

## 2012 RTAF Watch

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### The Philippine Legal Framework Governing the Right to Adequate Food

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

A survey conducted in March 2012 shows that about 23.8% of Filipino households claimed to have experienced hunger or have gone hungry at least once in the past three months.<sup>4</sup> This surpassed the 23.7% record high hunger rate in December 2008 in the middle of the food price crisis. The latest hunger figure translates to an estimated 4.8 million hungry families. Meanwhile, this first quarter data from the survey showed that 55% considered themselves poor and 37.3% considered themselves food-poor.

The number of Filipinos living in poverty increased by 4.4% between 2006 and 2009, from 22.2 million to 23.1 million.<sup>5</sup> Slower economic growth in the Philippines and abroad, and a soft domestic labor market threaten to push more Filipinos into poverty.

As a result, the Philippines will most likely miss the Millennium Development Goals of halving the proportion of poor households living below the food threshold and halving the proportion of underweight children below five years old by 2015.<sup>6</sup>

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The authors would like to thank Bernhard Walter, Martin Remppis, Christine Campeau and Biraj Patnaik for their valuable help in the review of the article.

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

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

<sup>4</sup> "First Quarter 2012 Self-Rated Hunger Incidence Survey." *Social Weather Stations*. 11 May 2012. <<http://www.sws.org.ph/>>.

<sup>5</sup> Virola, Romulo, A., "One Family Per 100 was Lifted Out of Food Poverty in 2009". *National Statistics Coordination Board*. 8 Feb. 2011. <<http://www.nscb.gov.ph/poverty/2009/default.asp>>.

<sup>6</sup> The results of the 7th National Nutrition Survey (NNS) in 2008 conducted by the FNRI show that there was a significant increase in the proportion of children aged 0-5 years who were underweight (a direct hunger indicator) from 24.6 percent in 2003 to 26.2 percent in 2008. <<http://www.sph.emory.edu/wheatflour/ttsgpublic/NNS.pdf>>

In addition to the ratification of the most important international treaties dealing with the right to adequate food (RtAF),<sup>7</sup> the government has adopted a vast array of laws purportedly to ensure the availability, accessibility and safety of food for its population. Yet it fails to realize the RtAF. This is due to certain provisions of various laws that are not coherent, not complementary, and at times, even in conflict with each other. These make the efforts of government to address the food problem highly unstable and the results unsatisfactory.

An assessment of the Philippine Legal Framework (PLF) governing the right to food was conducted in 2008.<sup>8</sup> The review of the policies included the legally binding international instruments, the 1987 Constitution, and specific laws governing the RtAF. The Philippines Constitution does not explicitly recognize the RtAF nor does a specific law on the right to food exist. RtAF recognition is rather inferred from various provisions and constitutional intent regarding the improvement of the quality of life for all, social justice, agrarian reform, and rights of subsistence. The analysis of the different policies related to food focused mainly on three criteria – availability, accessibility and safety.

**Food availability** laws relate to agrarian reform, agricultural policy, and trade measures as determinants of people's access to land, agricultural productivity, and food supply. The main conclusions of the assessment were that in response to the accession of the Philippines to the 1994 General Agreement on Tariffs and Trade (GATT) and the inclusion of agricultural products to this commitment, the Philippines passed several laws that provided trade remedies that could mitigate unfair trade practices, or undesirable reactions to sudden surges in imports due to the opening of the Philippines' borders. These laws<sup>9</sup> came even later than Republic Act (RA) 8435 that defines measures to modernize the country's agriculture and fisheries sectors to make them competitive in the market.<sup>10</sup> The tariffication of quantitative restrictions in agricultural products similarly gave way to the passage of RA 8178 (Agricultural Tariffication Act).

These laws were meant to protect local producers from the vagaries of liberalized trading in agricultural products. However, the Agricultural Tariffication Act had the effect of repealing laws that provided for prohibitions and quantitative restrictions on the importation of agricultural products such as onions, potatoes, garlic, coffee, livestock, seeds, and tobacco.<sup>11</sup> In general, the Agricultural Tariffication Act removed the protection granted to small farmers from importation of agricultural products that are produced in sufficient quantity in the country.<sup>12</sup>

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<sup>7</sup> International Covenant on Economic Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, Protocol II to Geneva Conventions, and the International Code of Marketing of Breast Milk Substitutes.

<sup>8</sup> De los Reyes, Virgilio, and Maria Socorro I. Diokno. The Philippines' Right to Food: an Assessment of the Philippine Legal Framework Governing the Right to Food. Rome: FAO, 2008. <[http://www.fao.org/righttofood/publi10/PHILIPPINES\\_assessment\\_vol2.pdf](http://www.fao.org/righttofood/publi10/PHILIPPINES_assessment_vol2.pdf)>.

<sup>9</sup> Republic Act No. 8751 of the Philippines (Subsidies), Republic Act No. 8752 of the Philippines (Anti-Dumping) and Republic Act No. 8800 of the Philippines (Safeguard Measures).

<sup>10</sup> Republic Act 8435 is also known as AFMA or Agriculture and Fisheries Modernization Act. It is an act defining measures to modernize the country's agriculture and fisheries sectors to make them competitive in the market. The law took effect February 9, 1998

<sup>11</sup> See Section 4 of Republic Act No. 8178 of the Philippines.

<sup>12</sup> See Section 4 of Republic Act No. 8178 of the Philippines in relation to Section 23(10) of Republic Act number 7607 of the Philippines.

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

<[http://www.seacouncil.org/seacon/images/stories/publications/afta\\_philippine.pdf](http://www.seacouncil.org/seacon/images/stories/publications/afta_philippine.pdf)>.

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

The study also showed that there are no safeguards to cushion the negative effects of food price volatility that affects first the most vulnerable groups.<sup>13</sup> In addition, it warned that the obligation to respect the RtAF could be seriously affected by the implementation of laws such as the Biofuels Act<sup>14</sup>, if their implementation is not integrated into an over-all agricultural plan and a national food policy.

Regarding the status of Agrarian Reform in the Philippines, it appears that the redistribution of land under the agrarian reform program remains unfinished after more than 36 years.<sup>15</sup> Access to land by farmers tilling or working on private agricultural land remains unreachable to around 1.4 million supposed beneficiaries working on 1.8 million hectares of land.<sup>16</sup>

**Food accessibility laws** incorporate both the physical and economic dimensions of access to food. Physical accessibility laws are so far limited to mobility such as ramps for persons with disabilities and do not focus on enhancing people's physical access to land to grow their own food.<sup>17</sup> Existing laws on economic accessibility do not have sufficient impact as they do not make food affordable for everyone. Laws on prices just refer to the requirement of price tags, while price regulation or price control is only used during calamities or emergency situations. Laws on wages and income are insufficient and to some extent have negative effects like the one-year ban on wage hikes. Credit laws do not address easy access to loans for small holders but enumerate rigid requirements and guidelines. Worse, most existing laws are not properly or fully implemented. On the other hand, there are special laws for the most vulnerable; for example, one requires day care centers to provide a feeding program, nutritional monitoring and supplementary feeding as it considers that food deprivation is a form of child abuse. Also, the Senior Citizens Law provides discounts for elderly people, especially on basic food items. However, the right to food of people with disabilities or people living with HIV and the specific obstacles they face are not legally recognized nor subject to particular attention. Widely discussed is the Government's Pantawid Pamilyang Pilipino Program (4Ps) Conditional Cash Transfer Program (CCT) that entitles all extreme poor families with children below 14 to receive financial support if regular health checks are received and the children attend school. The program improves children's economic access to food. Despite the remarkable coverage, the 4Ps CCT is criticized because of the limited quality and availability of the conditioned services and the focus on one aspect of poverty, whereas others are neglected. It is not part of a coherent food policy.

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

<sup>13</sup> Idem fn. 8.

<sup>14</sup> For more information see: <http://www.undp.org/content/undp/en/home/librarypage.html>

<sup>15</sup> This is reckoned from October 21, 1972 upon the passage of Presidential Decree 27(1972).

<sup>16</sup> Agrarian reform is very slow. CARPER has so much backlogs: in Luzon Island alone, farmers reported 58,101.87 has affecting 13,325 ARBs of land yet to be released under the agrarian reform program. Save Agrarian Reform Alliance. "Luzon-Wide Consultation and Assessment on Agrarian Reform/CARPER: Synthesis". *Focus on the Global South*. 11 April 2012.

<http://www.focusweb.org/philippines/state-of-agrarian-reform-report-2012/article/584-luzon-wide-consultation-and-assessment-on-agrarian-reformcarper-inisyal-na-buod>.

<sup>17</sup> Physical accessibility to food is made more difficult due to land grabbing. See report: Daniel, Shepard and Anuradha Mittal. *The Great Land Grab: Rush for the world's farmland threatens food security for the poor*. Oakland: The Oakland Institute, 2009.

[http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/LandGrab\\_final\\_web.pdf](http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/LandGrab_final_web.pdf).

**Food safety laws** refer to the nutritive quality of food, safety standards and regulations, and sanitation that ensure that food available for consumption contains enough nutritive values and is free from contaminants and other harmful microorganisms. These include aspects of food fortification, salt iodization, breastfeeding/milk code or food safety standards, whose inspection, monitoring and regulation are the responsibilities of the Food and Drug Administration, National Meat Inspection Service, and Local Government Units.

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

- The lack of a national food policy to serve as overarching framework to address hunger that results in incoherent, non-complementary and even conflicting legal mechanisms. This situation has led to major problems in program planning and implementation.
- The weak political will of the government to eradicate hunger that is reflected in the national budget. In 2012 only Php70.8 billion (around \$1.65 billion) was allocated to the departments of agriculture and agrarian reform compared to Php106.9 billion (around \$2.8 billion) for the defense department.<sup>18</sup>
- Complaint and recourse mechanisms with regard to violations of the RtAF are formally in place but are insufficient and inefficient in practice.
- The national human rights institutions have limitations in their mandate and give less attention to economic, social and cultural rights violations, especially of the right to food, in comparison with civil and political human rights violations.

### **Strategies to regain control: Moving forward**

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

Three crucial steps may help resolve the complex, serious and persistent problems brought about by hunger:

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

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<sup>18</sup> General Appropriations Act, Fiscal Year 2012. <[http://www.dbm.gov.ph/?page\\_id=775](http://www.dbm.gov.ph/?page_id=775)>.

- ⤴ **Second**, using the national food policy to rationalize the legal framework governing food by synchronizing laws, addressing contradictions in policy objectives, correcting flaws and ambiguities, repealing laws that obstruct the realization of the RtAF, aligning the national budget to the national food policy, enhancing the mandates of the national human rights institutions, and improving the process of law-making.
- ⤴ **Third**, capacity development on the right to adequate food, and the promotion of the rights based approach for the establishment and implementation of the national policy governing the right to adequate food for all and to monitor the State's human rights accountability.

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

The new focus must be consistent with the human rights system. This will allow the Philippines to overcome its historical trend of inequality and have the chance to base its development on consensus, inclusion and dignity. Toward this end, various civil society organizations (CSOs) deemed fit to initiate a campaign focusing on the right to adequate food as a means of highlighting the issues and to encourage other sectors to participate in addressing the problems brought about by hunger and poverty in the country.<sup>19</sup>

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