects in laws relating to income generating opportunities could nullify steps taken to progressively realize the right to food.”

Core obligations are not adequately addressed; “While some laws may be compliant with core obligations,<sup>39</sup> other laws are clearly incompatible with core obligations.<sup>40</sup> Compliance of other laws<sup>41</sup> with core obligations depends to a large degree on their interpretation and implementation.”

There are “isolated laws<sup>42</sup> that incorporate aspects of obligations of equality and nondiscrimination. This is notable in the selection of women as agrarian reform beneficiaries and in the clear bias of the agrarian reform program to be gender sensitive in providing for women as farmer-beneficiaries. But, there are laws that discriminate against women and adversely impact on their hunger situation.<sup>43</sup> The legal framework does not consider gender factors and issues affecting food production, purchase, preparation, consumption and distribution within the household. Relevant laws do not recognize that women primarily take care of feeding their families and so do not value women's productive and household work and do not recognize the multiple burdens carried by women.” Because the laws appear to be gender blind, implementation issues arise, including lack of preferential treatment or quota systems for women fishers and women farmers especially in the grant of titles, leasehold agreements, credit,

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program of services for solo parents and their children; promoting breastfeeding, food fortification, salt iodization, and the establishing food regulatory, sanitation and inspection systems.

<sup>39</sup> For example, the Barangay-Level Total Development and Protection of Children Act, which requires a feeding program at the barangay level, the Philippine Fisheries Code, which reserves marine resources for municipal fisher folk, the Expanded Senior Citizens Act, which grants discounts to the elderly, including special discounts for the purchase of basic necessities, and the Milk Code and the Rooming-In Act, which promote breastfeeding.

<sup>40</sup> The minimum wage law does not appear to comply with core obligations to ensure freedom from hunger for minimum wage earners and their families in the 6<sup>th</sup> and 7<sup>th</sup> income deciles who rely solely on minimum wages for survival. The prohibition against night work for women likewise does not appear to comply with the obligation to ensure that women are free from hunger.

<sup>41</sup> For example, the social security laws, the Labor Code’s provision requiring that wage adjustments for house helpers be undertaken by agreement of the parties, the law tying bonuses to increases in business productivity, and the law promoting agricultural productivity of high value crops.

<sup>42</sup> For example, the Labor Code prohibits discrimination of women in the payment of compensation, and the grant of promotions, training opportunities, study and scholarship grants by virtue of their sex, pregnancy or marital status. The Migrant Workers Overseas Filipinos Act affirms the fundamental equality of women and men and requires the application of gender sensitive criteria in formulating policies and programs and in the composition of bodies tasked for the welfare of overseas Filipino workers. The Indigenous Peoples Rights Act prohibits discrimination against indigenous peoples and recognizes the equal rights of indigenous women. The Women in Development and Nation Building Act recognizes the role of women in nation building and ensures fundamental equality of women and men. The Special Protection of Children against Child Abuse, Exploitation and Discrimination Act pays special attention to children of indigenous peoples and prohibits any form of discrimination against children. The law on HIV/AIDS prohibits the denial of access to credit and loan services to any person on the basis of actual, perceived or suspected HIV status, provided the person with HIV/AIDS has not concealed or misrepresented his/her status upon application. The Solo Parents Act prohibits discrimination against any solo parent on account of his/her status.

<sup>43</sup> A provision in the Labor Code prohibits women from working at night; this is tantamount to outright discrimination against women and a diminution of women’s access to food. Also while RA 8187 amending the Labor Code grants paternity leave, it limits paternity leave only to *married male employees*, which is likewise discriminatory. In addition, many food accessibility laws do not require women’s participation in various boards or agencies created by law.

microfinance, access to pre- and post-harvest facilities, marketing, technology transfer, capital, fishing gear or equipment, lack of information targeting addressed to women, non-inclusion of women in various councils and boards created to address hunger, and requirements such as husband's signature to access credit.

“The Philippine legal framework does not incorporate obligations of international cooperation, reflecting a lack of appreciation of the importance of these kinds of obligations in addressing the hunger situation in the country.”

The obligation to respect is not highlighted in the Philippine legal framework. “Incorporating the obligation to respect the right to food would enhance the Philippine legal framework because it would then stipulate prohibited actions that encroach upon the integrity and rights of all, especially those most vulnerable to hunger. The obligation to respect the right to food may be seriously affected by the implementation of the Biofuels Act if its implementation is not integrated into an over-all agricultural policy plan.”

The obligation to protect “is most incorporated in the Philippine legal framework which is replete with provisions listing offenses and corresponding penalties, administrative sanctions, due process requirements, and available recourse mechanisms.<sup>44</sup>”

The obligation to fulfill (facilitate) “is incorporated in the Philippine legal framework through information dissemination, provision of incentives, appropriate technology and research, credit, production and marketing assistance, discounts for senior citizens, conduct of independent and periodic surveys and studies on selling prices of basic necessities and prime commodities and their impact on family income, requiring employers to give house helpers below 18 years of age the opportunity to finish at least elementary education, requiring compulsory membership in social security programs for both public and private employees, and simplifying procedures and requirements for the registration of small and medium scale industries. This obligation is also highlighted in the protection against the diversion of agricultural land to non-agricultural uses. However, the agrarian reform law emphasizes zoning over and above actual use of the land in determination of exempted land.<sup>45</sup> This has led to large tracts of land devoted to agricultural use

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<sup>44</sup> For example, by punishing discrimination, imposing price ceilings in times of emergency, prohibiting other forms of payment of wages, prohibiting interference in the disposal of wages, prohibiting wage deductions unless mandated by law, prohibiting retaliatory measures against employees who file complaints against their employers, penalizing illegal acts of price manipulation, vesting the Department of Labor and Employment with visitorial and enforcement powers, providing indemnity for unjust termination of household services, penalizing fraudulent claims for social security benefits, punishing illegal recruitment, punishing child abuse, creating standards to govern credit transactions and practices, establishing and enforcing standards for high value crops, imposing administrative sanctions and penalties on lending institutions for non compliance with the law, requiring free and prior informed consent before access to biological and genetic resources and to indigenous knowledge related to conservation, utilization and enhancement of resources, regulating access to fishery and aquatic resources, requiring monitoring, control and surveillance systems for fisheries and aquatic resources, limiting entry into over-fished areas, banning disposition or alienation of public lands suitable for fishery, penalizing illegal fishing acts etc., mandating quality assurance and safety standards (including weights, volume, fill standards, food grade iodized salt standards, etc.), regulating the sale and distribution of food and of abattoirs, monitoring food products, requiring the conduct of inspections and the issuance of safety certifications, clearly defining adulterated and mislabeled food, unsafe food additives, deceptive food advertising etc.

<sup>45</sup> See DOJ Opinion 44 Series of 1990.

being excluded from coverage under the law and consequently being diverted to non-agricultural use.”

“The obligation to fulfill (provide) is also found in the Philippine legal framework through the implementation of feeding programs for children in barangay day care centers and at home, and the provision of free iodized salt to indigents in 6<sup>th</sup> class municipalities for three years from the date the law became effective.<sup>46</sup>”

The authors also compared the Philippine legal framework against the *Right to Food Guidelines*, and found “in general, the Philippine legal framework falls short of the Guidelines.” The authors’ assessment is presented in Table 4.

<b>Table 4. Legal Framework Assessment Based on Right to Food Guidelines</b>			
<b>Voluntary Guidelines</b>		<b>Assessment</b>	
2.2	Assessment of economic and social situation including nutrition and food safety in consultation with key stakeholders	Not fully compliant	Assessment under Philippine laws does not require consultation with key stakeholders, and is primarily undertaken by public agencies with some private sector representation
3.4	Adoption of national poverty reduction strategy that specifically addresses access to adequate food	Not fully compliant	Social Reform and Poverty Alleviation Act, the country’s national poverty reduction law, does not specifically address access to food, and adopts and implements <i>minimum basic needs approach</i>
7	Legal framework	Partly compatible	Constitution and laws do not clearly and explicitly recognize right to adequate food
7.1	Facilitation of progressive realization of right to adequate food	Not fully addressed	Laws have only limited potential to contribute to progressive realization of the right to adequate food
7.2	Remedies	Addressed with reservations	Remedies incorporated in most laws; AFMA contains provisions on legislative oversight but manner of implementation not reviewed in accord with explicit recognition of right to adequate food so measuring compliance with state obligations problematic; recourse mechanisms severely lacking in ensuring state compliance with obligations, but mechanisms for protection of individuals from acts of other non-state actors well developed
7.3	Information on rights and remedies	Not addressed	Laws only require information dissemination of rights of persons with disabilities or food safety issues and concerns and related offenses and penalties
7.4	Access by women heads of households to poverty reduction and nutrition security programs and projects	Not addressed	No law specifically enhancing access to food by women heads of households

<sup>46</sup> RA 6972, Barangay Level Total Development and Protection of Children Act and RA 8172, Act for Salt Iodization Nationwide.

**Table 4. Legal Framework Assessment Based on Right to Food Guidelines**

<b>Voluntary Guidelines</b>		<b>Assessment</b>	
8 and 8.1	Access to resources and assets	Partially consistent	Philippine Fisheries Code gives priority to municipal fisher folk, including women and youth; Indigenous Peoples Rights Act recognizes rights of indigenous peoples to full ownership, control and protection of, among others, plant genetic resources, seeds, vital medicinal plants, animals and minerals, etc.; High Value Crops Development Act focuses on upland dwellers, lowland tenants, indigenous peoples, agrarian reform beneficiaries, farmer organizations or cooperatives, farm workers and community associations; Philippine legal framework also provides mechanisms allowing landless farmers' access to land they can productively till and exploit
8.2	Access of vulnerable persons to opportunities and economic resources	Limited; negated	While there are laws for indigenous peoples, women, solo parents, older persons, persons with disabilities and persons living with HIV, these laws do not recognize their right to adequate food, so address food access issues in very limited ways; effects of Agricultural Tariffication Act double-edged as it exposed small farmers to vagaries of trade liberalization by allowing importation of agricultural goods at same time created Agricultural Competitiveness Enhancement Fund for increasing productivity of small farmers; full effect of twin measures calls for quantification of net effect on small farmers
8.4	Promotion of agricultural research and development and basic food production with "positive effects on basic incomes and benefits to small and women farmers"	Not addressed	Labor Code provision prohibiting night work for women diminishes women's access to food
8.5	Access by medium and small scale farmers to research results enhancing food security	Not addressed	
8.9	Improving access to labor market	Not addressed	
8.6	Promotion of women's full and equal participation in economy and implementation of gender-sensitive legislation	Partially addressed	Philippine Fisheries Code includes provisions granting access by women to fishery and aquatic resources, and Migrant Workers Overseas Act requires application of gender sensitive criteria in policies and plans for overseas Filipino workers
8.7	Mechanisms of access and appropriate use of agricultural land directed to poorest populations	Addressed	Various mechanisms instituted by laws including technology transfer, access to credit, cooperative systems, grant of incentives, etc.
8.8	Remuneration "allowing for an adequate standard of living for rural and urban wage earners and their families"	Not addressed	
8.10	Land	Generally fulfilled	Implementation of agrarian reform program providing security of tenure to tenants and allowing landless farmers, including women, to own land re-distributed by State; women specifically allowed to be beneficiaries in their own right

<b>Table 4. Legal Framework Assessment Based on Right to Food Guidelines</b>			
<b>Voluntary Guidelines</b>		<b>Assessment</b>	
8.11	Water	Fulfilled	Irrigation Development Act provides infrastructure to ensure water availability for farmers, but must be balanced by policies providing for safe drinking water and need for power; tug-of-war in use of water must be addressed to satisfy contending needs
8.12	Genetic resources for food and agriculture	Partially fulfilled	While Plant Variety Protection Act subject of criticism for integrating agriculture into a commercial relationship insofar as planting materials are concerned, it still provides for use and recognition of traditional varieties of seeds that may protect genetic resources for food and agriculture
9, 9.1 and 9.2	Food safety and consumer protection	Generally compliant	Laws adopted to ensure food safety and include food-control systems
9.3	Elimination of gaps and overlaps in inspection systems and in legislative and regulatory framework and use of scientific food standards	Generally compliant	Food safety laws designate Bureau of Food and Drugs to undertake food products analysis, inspection and certification using scientifically based standards, including Codex Alimentarius standards; National Meat Inspection Service tasked to undertake meat/fowl inspections and issue safety certifications; provincial veterinary officer responsible for meat/fowl regulation under supervision of National Meat Inspection Service; and local public health officer responsible for sanitation inspections
9.4	Establishment of national coordinating committee for food	Generally compliant	National Nutrition Council established as highest policy making and coordinating body on nutrition, tasked, among others to “supervise, coordinate and evaluate the implementation of the integrated Philippine Food and Nutrition Program” <sup>47</sup>
9.5	Assistance to farmers and primary producers to follow good agricultural practices	Partially fulfilled	AFMA provides policy framework for extension support to farmers and processors of food
9.6	Education on safe practices for food manufacturers and consumers and information dissemination on food safety concerns	Compliant	
9.7	Protection of consumers from deception and misrepresentation	Compliant	
9.8	International assistance and cooperation	Not addressed	
9.9	Participation of key stakeholders in food policy discussions	Partially compliant	While many laws establish various bodies, laws do not specifically designate participation by those most vulnerable to hunger
10	Nutrition	Compliant with some provisions	

<sup>47</sup> Section 5, Presidential Decree 491, *Creating a National Nutrition Council and For Other Purposes*.

<b>Table 4. Legal Framework Assessment Based on Right to Food Guidelines</b>			
<b>Voluntary Guidelines</b>		<b>Assessment</b>	
10.1	Dietary diversity and healthy eating habits and feeding patterns	Compliant	Food fortification and salt iodization adopted by law
10.2 and 10.10	Prevention of over-consumption and unbalanced diets; Cultural values of dietary and eating habits	Compliant	Some laws require food education and information dissemination
10.7	Parallel action in health, education and sanitary infrastructure	Compliant	Other laws require inclusion of consumer education program in curricula of elementary and secondary levels and for out-of-school youth
10.3	Involvement of all relevant stakeholders	Inconsistent	Laws do not require full participation of all key stakeholders
10.5	Promotion and encouragement of breastfeeding	Inconsistent	Milk Code and Rooming In laws were adopted, but ban on advertising breast-milk substitutes invalidated by Supreme Court
10.6	Information on feeding of infants and young children, including issues regarding breastfeeding and HIV infection	Inconsistent	Information dissemination requirements included in Milk Code but there is no information requirement on breastfeeding and HIV infection
10.4	Specific food and nutritional needs of persons living with HIV	Not addressed	AIDS law does not address food and nutritional needs of persons living with HIV
10.8	Eradication of discriminatory practices	Not addressed	
10.9	Recognition of food as important aspect of culture	Not addressed	
11	Education and awareness raising	Partially addressed	
11.1 and 11.2	Human resource development; primary education opportunities especially for girls and women	Addressed	Indigenous Peoples' Rights Act, Philippine Fisheries Code, Solo Parents' Act, and Article 146 of Labor Code on employment of house helpers include support for human resource development
11.3	Agricultural and environmental education	Partially addressed	Agricultural and environmental education not required by relevant laws, but consumer education required at primary and secondary levels of public education
11.4 to 11.11	Higher education; information to support public participation; improvement of housing conditions; human rights education; right to food training and awareness-raising; capacity building	Not addressed	

De los Reyes and Diokno (2008) considered implementation issues relating to food safety, food availability and food accessibility laws in the Philippines. The authors could not find any data on the implementation of food safety laws. The authors note that while the “regulatory framework for processed foods is largely in place,” the “regulation of food to ensure its safety is lodged with different agencies of government,”<sup>48</sup> and the “regulation and monitoring of

<sup>48</sup> See Philippine Food Safety Framework. Submitted to the ASEAN Food Safety Network. Accessed on August 6, 2008 at <http://aadcp.aseanfoodsafetynetwork.net/Portals/0/Documents/PHILIPPINE%20FOOD%20SAFETY%20FRAMEWORK.pdf>

unprocessed food sourced from local wet markets is largely left to the local government units.” The authors recognize current initiatives of the Department of Health “to coordinate a food safety framework that will allow the department to be able to track the different initiatives.”

On food availability issues, the authors primarily looked into the agrarian reform laws and AFMA. The authors note: “the redistribution of land under the agrarian reform program remains an unfinished program after more than thirty-six years.<sup>49</sup> Access to land of farmers tilling or working on private agricultural land remains unreachable to around 1.4 million beneficiaries<sup>50</sup> working on 1.8 million hectares of land. This has seriously impaired the availability of food to these beneficiaries and greatly affected their capacity to earn incomes that will allow access to food resources.” The authors also recognized the “serious setbacks” in the implementation of the Agriculture and Fisheries Modernization Act (AFMA):

1. “The budget by components (in percentage terms) was not followed;
2. There was bias for production-support, and less and less in marketing, R & D, human resources development and inter-agency linkages;
3. There was little concern for regional priorities;
4. The need for sound criteria for project selection was not explicit;
5. The role of private investments in growth and job creation was not explicit; and
6. Program benefit monitoring and evaluation (PBME) was severely inadequate which, in part, affected the effectiveness of the Review Team to conduct deeper analyses.”<sup>51</sup>

In addition, the authors recognized that “non-implementation of the key provisions, primary of which is the budget allocation to agriculture and fisheries, has typified the neglect to agriculture.”

The authors saw “the dysfunction between the policy of the government to increase agricultural productivity and the agrarian reform program.” The authors also recognized policy controversies between laws on agricultural productivity and agrarian reform on the one hand, and laws on agricultural tariffication, support for biofuels, international trade, incentives to agricultural production (including fiscal incentives), and intellectual property, on the other hand. The authors strongly urged harmonization of these dysfunctions.

But, at the same time, the authors also urged clearer policy directions, including appropriate budget support to ensure food availability. The authors stress: “While market forces will primarily determine the allocation of resources, government must institute the policy directions to ensure that the availability of food is not impaired.”

On food accessibility issues, the authors zeroed in on the lack of clarity of food economic accessibility laws, particularly the Price Act, and noted that, as a result of vague provisions,

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<sup>49</sup> This is reckoned from October 21, 1972 upon the passage of Presidential Decree 27(1972).

<sup>50</sup> Department of Agrarian Reform Planning Service, *CARP Summary of Data*, (Unpublished presentation, December 2007)

<sup>51</sup> Roland T. Dy et al, *Modernizing Philippine Agriculture and Fisheries, The AFMA Implementation Experience*, (University of Asia and the Pacific and Congressional Oversight Committee on Agricultural and Fisheries Modernization, National Agricultural and Fishery Council, Center for Research and Communication, Sikap/STRIVE Inc, Quezon City, Philippines, 2008), page xlix. Hereinafter referred to as “The AFMA Study”.

“prosecution under this law has been very hard and its enforcement is similarly difficult.” The Price Act penalizes three acts of illegal price manipulation (hoarding, profiteering and the act of forming a cartel) but the law does not contain clear standards to effectively prosecute anyone for any of these acts. For example, the law defines hoarding as maintaining stocks beyond normal inventories; the law says that evidence sufficient to prove hoarding consists of instances where inventories increase by 50 % more than the **usual** level of inventory and the merchant refuses to sell the stock upon discovery. No other standards exist to properly identify hoarding, and prosecute hoarders. The same vagueness attaches to the definitions of profiteering and forming a cartel. In addition, the authors noted that implementing the Price Act would result in “a logistical nightmare that calls for massive administrative capabilities. While implementation is lodged with various agencies, there is no dedicated agency that fulfills this function except the Department of Trade and Industry.”

The authors recognize that “the Price Act seeks to control prices and availability” under emergency conditions that “do not contemplate situations that are brought under the normal course of price increases in basic commodities that affect the most vulnerable. Arguably, the Price Act may allow the determination of a price ceiling in cases of unreasonable increases in prices.<sup>52</sup> However, the determination of price ceilings is still by and large subject to market forces.”

The authors acknowledge the lack of a law mandating direct food provision to those most vulnerable. Despite the absence of a law, the authors noted the *Ahon Pamilyang Pilipino Program* (APP) of government—“essentially a cash transfer program conditioned on the fulfillment of several requirements by qualified families or members of the families. Some of these requirements are enrollment in schools, attending family planning classes or regular preventive check-ups.”

The authors noted that the program “is currently not covered by any legislation and has been criticized as an expenditure that is not rooted in any budgetary allocation. Without necessarily examining this legal issue, it is sufficient to state that the APP is a transitory and unprogrammed activity. This is a program of the current administration and thus raises concerns. Foremost among these is the issue of accountability and continuity as a program. The provision of these cash transfers may not survive beyond the current administration. The lack of a clear legal basis also makes it difficult for the rights-holders to demand the continued provision from the State. Finally, the assessment of the program similarly lacks any basis beyond the program documents. This does not mean that the program itself is unsound or should not be undertaken. It simply means that the lack of a clear legal basis breeds uncertainty in assessing the legal framework. This also precludes enforcement under the judicial system to provide for adequate food to the most vulnerable groups.”

- 3 *National budget does not reflect bias for addressing hunger situation, thus causing “issues of poor performance in implementation of the laws coupled with a failure to harmonize conflicting policies.”*

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<sup>52</sup> See Section 7 of RA 7581.

De los Reyes and Diokno (2008) also looked into the impact of the national budget on the right to adequate food, since “it reflects the extent of government spending to address the hunger situation in the country. Based on a line item analysis, the 2007 national budget was reclassified by human right and function.” The authors found 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 2007 national budget. The lack of priority given by the national budget to the right to food does not indicate a bias towards alleviating the hunger situation in the country.”

The authors disaggregated “right to food allocations by typology of obligations,” and found “that government was more concerned with allocating funds to enable it to comply with its obligations to fulfill (facilitate) the right to food, which received the largest share (89.47%) of total food allocations. 8.52% of total food allocations were allotted to enable government to fulfill (provide) the right to food. Obligations to protect the right to food were least funded, receiving only 1.25% of total food allocations.” The authors also disaggregated these allocations by normative element, and found that “ensuring food physical accessibility appears to be the highest priority of government spending, as this received more than half (55.14%) of total food allocations. One-third (33.56%) of total food allocations was allotted to food availability, 10.15 % to food economic accessibility, and less than one half of one percent (0.40%) to food adequacy and safety.”

The authors also compared budgetary allocations over three years, and found that “allocations for the right to food *decreased* in 2006 by 8.41 % then *increased* in 2007 by 15.22 %. From 2005 to 2007, budgetary allocations for the right to food *increased* by 5.52 %. As a share of the country’s total budget, however, budgetary allocations for the right to food actually *decreased* from 7.41 % in 2005 to 6.57 % in 2007.”

#### 4 *Recourse mechanisms to vindicate violations of right to adequate food in place but may be negated; mechanisms to enforce fulfillment of state obligations inexistent.*

De los Reyes and Diokno (2008) also reviewed the country’s available recourse mechanisms, classifying them “into three main forms of action. The first is forcing the state to fulfill its obligations by undertaking programs or allocating resources to implement the right to food. The second is to prevent the state from engaging in acts that may violate the right to food. The third measure is to use the enforcement mechanisms of the state to protect an individual’s right to food that may have been violated by another individual or juridical entity.”

The authors found loopholes and pitfalls in the recourse mechanism to compel the state to implement its fulfillment-bound obligations, as this would require “a discovery process that will inquire into the circumstances behind government’s decision or inaction,” but because “the concept and doctrine of executive privilege has been rapidly expanding,” “attempts at discovering the reasons or the basis of proposed policies will be extremely difficult.” The authors also found that “forcing the legislature to allocate resources is also doubtful,” citing a Supreme Court case holding “that the act of the executive to pursue an automatic appropriation for payment of the debt in the budget submitted to Congress was simply in compliance with such

law. Without the Court explicitly saying so, the wisdom of allocation of resources of the State is a function that is a political decision of the executive branch and the legislature.”

Thus, the authors doubted whether “any recourse mechanisms under the judicial system to force the state to allocate resources or undertake an act in pursuance of the right to adequate food under the ICESCR, the *Right to Food Guidelines*, or Optional Protocol, will prosper under the current jurisprudence.” The authors also believe that cases seeking to enforce the obligation of progressive realization had “doubtful chances of success.”

As far as the second form of recourse mechanism is concerned (e.g., “seek[ing] to prevent the government or its agents from violating the economic, social or cultural rights of individuals”), the authors acknowledged that the Supreme Court had enforced economic, social and cultural rights on various occasions. The authors found that where cases involved claims of violations of economic, social and cultural rights based on a law, “acts of the government or its agents have been proscribed based on the clear standards of the statute.” But cases involving “violations of economic, social and cultural rights based solely on constitutional provisions had lesser chances of being proscribed.”

The authors found that the third form of recourse mechanism (e.g., to prevent third parties from violating the right to adequate food) is “well enshrined in the Philippine system.” By way of example, the authors noted: “violation of access to land under the agrarian reform law may be prevented by using the quasi-judicial powers of the Department of Agrarian Reform,” and violations of food safety laws may be redressed through, among others, the “withdrawal of authorization for the manufacture, importation and distribution of food injurious to human health, criminal prosecution of violation of food safety laws aside from withdrawal of products from the market, suits for damages over and above the remedies under the Revised Penal Code and food safety laws,” etc.

The authors stress: “The main barrier to the use of these mechanisms is the larger issue of access to justice. This may take the form of financial barriers that prevent the engagement of advocates or the opportunity cost that such a suit will entail. This is similarly compounded by the inefficiencies in the judicial system attributed to heavy caseloads, severe lack of lawyers and a failure in case flow management.”

5 *National human rights institutions contribute little to address hunger and provide redress for breaches of the right to adequate food, due in large measure to limitations in mandates.*

De los Reyes and Diokno (2008) also looked into the roles, mandates and activities of the Commission on Human Rights and the Office of the Ombudsman. The authors found that “limitations in their mandates or ... lack of integration of their mandates to the right to food” result in insignificant contributions “to address the hunger situation in the country, and vindicate breaches of the right to food.”

The Commission on Human Rights is primarily mandated “to investigate cases involving violations of *civil and political rights*.<sup>53</sup>” The Supreme Court expressly ruled that “the

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<sup>53</sup> Section 18, Article XIII, 1987 Constitution.

Commission's investigative power [is limited] to only all forms of human rights violations *involving civil and political rights*.”<sup>54</sup> As a result and because the right to adequate food is an *economic, social and cultural right*, the Commission is excluded from investigating any violations of the right to adequate food.

“While the Constitution limits the Commission on Human Rights’ mandate to investigate *civil and political rights*, the Constitution does *not*, however, similarly limit its recommendatory, research and monitoring powers. Hence the Commission undertook a project to ‘develop a common framework for monitoring government’s compliance with its obligations on the right to food.’<sup>55</sup>” The Commission’s project involved the correlation of right to food obligations with government agencies, the identification of “sets of indicators on food adequacy, food sustainability, food availability, food accessibility, and food safety, and corresponding responsible agencies. No performance indicators were set to measure food acceptability. This project appears to be the only activity the Commission has undertaken to promote the right to food in the country.”

The Office of the Ombudsman is mandated “to investigate all kinds of malfeasance (wrongful or unlawful act) and nonfeasance (failure to act when a duty to act existed) committed by any public officer or employee during his/her tenure of office (including acts that appear illegal, unjust, improper or inefficient, non-performance of any act or duty required by law, abuse or impropriety in the performance of official duties) and determine causes of inefficiency, red tape, mismanagement, fraud, and corruption in government.”

“The Office of the Ombudsman is governed by Republic Act 6770.<sup>56</sup> This law expands to some degree the powers, functions and duties of the Office.<sup>57</sup> However, this law does not directly link these powers to human rights obligations, much less to those related to the right to food. Because of this, statistics provided by the Office do not provide sufficient basis to determine whether it investigates public officials who may be remiss in their duties related to the right to food.”

## 6 Law making process leaves much to be desired.

De los Reyes and Diokno assessed 37 laws “to determine the extent to which human rights principles of *participation, accountability, nondiscrimination, transparency, human dignity,*

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<sup>54</sup> Citing *Simon v. Commission on Human Rights*, G.R. No. 100150, 5 January 1994; *Cariño v. Commission on Human Rights*, G.R. No. 96681, 2 December 1991; and *Export Processing Zone Authority v. Commission on Human Rights*, GR No. 191476, 14 April 1992.

<sup>55</sup> Commission on Human Rights, “Indicators on the Right to Food,” A Terminal Report on the Pilot-Study: Rights-Based Indicators on Selected Economic, Social and Cultural Rights prepared by the Government and Linkages Office (GovLink), Commission on Human Rights of the Philippines, undated.

<sup>56</sup> *An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman and for Other Purposes*.

<sup>57</sup> For example, the law grants the Office of the Ombudsman primary jurisdiction over cases cognizable by the *Sandiganbayan* and disciplinary authority over all elective and appointive officials of the government, including Cabinet members, local government, government-owned and controlled corporations, and their subsidiaries, except government officials who may be removed only by impeachment, members of Congress and the judiciary.

*empowerment* and *rule of law* were incorporated in law-making at the House of Representatives. In general, the law making process fails to meet these principles.”

The authors found that “participation in law making was determined by invitations extended by the relevant committee. Efforts to reach out to those most vulnerable to hunger were largely dependent on the nature of the bill. Of the 37 laws assessed, participation of those most vulnerable to hunger (i.e., farmers, agricultural workers, fisher folk, workers, persons with disabilities, older persons, women, children and the urban poor) was evident in the formulation of 9 laws.<sup>58</sup> Those most vulnerable to hunger were under-represented, raising questions about the participatory nature of law making.” The authors also found that “women’s rights advocates were present at the committee meetings on 2 laws<sup>59</sup> while child rights advocates were present at the committee meetings on 2 laws.<sup>60</sup> Consumer groups were represented at the committee meetings on 3 laws.<sup>61</sup> Private sector representatives (i.e., investors, manufacturers, retailers, fishpond owners, importers, traders, flour and sugar millers, seed, wheat and grains producers, representatives from the steel industry, tin industry, petroleum industry and glass industry, and representatives of chambers of commerce) participated in the deliberations of 14 laws.<sup>62</sup> Departments and agencies of government and government-owned and controlled corporations participated in the formulation of practically every law adopted by the House of Representatives.”

On accountability, the authors were not able “to identify [legislators’] financial and business interests and assess the extent to which these interests influenced the laws” as “copies of the *Statements of Assets, Liabilities and Net Worth* of legislators who deliberated and acted on these laws” were not made available to them. The authors, however, found: “There is no standard number of committee meetings required to deliberate on and approve a bill. Some laws were passed after only one committee meeting, while others were passed after 8 to 15 committee meetings.” The authors further found: “Not all members attended every committee meeting. In some meetings, only one member was present; in other meetings, as few as 2 to as many as 46 members were present. Most committee meetings lasted between one to two hours; the short

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<sup>58</sup> RA 8178 (Agricultural Tariffication Act); RA 8550 (Philippine Fisheries Code); RA 7900 (High Value Crops Development Act); RA 6982 (Social Amelioration Program in Sugar Industry); RA 7277 (Magna Carta for Disabled Persons); RA 6727 (Wage Rationalization Act); RA 7658 (An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for this Purpose Section 12, Article VIII of Republic Act 7610); RA 8425 (Social Reform and Poverty Alleviation Act); and RA 9257 (Expanded Senior Citizens Act of 2003).

<sup>59</sup> RA 6972 (Barangay Level Total Development and Protection of Children Act) and RA 7192 (Women in Development and Nation Building Act).

<sup>60</sup> RA 6972 (Barangay-Level Total Development and Protection of Children Act) and RA 7610 (An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination Providing Penalties for its Violation and for Other Purposes).

<sup>61</sup> RA 7394 (Consumer Act of the Philippines); RA 7581 (Price Act); and RA 8172 (Act for Salt Iodization Nationwide).

<sup>62</sup> RA 6978 (Accelerated Program for Construction of Irrigation Projects); RA 7308 (Seed Industry Development Act); RA 8800 (Safeguard Measures Act); RA 8178 (Agricultural Tariffication Act); RA 8550 (Philippine Fisheries Code); RA 8752 (Anti-Dumping Act); RA 6982 (Social Amelioration Program in the Sugar Industry); RA 7581 (Price Act); RA 7394 (Consumer Act of the Philippines); RA 7277 (Magna Carta for Disabled Persons); RA 8291 (Revised Government Service Insurance System Act of 1977); RA 8289 (Magna Carta for Small Enterprises); RA 8425 (Social Reform and Poverty Alleviation Act); and RA 9257 (Expanded Senior Citizens Act of 2003).

period of time, together with under-attendance by committee members, are not indicative of a high degree of accountability in the rule making process.”

The authors looked into non-discrimination in lawmaking “through the extent of participation of indigenous peoples and women in the process. The indigenous peoples were *not* represented during the deliberations of 37 laws. In the deliberation of 4 laws,<sup>63</sup> *no* women were present. Women outnumbered men in the deliberations of only 3 laws;<sup>64</sup> women and men were equally represented in the committee meeting on one law.<sup>65</sup> Men outnumbered women in the deliberations of the rest of the laws. The ratio of women to men who were present during committee meetings varied from 1:10 to 4:10. Under-representation of women in committee meetings contributed to the apparent gender-blindness of many laws.”

On transparency, the authors found that “copies of bills, inputs, transcripts and other documents are available only upon verbal or written request at the Legislative Archives of the House of Representatives. Bills, transcripts and other committee documents are written in English and contain many legal and technical terms; these documents would not be easily understood by those most vulnerable to hunger. Despite being public records, copies of the *Statements of Assets, Liabilities and Net Worth* of legislators are not readily accessible. Greater transparency in law making may be enhanced if documents were more readily accessible and were written in more easily understandable forms and media.”

On human dignity, the authors found that “while many bills appeared to have paid attention to those most vulnerable to hunger, potential risks arising from the bills were not identified so that risk management to prevent starvation and hunger was not factored into the final laws. In addition, no real hunger mitigation strategies were considered, deliberated upon and included in the final laws. It is thus questionable whether the human rights principle of human dignity was espoused and promoted in the formulation of these laws.”

On empowerment, the authors doubted “whether those most vulnerable to hunger were encouraged to engage in rulemaking because they were not generally invited to participate in the process. Because of under-representation in law-making, efforts of those most vulnerable to hunger to bring about the necessary changes to address their situation were not referenced in the laws. Also, the dimensions of power relations and structures were not exhaustively discussed during committee meetings, so these did not find their ways into the laws. The law making process does not appear to result in the empowerment of those most vulnerable to hunger.”

On rule of law, the authors found that “in the formulation of laws, access to justice, a key element of the rule of law embodied in the Constitution<sup>66</sup> and in human rights treaties,<sup>67</sup> was not

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<sup>63</sup> RA 6978 (An Act to Promote Rural Development by Providing for An Accelerated Program within a 10-Year Period for the Construction of Irrigation Projects); RA 8751 (Countervailing Duty Act); RA 6982 (Social Amelioration Program in the Sugar Industry); and RA 8371 (Indigenous Peoples Rights Act of 1997).

<sup>64</sup> RA 7192 (Women in Development and Nation Building Act); RA 8972 (Solo Parents’ Welfare Act of 2000); and RA 7600 (Rooming-In and Breastfeeding Act of 1992).

<sup>65</sup> RA 9257 (Expanded Senior Citizens Act of 2003).

<sup>66</sup> Section 11, Article III, 1987 Constitution; *see also* Sections 12(1), 13, 14, 16, 19(1), Article III, 1987 Constitution.

<sup>67</sup> *See* Articles 2(3), 14, and 17(2) of the International Covenant on Civil and Political Rights; Articles 2 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women; Articles 4, 37, 39 and 40 of the

discussed.” Access to justice involves, among others, costs of seeking justice, but costs were not considered during the formulation of the 37 laws. “Laws relevant to the right to food would be more effective if the human rights principle of the rule of law were truly incorporated in law making.”

### *7 Government and public awareness of the right to adequate food lacking.*

De los Reyes and Diokno (2008) considered the extent of government and public awareness of the right to adequate food and the obligations arising from it. The authors found that government agencies concerned with the right to adequate food were aware of the right, its normative elements and the obligations to respect, protect and fulfill, largely as a result of a project of the Commission on Human Rights. The authors, however, noted, the rudimentary or elementary nature of awareness of these government agencies, concluding: “Given the initial lack of awareness by government agencies of state obligations, and the apparent failure of the Commission to initiate in-depth discussions on the varying levels and nature of state obligations, it appears that government is still largely unaware of its obligations related to the right to food.”

Public awareness of the right to adequate food, and the obligations arising from it, was measured through a survey conducted by the Social Weather Stations (SWS) in the 3rd week of June 2008.<sup>68</sup> The survey found that only one out of five Filipinos heard or read anything about the right to adequate food. Awareness of the right “is slightly higher in Metro Manila (25%) and Visayas (24%).” Awareness appears to correlate with both income and education: those with higher income and higher educational attainment are more likely to have heard or read about the right to adequate food.

Respondents were also asked to describe the right to adequate food. Roughly two-thirds described the right, while the remaining third said they did not know how to describe the right. Respondents able to describe the right said it was having the correct food, freedom from hunger, right to choose nutritious food, affordable food, etc. These descriptions indicate a basic understanding of the right.

To determine the extent of awareness of the obligation to protect the right to adequate food, respondents were asked “whether or not industrial activities on productive lands or other natural resources could impact availability of food as it relates to their right to food.” Three-fourths of the respondents said industrial activities could impact on agricultural production and on the right

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Convention on the Rights of the Child; and Articles 5 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination.

<sup>68</sup> “The survey had a national sample of 1,200 statistically representative adult respondents, for an error margin of  $\pm 3\%$  at the national level and  $\pm 6\%$  at the major study areas: Metro Manila, Balance Luzon, Visayas and Mindanao. The survey utilized face-to-face interviews using a structured questionnaire with visuals. ... 13% of the adult respondents are from Metro Manila, 44% from Balance of Luzon, 20% from Visayas and 23% from Mindanao. Fifty-six percent are from urban areas and 44% are from rural localities. ... 6% [of respondents came from] classes ABC, 65% [from] class D and 29% [from] class E. Thirteen percent of adults had at most some elementary education; 30% finished elementary education/had some high school education; two-fifths (45%) finished high school/completed vocational school/attended some college, while 11% graduated from college or took post-graduate studies. Male and female respondents have a 1 to 1 ratio, and thus, are alternately sampled. By age group, 13% are youth (18-24), 24% are intermediate youth (25-34), 22% are middle aged (35-44), 21% are 45 to 54 years old and 20% are 55 years old and above.”

to adequate food, indicating “a rather high [public] awareness.” Location, income and educational attainment appear to correlate with awareness: awareness is higher in Metro Manila, among classes ABC and D, and among college graduates.

To determine the level of awareness of the obligation to respect the right to adequate food, respondents were presented with a case, and asked to choose the course of action government should take. The case involved the construction of a hydro-electric dam that will supply electricity to several cities and towns, but will partially submerge portions of public land occupied by farmers planting corn and other subsistence crops. More than a third of the respondents said ‘government should not build the dam at all;’ one-fifth said government could build the dam but must ‘pay the farmers disturbance compensation equivalent to the value of their crops, their houses, and other developments that they have made on the land;’ one-third said ‘government should build the dam only after the farmers have been adequately compensated and resettled in a decent place;’ and “twelve percent (12%) suggested that the government should build the dam and pay the farmers disturbance compensation equivalent to the value of their standing crops.” Only 2% said “government should ‘build the dam and evict the farmers.’” The varied responses appear to indicate a lack of a common understanding of the obligation to respect the right to adequate food.

Respondents were presented with four options from which they were asked to choose the option that best represented government’s obligations to consumers of food products (e.g., protect and fulfill (facilitate) the right to adequate food). Almost a third of the respondents chose the “obligation to ensure that food products are properly labeled as to their content/ingredients & nutritional information.” About a fourth chose “the obligation to monitor and regulate the prices of all food products,” while another fourth chose the obligation to “monitor and regulate the prices of basic food products.” One fifth chose the obligation to enact and enforce regulations to ensure the safety of food products. Again, the different responses indicate a lack of common awareness of obligations arising from the right to adequate food.

Awareness of the obligation to fulfill (provide) was measured through two questions: respondents were first asked whether the government had to feed them and their families “a) only in case of calamities and disasters, b) at all times, and c) not at all.” A little over half of the respondents said government must feed them *only in case of calamities and disasters*, “14% maintain that this should be done ‘at all times.’ About a third (32%), however, maintain ‘it is NOT the obligation of the government to feed me and my family at any time.’” Respondents were also asked who should benefit from government-subsidized food products: “a) all consumers whether rich or poor, b) only for the poor, and c) not at all.” More than half of the respondents said “‘government should provide subsidized prices to all consumers whether rich or poor.’ Only a little more than one-third (35%), think that the ‘government should provide subsidized prices only for those who are poor,’ while a tenth (11%) say the ‘government should not sell subsidized prices to all.’” Based on these responses, there does not appear to be a common public understanding of the right to adequate food.

## Legal Framework Analysis: Recommendations

In light of their findings, De los Reyes and Diokno (2008) recommended three crucial steps:

*First*, the adoption of a national food framework law, “with the full and active participation of all actors in the public and private spheres, including those most vulnerable to hunger, along the lines recommended by the United Nations Committee on Economic, Social and Cultural Rights in *General Comment No. 12* (1999) and the Food and Agriculture Organization’s *Right to Food Guidelines* (2004).” The national food framework law should be based on the normative elements and obligations of the right to adequate food, which should inform the law’s purpose, goals, strategies, targets and benchmarks. It should prevent any form of discrimination in access to food and food resources, and should address critical issues in all aspects of food production, processing, distribution, consumption, food prices, income and employment, and other normative elements inherent in the right to food. It should identify all available resources and impose guidelines on the most cost-effective use of these resources. It should incorporate appropriate institutional mechanisms, administrative arrangements, monitoring mechanisms, recourse mechanisms, and anti-corruption measures.

The national food framework law based on the right to adequate food must address and redress prevailing national and international food conditions and hunger challenges facing the Philippines. Throughout the world, one in seven persons goes hungry every single day;<sup>69</sup> because only three agribusiness firms control more than 90% of grain trade worldwide,<sup>70</sup> these agribusinesses control the prices and supply of staple food consumed by those living in poverty worldwide. And, staple food prices are expected to double by 2030, with the average cost of key crops projected to increase by 120% - 180%.<sup>71</sup> In the Philippines, 9.4 million Filipinos are food-poor.<sup>72</sup> 66.7 % of Filipino households consume less than the dietary energy requirement.<sup>73</sup> In 2008, 16 % of all Filipino mothers and 11 % of all Filipino children experienced hunger and did not eat at all.<sup>74</sup> And, hunger keeps spreading: in 2011, more than one-fifth (22.5%) of all Filipino families, or an estimated 4.5 million families, experienced involuntary hunger.<sup>75</sup>

Thus it is, today, crucial to formulate, adopt and implement the national food framework law based on the right to adequate food. In crafting and implementing such a law, it is essential that the PANTHER principles be conscientiously applied through *responsible collective action* that guarantees *genuine, voluntary and free participation, accountability* of public officers and *responsibility* of peoples and organizations, *nondiscrimination* in law and in implementation, *transparency* of process in law formulation and implementation, promotion of *human dignity* through studied and careful risk assessment and mitigation, *empowerment* of those most vulnerable to hunger and incorporation of *rule of law* mechanisms to ensure non-violation of the right to adequate food.

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<sup>69</sup> OXFAM, 2011.

<sup>70</sup> OXFAM, 2011.

<sup>71</sup> OXFAM, 2011.

<sup>72</sup> National Statistical Coordination Board, 2009.

<sup>73</sup> Food and Nutrition Research Institute, 2008.

<sup>74</sup> Food and Nutrition Research Institute, 2008.

<sup>75</sup> Social Weather Stations, 2012.

*Second*, after adopting a national food framework law, “the rationalization of the food legal framework by synchronizing laws with the right to food, addressing contradictions in policy objectives within and among the various laws, correcting flaws and ambiguities, repealing those laws (or provisions in laws) that obstruct the realization of the right to food, 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.”

The authors specifically recommend, among others: (a) passing a law to stabilize the agrarian reform program; (b) reconciling contradictory implications on food availability and food accessibility of RA 7900 (High Value Crops Development Act); (c) amending the Price Act by clearly defining illegal acts of price manipulation and setting objective standards to allow the operation and enforcement of the law; (d) reconsidering the one year ban on granting minimum wage increases; and (e) incorporating temporary special measures in all appropriate laws to address the inherent disadvantages women face in the grant of titles, leasehold agreements, credit, microfinance, access to pre- and post-harvest facilities, marketing, technology transfer, capital, fishing gear or equipment, etc.; requiring information targeting addressed to women; including women in various councils and boards created to address hunger; and ensuring that gender-based decision making and gender division of labor in food production, preparation, distribution and consumption are referenced into all relevant laws.

*Third*, capacity development on the right to food, and the rights based approach.