

**The Parallel Report on the
Philippines' Right to Adequate Food**

FIAN Philippines

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ACRONYMS

4Ps	Pantawid Pamilyang Pilipino Program
A&F	Agriculture and Fisheries
AFMA	Agriculture and Fisheries Modernization Act
ALI	Ayala Land Inc.
A.O.	Administrative Order
ARBO	Agrarian reform Beneficiaries Organizations
ARMM	Autonomous Region in Muslim Mindanao
CADT	Certificate of Ancestral Domain Title
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reform
CESCR	Committee on Economic, Social and Cultural Rights
CCT	Conditional Cash Transfer
CEDAW	Convention on the Elimination of Discrimination Against Women
CEO	Chief Executive Officer
CHR	Commission on Human Rights
CLOA	Certificate of Land Ownership Award
CRAF	Commission on the Right to Adequate Food
CSOs	Civil Society Organizations
DAR	Department of Agrarian Reform
DARAB	DAR Adjudication Board
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DSWD	Department of Social Welfare and Development
FAO	Food and Agriculture Organization
FARM	Farm Workers Agrarian Reform Movement
FNRI	Food and Nutrition Research Institute
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSIS	Government Service Insurance System
HB	House Bill
HCHR	House Committee on Human Rights
HLI	Hacienda Luisita Incorporated
HRBA	Human Rights Based Approach
IBON Foundation	A non-profit research, education and information-development institution with programs in research, education and advocacy based in the Philippines
IP	Indigenous People
IPRA	Indigenous Peoples Rights Act
ICESCR	International Covenant on Economic, Social and Cultural Rights
KMP	Kilusang Magbubukid ng Pilipinas
LAD	Land Acquisition and Distribution

LGU	Local Government Unit
MDG	Millennium Development Goal
NAPC	National Anti-Poverty Commission
NCR	National Capital Region
NFC	National Food Coalition
NGO	Non-Government Organization
NPA	New People's Army
NRI	National Nutrition Survey
NSCB	National Statistics Coordination Board
OFW	Overseas Filipino Workers
PARC	Presidential Agrarian Reform Council
PDAF	Priority Development Assistance Fund
PDI	Peoples Development Institute
PSA	Philippine Statistics Authority
PWD	Persons with Disabilities
RA	Republic Act
RtAF	Right to Adequate Food
RTFN	Right to Food and Nutrition
SB	Senate Bill
SDO	Stock Distribution Option
SIDECO	Sicogon Development Corporation
SSS	Social Security System
SWS	Social Weather Stations
Yolanda (Haiyan)	Super typhoon that hit the Philippines in Nov. 2013; international name is Haiyan

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1. The Right to Food and the Nutrition Situation in the Philippines

1.1. Hunger and Malnutrition

Despite being one of the world's potentially fastest growing economies, hunger and poverty persist in the Philippines today. There are 13.7 million people (13.5 % of the total population) in the Philippines who are undernourished at present.¹ Although the Philippines is among the 31 countries that have achieved the UN Millennium Development Goal (MDG) Target 1c to halve the proportion of hungry people, or to bring it under 5 percent by 2015², a closer look at the indicators reveals a different picture. According to the Food and Nutrition Research Institute (FNRI), the principal government agency monitoring food and nutrition, 19.9% or almost one in every five Filipino children below five years old are underweight. The target for this specific indicator is 13.5%. Similarly, the proportion of households with per capita energy less than 100% adequacy is 65.2%, while the target is 37.1%.³ These figures clearly indicate not only that the Philippines is far behind in achieving this particular MDG Goal, the prevalence of undernutrition and hunger still a major issue of public concern.

There is a substantial regional disparity in the nutritional well-being of the population. For example, while stunting among children below five was 22.4% in the National Capital Region (NCR – Metro Manila) was lower than the national average of 30.3%, the highest rates were in the Bicol region (39.8%) and the Autonomous Region in Muslim Mindanao (39%). The Mindanao region has suffered from over four decades of armed conflict, resulting in internal displacements and overall deterioration of living standards. The people of the Central Mindanao region are the country's poorest.⁴ The average self-rated hunger in the Philippines in 2015 was 13.4%, according to a series of quarterly surveys conducted by the Social Weather Stations (SWS).⁵ The SWS survey also found that hunger was more prevalent in Mindanao than in the rest of the country.⁶

The survey conducted by FNRI in 2013 revealed that the most alarming levels of micronutrient deficiencies are among pregnant women and lactating mothers (moderate) and infants (highest).⁷ Due to poor maternal health, 24.8% of pregnant women are nutritionally at-risk.

1 FAO, IFAD and WFP. 2015. The State of Food Insecurity in the World 2015. Meeting the 2015 international hunger targets: taking stock of uneven progress. Rome, FAO. P. 46.

2 Idem, p. 12.

3 See http://www.nscb.gov.ph/stats/mdg/mdg_watch.asp

4 Although national levels of poverty have been decreasing since 2006, decades of armed conflict have left the Mindanao region with some of the country's poorest people. This is seen in significantly lower rates of primary-school completion and stunted growth (caused by chronic malnutrition) among children aged under five in this region, compared with the rest of the Philippines.

5 <http://www.sws.org.ph>

6 <http://www.rappler.com/move-ph/issues/hunger/111470-social-weather-stations-hunger-survey-3rd-quarter-2015>

7 FNRI-DOST (2013): 2nd National Nutrition Summit. 8th National Nutrition Survey. Food and Nutrition Research Institute, Department of Health, <http://www.fnri.dost.gov.ph/images/sources/preglactating.pdf> [Accessed: 14.05.2016]

Also, the rate of underweight lactating mothers increased slightly from 11.9% in 2011 to 12.5% in 2013.⁸

The encouraging economic growth witnessed in recent years has not made a dent on poverty as a significant number of Filipinos still suffer from hunger and cannot meet their basic food needs and are thus malnourished. Due to low rural incomes, lack of access to productive resources and vulnerability of the countryside to various shocks related to climate and diseases⁹, hunger is more prevalent in rural areas. Women and children suffer most from hunger and malnutrition.

1.2. Socio-Economic Situation: Poverty Amidst Economic growth

Despite its strongest successive years of gross domestic product (GDP) growth since the 1960s in 2012 and 2013, poverty has persisted in the Philippines. The poverty incidence among Filipinos in the first semester of 2015 was estimated at 26.3%. During the same period in 2012, poverty incidence among Filipinos was recorded at 27.9%. Subsistence incidence among Filipinos, or the proportion of Filipinos whose income fall below the food threshold, was estimated at 12.1% in the first semester of 2015.¹⁰ Poverty incidence has declined marginally from 2009 to 2012 with about a quarter of the population considered poor.

Described by the former President Benigno Aquino III as a comprehensive blueprint for the efforts to reduce poverty and to promote inclusive development, the Philippine Development Plan 2011-2016 (PDP) attempts to address poverty, create massive employment opportunities and achieve inclusive growth. Anchored on a social contract and 10 agenda points, which include – among others – a competitive and sustainable agriculture and fisheries sector, good governance and the rule of law, and social development,¹¹ the plan translates into specific goals, objectives, strategies, programs, and projects to accomplish development.

Due to the country's natural endowment, the agricultural and fisheries (A&F) sector in the Philippines plays important role for the majority of people who depend on access to natural resources to sustain their livelihoods and ensure their RTFN. The A&F sector also employs one third of the total labor force. The PDP thus aims to reduce poverty by generating quality employment in this sector and to fast-track agrarian reform, with a particular focus on the distribution of individual land titles and access to finance for agrarian reform beneficiaries. A mid-term assessment of the PDP conducted by the government in 2014 indicates, however, a reduction in employment in the A&F sector due to extreme weather conditions (e.g. typhoons and drought) that leave farmers relying on a single crop instead of two for the whole year. In addition, inadequate irrigation, among other factors, constrains the sector's flexibility to shift to other crops when their primary crop fails. Meanwhile, the number of underemployed

8 Ibid., p. 8

9 FOCUS (2015): Right to Food and Food Sovereignty in the Philippines: What the Numbers Say, Briefing, 23 February, <http://focusweb.org/content/right-food-andfood-security-philippines-what-numbers-say> [Accessed: 04.06.2016].

10 <http://psa.gov.ph/poverty-press-releases>

11 <http://www.neda.gov.ph/2013/10/21/philippine-development-plan-2011-2016/>

agricultural workers increased by about 2.3 percent on average attributed to the seasonal nature of agriculture work, low wage rates and limited opportunities for livelihood diversification. The basic pay in the sector amounted to an average of PhP165 (around \$3.53) per day between 2011 and 2013. This is PhP200 (around \$4.28) less compared to the basic pay of non-agriculture workers. The employment problem in the fisheries sector, on the other hand, can be traced to the imposed fishing ban. In relation to land distribution under the Comprehensive Agrarian Reform Program (CARP) in 2011 and 2012, the Departments of Agrarian Reform (DAR) and Environment and Natural Resources (DENR) acquired and distributed 422,743 hectares, or about 66% of their combined targets. Additional hurdles include weak agricultural extension service and limited access to credit and insurance.¹²

1.3. Good Governance and the Rule of Law

In reality, Philippine governance is like having hardened cholesterol blocking arteries through which life-giving blood has to flow to uplift the quality of life of the people, especially the poor and the vulnerable. Greed is dominant and manifested in capital and land accumulation and in massive corruption that comes with a culture of impunity against human rights and dignity, particularly against cultural, economic and social rights, such as the right to adequate food.

The three branches of government have been found wanting in fulfilling their obligations to the people – a decades-old governance problem. The Executive Branch of the past administration got entangled in cases involving billions of pesos of state funds for pro-poor projects that were pocketed for personal and political interests. Some members of the Legislative Branch were exposed to have plundered the people's treasury, including budget allotments meant to augment food production and raise the standard of living of the farmers. There are persistent reports that judges and judiciary personnel have been colluding with, among others, landlords, urban and real estate developers, corporations of extractive industries for personal enrichment and career advancement. Chief Justice Lourdes Sereno has acknowledged corruption in the judiciary, promising to root it out and calling on the public for support to this campaign.

It should also be pointed out that the two chambers of the Philippine Congress – the House of Representatives and the Senate – are dominated and/or influenced by landlords, warlords, political dynasties, big corporations and real estate developers whose interests inevitably find expression in legislations involving use of natural resources and sources of subsistence, particularly land meant for food production.

Some examples are the following: The Tampakan, South Cotabato case, wherein according to Environment and Natural Resources Secretary Regina Lopez, a planned gold and copper mine would lay to waste agricultural land the size of 700 football fields and part of the food basket of Mindanao. Another involves the health, livelihood and source of food of thousands of fisherfolks in Antique province as the top domestic coal miner was found by the DENR of having violated environmental laws, resulting in siltation of nearby waters and air pollution.

¹² <http://faolex.fao.org/docs/pdf/phi140998.pdf>

While giving a starting point for governance to work on, Philippine laws related to the normative content of the right to adequate food expose their cumulative insufficiency to solve the growing number of hungry people.

The burden of eradicating hunger, a perennial challenge to the government, has been passed on to the new administration.

In his first State of the Nation Address (SONA) last July, President Rodrigo Duterte said his administration will be “sensitive to the State’s obligations to promote, and protect, fulfill the human rights of our citizens, especially the poor, the marginalized and the vulnerable.” He promised to uphold the rule of law at all times. He also promised to improve health services, education, adequate food, housing, environmental preservation and respect for culture. He said human rights “must work to uplift humanity.” Duterte’s promises remain to be seen as he begins his six-year administration.¹³

1.4. Social Development

In 2005, the National Anti-Poverty Commission (NAPC) defined social protection as constituting policies, programs, and interventions that seek to reduce the susceptibility of the poor and vulnerable to risks, through the promotion and protection of livelihood and employment, improvement in their capacity to manage risks and their protection from disruption or loss of income, loss of welfare and diminished well-being. However, under the UNDP HRBA Toolkit developed by Ms. Cookie Diokno, the right to social security include the: (1) freedom from arbitrary and unreasonable restrictions of public or private social security coverage; and, (2) an entitlement to adequate protection from social risks and contingencies through benefits in cash or in kind for protection from lack of work related income, unaffordable health care and insufficient family support.

Under the Philippine Development Plan (PDP) of the Aquino Administration, there was a clear subsector outcome on social protection specifically, improved access to quality social protection services. This includes: (1) increased number of poor households covered by the conditional cash transfer from 1 million in 2010 to 4.2 million in 2016; (2) decreased vulnerable employment rate; and (3) increased percentage of poor families covered by PhilHealth as identified under the National Household Targeting System for Poverty Reduction (NHTS-PR) from 21 percent in 2010 to 100 percent in 2016. He said that there are attendant risks in these, for example, non-coverage/enrollment of OFWs in PhilHealth, SSS, etc. especially now that PhilHealth is increasing its premiums for OFWs to almost 50%. He said that another risk is the non-participation of local government units (LGUs) in converging social protection and projects.

Social protection in the Philippines is largely insurance-based, through the Social Security System (SSS), Government Service Insurance System (GSIS), and PhilHealth. However, a huge

¹³ PAHRA, Max de Mesa, “On Governance and Rule of Law,” August 2016

section of informal sector is not covered by SSS and PhilHealth. Only the poorest of the poor as defined by the government have access to direct transfer programs like 4Ps/CCT.

The Philippine social protection programs actually leave out large segments of the poor and vulnerable since insurance-based schemes like the SSS and GSIS cannot cover those in the informal sector. PhilHealth is an exception but it covers only health services. At present PhilHealth covers only 62-64 million out of around 101 million Filipinos. However, the government is aspiring for universal coverage by 2016. It is unclear whether the elderly, or families without reproductive age mothers or school-age children are covered by the direct transfer scheme – 4Ps/CCT. The existing programs provide limited cover of certain vulnerable types, e.g. extreme homeless, street children.

Social protection and social services provide limited protection because of limited resources. The strict definition of the government of social protection already limits the intervention for the poor and vulnerable and this is further limited to the “poorest of the poor.” This adversely affects the provision of general social services to the non-poor. The general social services and social protection nexus, e.g. CCT money, was increased but other social protection programs suffered because of this. This is the problem with earmarking with little regard for other basic needs.

Thus, there is the need to assess the efficacy of insurance-based systems vis-a-vis direct provision via general social services, especially since public service providers also depend on public investments.

In addition, there is a link between social protection and economic development as most insurance-based schemes depend on employment and voluntary membership. This has implication on the informal sector, which has significantly grown. A good example is the stalling of SSS membership between 2005 and 2011. While the benefit payouts doubled within the period, membership remained stagnant. That the membership has not increased may be due to the fact that employment has not improved, and that employment has shifted to informal employment. The decimation of industrial and manufacturing capacity, and the preeminence of the services sector account for the high degree of informality, characterized by high incidence of unpaid family labor and unpaid agricultural labor.¹⁴

The unemployment rate cited by the government has remained steady at around 7% during the last few years. However, the Social Weather Stations survey of joblessness among adults 18 years old and above showed that unemployment has risen to 23.2 % (or about 10.5 million adults) in June 2015, more than the 19.1% reported in its survey three months earlier, but below the 25.4% four-quarter average in 2014.¹⁵ The figure is much higher than the latest government unemployment rate of 6.5% in July. This is largely due to different definitions of unemployment used by the government and the SWS. While the SWS applies the traditional

¹⁴ Action for economic reform (AER), Jenina Joy Chavez, On Social Protection, June 2012.

¹⁵ www.sws.org.ph/pr20150910.htm

definition of joblessness, the government figures are based on a labor force aged 15 years-old and up, and also counting those who do any work for at least one hour a week and those who have a job but not at work due to reasons such as illness/injury or being on vacation. The World Bank data for the Philippines and five of its major Southeast Asian neighbors – Indonesia, Malaysia, Singapore, Thailand and Vietnam – show that despite having one of the highest growth rates, the Philippines also has the highest official unemployment rate of around 7% from 2010 to 2013.

The country's economic expansion has not been accompanied by a rise in employment, an indication that the growth hasn't resulted in the establishment of key industries that will sustain this growth and generate stable jobs and that provide a living wage. This supports criticisms that the Philippines has had a jobless growth.

This structural imbalance is the result of the failure of the government to adopt an industrial policy and agricultural modernization on the basis of agrarian reform. This in turn is the outcome of a neo-liberal development framework that assigns to foreign and domestic private capital the role of being the main engine of economic development, and limits the State to being the facilitator and guarantor – through laws and police power – of the “free market” private corporate development. Industry has grown sluggishly. The service sector has grown faster than either industry or agriculture but it cannot provide jobs that can absorb the large unemployed and underemployed in both city and countryside. The outcome, as we have seen, is jobless growth.

1.5. Political Condition

After winning a landslide victory in the May 9, 2016 polls, President Rodrigo Duterte was sworn in as the Philippines' 16th president on June 30, 2016. In addition to his main campaign promise of drastically reducing crime and suppressing drugs during its first six months, Duterte has promised to prioritize health and education and rural industrialization.¹⁶ In his State of the Nation Address, he promised to improve health services, education, provide adequate food, housing, protect the environment and respect cultural difference. He said human rights “must work to uplift humanity.” The Duterte administration will need to also pay immediate attention to some of the issues that remain unresolved and passed on from previous administrations such as corruption, extrajudicial killings, and the maritime dispute with China.

1.5.1. Corruption

One major problem from that has persisted over the generations is corruption. According to Transparency International, the Philippines ranked 95th out of 168 countries in its 2015 corruption index, which is based on perception of public sector corruption.¹⁷ Corruption can gravely undermine the realization of the RTFN because it diverts essential resources from public

¹⁶ <http://newsinfo.inquirer.net/790812/inqback-president-rodrigo-duterte-agenda-2016-elections-campaign>;
<http://newsinfo.inquirer.net/792842/prioritize-fight-vs-child-malnutrition-duterte-urged>

¹⁷ <http://www.transparency.org/cpi2015>

spending. Up to PhP1.12 billion (\$23.9 million), or 37.3% of the 2016 budget, has been allocated for social services for the poor and marginalized sectors of the country.¹⁸ Midway through the Aquino administration, the misuse of the Priority Development Assistance Fund (PDAF),¹⁹ which was intended for pro-poor projects of legislators, was found to have been occurring during his predecessor's time and continued through his administration. According to official investigations, hundreds of millions of pesos in PDAF funds were transferred to bogus non-governmental organizations which then gave some of the funds back as kickbacks to the same legislators and also to the alleged mastermind of this scheme. Three senators, among others, have already been charged with plunder before the anti-graft court Sandiganbayan.

PDAF and other variants of pork barrel are among the main pillars of political patronage that sustains political dynasties and worsens corruption. The abolition of the pork barrel therefore is a major step towards democratizing the political system and making the budget process truly transparent, accountable and attuned to the real needs of the people such as ensuring the RTFN.

1.5.2. Extrajudicial Killings

Another major concern that relates directly to the RTFN are the extrajudicial killings of human rights defenders. Under the previous Aquino Administration, military operations against the New People's Army (NPA), the communist armed wing, continued. The collateral damage has been the rural communities and the human rights or the people in the countryside. Some peasant leaders, members of ethnic communities and activists have been targets of extrajudicial killings and abductions by suspected military and para-military elements and state-sponsored anti-communist armed groups based on suspicion that they are members or supporters of the communist rebels.

In June 2014, a farmer's organization, the *Kilusang Magbubukid ng Pilipinas (KMP)*, reported that during the 26 years that CARP was being implemented, 664 farmers have died in the name of agrarian reform. *KMP* chairman Rafael Mariano said that in just four years of the Aquino administration, 96 farmers had been killed compared to nine during the Arroyo administration. Mariano added that 568 others were victims of agrarian reform-related extra-judicial killings. Mariano explained that farmers asserting their rights to land were subjected to human rights abuses, while peasant leaders were treated as criminals, incarcerated and worse, killed. Mariano also cited the killings since the Marcos regime such as the 1985 massacre of 20

¹⁸ <http://www.dbm.gov.ph/wp-content/uploads/Our%20Budget/Our%20Budget/2016/2016%20People's%20Budget.pdf>

¹⁹ http://www.philippinecountry.com/philippine_news/2014/PDAF_pork_barrel.html

Priority Development Assistance Fund (PDAF) or Pork Barrel is a yearly lump sum or discretionary fund or regular allocation of public funds for the members of Congress (Philippine Senate and Philippine House of Representative – district representatives and party representatives) in the Philippines. The congress then uses this fund for government programs that can benefit the people (fund the priority development programs and government projects) without going through the normal budgetary process or the Executive branch. Its main purpose is to give legislators easy access to capital so that they can have projects that can improve their constituents. PDAF involves people's money which means that it should be used for the benefit of the people.

farmers and activists in Escalante in Negros Occidental and in Lumil in Silang, Cavite, Palo in Leyte, and the killing of 13 farmers in Mendiola, Manila in 1987.²⁰

Box 1 Extrajudicial Killings – Surigao del Sur

In 2015, in Lianga municipality in Surigao del Sur province, a paramilitary group allegedly killed Emerito Samarca, executive director of the Alternative Learning Center for Agricultural and Livelihood Development; Datu Juvello Sinzo, a village chieftain; and Dionel Campos, head of the group called MAPASU, which opposes mining operations, land conversions and plantations in indigenous communities. Furthermore, soldiers allegedly also killed five members of a Lumad family, including two teenagers aged 13 and 17 in Bukidnon province near Surigao del Sur. The military claimed they were NPA members killed in a gun battle, but their relatives and villagers have refuted the military's claim. They said there was indeed an armed clash between the rebels and the soldiers, but it happened far away from where the five were killed. Meanwhile, thousands of Lumads have fled their villages for fear of more attacks by the paramilitary group allegedly involved in the killings. According to one report published by Human Rights Watch, encroachments upon the Lumad's ancestral domain by mining companies, plantations, and other large business operations are backed by the military and government-armed paramilitaries.²¹

1.5.3. Territorial Dispute in the South China Sea

The territorial dispute in the South China Sea has had a detrimental impact on thousands of small Filipino fishermen – those who venture out at sea on their own and those who work for fishing fleets. The government has not released any figures for the total number of fishermen affected by the Chinese blockade of their traditional fishing grounds. The dispute originates from China's claims over all of the Spratly Islands and waters close to the western Philippines. It was in June 2012, that the Chinese coast guard first forced a group of Filipino fishermen to leave one of the Philippines' traditional and richest fishing grounds – the Scarborough Shoal – off Zambales province. Filipino fishermen have reported that Chinese coast guard vessels fired water cannons at them as they tried to venture close to the shoal. In 2013, the Philippines filed a case challenging China's nine-dash-line claims over nearly all of the South China Sea, before the Permanent Court of Arbitration in The Hague. In July 2016, the Arbitral Tribunal decided in favor of the Philippines, junking China's nine dash line.

Elsa Novo, president of PASAMAKA-L in Zambales, one of the POs of the Peoples Development Institute (PDI) who is working closely with the fisherfolks of Masinloc town, said that just after the favorable decision of the Arbitral Tribunal, Chinese coast guards patrolling the Scarborough Shoal fired at Filipino fishermen who attempted to fish in waters near the shoal. The Chinese showed complete disregard for the Tribunal's decision. Scarborough Shoal is one of the main

²⁰ <http://www.philstar.com/headlines/2014/06/30/1340617/after-26-years-carp-ends> viewed 13 August 2016

²¹ <http://www.bworldonline.com/content.PhP?section=Nation&title=ancestral-land-occupied-by-mining-logging-to-return-to-ilumadi-denr&id=131572>, last accessed 13 August 2016.

sources of livelihood for the fisherfolks of Zambales. This Chinese blockade is leading to hunger and further impoverishment of the families of the fishers of Masinloc. (July 2016)

China's actions have undermined the livelihood and the food needs of poor fishermen from Zambales and other western Philippine provinces. "They did not overturn just one pot, but many pots. So many families will go hungry because of what they are doing," one fisherman said in describing the outcome of China's blockade.²² In Masinloc town alone, about 5,000 fishermen have been unable to fish at Scarborough Shoal for four years now. From tons of catch from Scarborough, now the fishermen are lucky if they are able to bring home a few kilos from the waters near their town. Other fishermen catch or grow aquarium fish to sell to pet shops in Manila as an alternative source of income.²³

Meanwhile, the Chinese are building islands by reclaiming land from reefs in the Spratlys to bolster its claims over the territory. They have raised up from the sea at least seven islands where none existed before. One of the biggest reclamation works now includes a 3-kilometer runway that can handle all kinds of Chinese military and civilian aircraft. Chinese officials say the islands are for scientific or peaceful uses such as refuge for fishermen during bad weather, but their potential military use exists. Recent satellite pictures show dozens of Chinese fighter jets parked on these artificial islands. With their air and naval assets already in position, the Chinese could impose restrictions over maritime and air travel around or over these new islands, effectively extending its territorial reach hundreds of kilometers from their homeland. Aside from being a rich fishing ground, the Spratlys are believed to sit atop gas and oil deposits. The area is also one of the world's busiest sea lanes.

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

The Philippines is a signatory to major international human rights treaties which enshrine the right to food and nutrition. Among them are the International Covenant on Economic, Social and Cultural Rights (ICESCR; 1976), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW; 1981), Convention on the Rights of the Child (CRC; 1990), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW; 2003), and Convention on the Rights of Persons with Disabilities (CRPD; 2008). As a state party, the Philippines is obliged under international law to respect, protect, and fulfil the right to food and nutrition of its people.

The RtFN, however, is not explicitly recognized in the Philippine Constitution, nor does a specific law on the RTFN exist. The Constitution only implicitly recognizes RTFN, although several articles therein are essential for the realization of this fundamental right. For example, the right to life (Article III, Section I), fostering of social justice (Article II, Section 10), and the promotion of agrarian reform to guarantee land rights and peasants' access to natural resources (Article II, Section 26 and Article XIII, Sections 4, 5 and 6). The Magna Carta of

²² <http://cnnphilippines.com/news/2016/07/15/scarborough-shoal-philipino-fishermen-chinese-coast-guard.html>

²³ <http://cnnphilippines.com/news/2016/07/26/CNN-Philippines-Presents-Peskador.html>

Women (MCW), or Republic Act (RA) 9710 enacted in 2009, explicitly guarantees women's right to food and the right to food production resources (Chapter V, Section 20). In addition, there is a vast array of laws purportedly to ensure the normative contents of the RTFN:

- a. Availability – Republic Act No. 3844, the Agricultural Reform Code, October 1963; RA 8550, Philippine Fisheries Code, February 1998
- b. Accessibility – RA 6727, Wage Rationalization Act, June 1989; PD 442, as amended, The Labor Code of the Philippines, February 1976
- c. Adequacy – RA 7600, Rooming-In and Breastfeeding Act, June 1992; RA8976, Philippine Food Fortification Act of 2000, November 2000)
- d. Sustainability – RA 3720, An Act Creating the Food and Drug Administration, June 1963).²⁴

Despite the legal framework, a closer assessment of the above laws and programs reveal inadequate and improper implementation. A good example is the implementation of the Comprehensive Agrarian Reform Program (CARP) which shows that weak governance and political will to implement CARP has led to the snail-paced distribution of lands to the farmers, and those who were given lands cannot raise production due to a lack of economic support services that leave the farmers and their families still hungry and impoverished. Strong landlord resistance and impunity have resulted in human and land rights violation that also involve irresponsible investments by corporations that further heighten violence against and criminalization of farmers.²⁵

Rural women are disproportionately affected by poverty and thus become food and water insecure due to the discrimination they face in relation to income, access to land, and extension services. Concerned over this situation, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in its recent Concluding Observations recommended that the Philippines should “ensure that rural women have access to adequate food and nutrition as well as water and sanitation, taking into account international human rights standards on the rights to adequate food, water and sanitation.”²⁶

Aside from non-implementation of the above mentioned laws and programs, certain provisions of various laws are flawed, not coherent, not complementary, and at times, even in conflict with each other. A very good example of laws that are non-complementary and in conflict with each other are RA 8371, the Indigenous Peoples Right Act (IPRA) of 1997 and RA 7942, the Mining Act of 1995. The IP's right to ownership of their lands and natural resources within their ancestral domains is guaranteed under Section 5 of the IPRA, which states that all such resources belong to all generations of the IP communities and, therefore, cannot be sold, disposed of or destroyed. The concept of IP ownership of ancestral domains runs counter to

²⁴ National Food Coalition, *Compendium of RTAF Laws in the Philippines*, 2015. Available at: <http://righttoadequatefood.ph/content/docs/Compendium%20I.pdf>

²⁵ Aurea G. Miclat-Teves, “The Demise of the Comprehensive Agrarian Reform Program,” September 4, 2015, Berlin Conference.

²⁶ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPHL%2fCO%2f7-8&Lang=en

Section 16 of the Mining Act, which states that only the national government has an exclusive right to approve permits and agreements – even over ancestral domains. Under Section 62 of the IPRA, conflict or adverse claims over ancestral domains shall be resolved by the NCIP. However, Sections 77 and 78 of the Philippine Mining Act vest upon a panel of arbitrators of the DENR and the Mines Adjudication Board jurisdiction over disputes involving rights to mining areas – including those in ancestral domains of IPs. The Aytas’ struggles in Zambales to protect their ancestral land rights from the incursions of mining companies validate the conflict and non-complementation of the two laws.²⁷

In addition, the Commission on Human Rights and the Office of the Ombudsman – two national human rights institutions – contribute very little to address the hunger situation in the country. This is due to their limited mandates²⁸ and a lack of integration of their mandates to the RTFN. Also, in general, the law making process fails to satisfy human rights principles as the RTFN gets low priority in national spending. A study conducted by the Commission on Human Rights revealed that government agencies concerned with the RTFN were largely unaware of the right and thus their obligations related to that right.²⁹

In short, the RTFN recognition is inferred from various provisions and constitutional intent regarding the improvement of the quality of life for all, social justice, agrarian reform, and rights of subsistence. Despite being a signatory to several international human rights conventions, the Philippines has no instruments to ensure that the state fulfills the people’s RTFN, particularly that of protecting and respecting the vulnerable sectors of farmers, fisherfolks, indigenous peoples, and urban poor. Conflicts over access to and control over land and other natural resources often result in food insecurity, environmental degradation, loss of livelihood, and threats to housing and employment of urban and rural workers, often leading to human rights violations. The government employs a vast array of laws purportedly to guarantee the RTFN, yet it fails to institutionalize the right. This is due to certain provisions of various laws that are not coherent or complementary and at times even in conflict with each other. The Philippine legal framework falls short of the imperatives for realizing the RTFN. It does not sufficiently incorporate the State's human rights obligations to respect, protect and fulfill the right to food, including the State's obligations to provide these or request international cooperation to do so.

²⁷ PDI, Asserting the Human Right to Adequate Food: Local Initiatives to Access Land and Natural Resources for Sustainable Food Security, March 2012.

²⁸ The mandate of the Commission on Human Rights is to investigate cases involving violations of civil and political rights (Section 18, Article XIII, 1987 Constitution). It is, however, vested with power to make recommendations and conduct research in relation to other human rights. The primary function of the Office of the Ombudsman is 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 mandates, and punish breaches of the RTFN

²⁹ <http://www.fao.org/docrep/016/ap598e/ap598e.pdf>

Box 2 FAO Right to Adequate Food Legal Framework Study

The extensive study conducted by FAO under the authorship of Maria Socorro Diokno and Virgilio de los Reyes in assessing the Philippine legal framework governing the right to food and nutrition reveal that the country's national legal framework does not enhance physical access to food, especially by those most vulnerable to hunger, while the laws on availability need to be harmonized. Special laws and regulations for those most vulnerable to hunger or in special situations both positively and negatively influence the hunger situation of these special groups. The laws governing food prices do not significantly contribute to hunger mitigation, while laws governing wages and employment are generally unfavorable to workers, and other laws relating to income generating opportunities are generally flawed. The laws governing access to credit influences the hunger situation in limited ways, as these do not actually enlarge access to credit. The food safety laws fully recognize the notion of safe food that meets dietary needs. While these laws may not directly contribute to alleviating hunger, these laws nonetheless ensure that food available for consumption contains enough nutrition and is free from contaminants and harmful microorganisms. It does not sufficiently address human rights obligations arising from the right to food which reflect on the Philippine government falling short of the Voluntary Guidelines to Support the Realization of the Right to Adequate Food in the Context of Food Security.

3. Need for the RTFN Framework Law – Laying the Ground for the Food Framework Law in the Philippines

As mentioned above, the Philippines has no comprehensive law on food, or more specifically a National Food Framework Law. 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. Various civil society organizations (CSOs) nationwide have identified the urgent need to have clear and comprehensive policies that promote the right to adequate food in the Philippines. Toward this end, and spearheaded by FIAN Philippines, the National Food Coalition (NFC) – a broad coalition of peasants, farmers, fisherfolks, urban poor, indigenous peoples, women, children and elderly was formed. With the wide support and collaboration of NFC members, particularly representatives of the sectors that suffer most from RTFN violations, it crafted the Right to Adequate Food Framework Bill, also known as the Zero Hunger Bill. The Zero-Hunger Bill makes food a matter of legal right and creates a legal framework within which hunger may be addressed progressively and the RTFN realized.

Box 3 The National Food Coalition – Broad campaign to support the RTFN

The NFC has taken crucial steps in creating a nationwide constituency to push for the adoption of a national food policy with the full and active participation of all stakeholders, particularly those who are most vulnerable to hunger. It has prepared the ground for a broad campaign to support the RTFN: research, wide information dissemination, and public interest and discussion around the RTFN and related issues. The rights holders, particularly farmers, indigenous groups and the urban poor, are at the forefront of the campaign and capacity building initiatives. Workshops on lobbying methods and negotiations are being conducted to strengthen their capacities. The NFC is building a network of supporters from civil society organizations and also reaching out to allies in local governments in demanding that legislators accept the Bill as a national priority.

3.1. The Zero Hunger Bill³⁰

The draft Bill adopts a rights-based approach and is founded upon human rights principles. It provides a comprehensive framework to harmonize provisions of laws related to the RTFN and shall also: (a) clarify the scope and content of the RTFN; (b) establish standards for compliance; (c) cite principles that will guide the process of realizing the right; and (d) penalize violations of the RTFN.

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

3.2. Legislative Process - Current Status of the Bill

The Zero Hunger Bill as drafted by the NFC was filed as House Bill No. 3795 at the House of Representatives and as Senate Bill No. 2137 at the Senate last year. The House and Senate bills

³⁰ For the entire document of the Zero Hunger Bill, see <http://righttoadequatefood.ph/resources/e>.

were referred to the House Committee on Human Rights (CHR) and the Senate Committee on Justice and Human Rights, respectively.

Despite broad and persistent efforts of the NFC, the Philippine government failed to pass the proposed legislation. The first House Committee hearing on the bill was held on 27 May 2014 and the second hearing on February 17, 2015. More than 20 members of Congress have endorsed the bill, which has been refiled in the new Congress. The representatives of government line agencies have also indicated support while expressing some reservations about several of its provisions.

The Department of Budget and Management (DBM) has refused to support the bill, saying the government is already providing funds for the poor under the 4Ps/CCT, sustainable livelihood, and supplemental feeding programs. In addition, it said there is a micronutrient supplementation program for children under 5 years old and food safety and quality are being ensured by the Food and Drug Administration. It said that creating the Commission on the Right to Adequate Food (CRAF) under the proposed law will only expand the bureaucracy and duplicate functions of the Commission on Human Rights (CHR). It also said the government should be extra cautious about providing the benefits envisioned by the bill because these may breed dependency among the people and give a disincentive for hard work which will undermine productivity.

The NFC has countered the DBM's opposition. It said it is rooted in the view that food is a resource and an object of charity, not a fundamental human right. The NFC said the government programs cited by the DBM only mitigate not eradicate poverty, benefits only a certain section of the population, and their implementation depends on the goodwill and priorities of whoever is in the administration. A law, on the other hand, applies to everyone and ensures defense and fulfillment of the right to adequate food for all time, regardless of who is in power. Rather than being a disincentive and creating dependency, the proposed law will encourage the workforce to increase productivity when they see government's determination to address the long-festering social problem of hunger and poverty. The NFC said the CRAF will not be a redundant agency because – unlike the CHR, which is focused on protection of civil and political rights – it will be concerned with the social and economic rights of citizens.

The Senate committee in charge of the bill in the previous Congress had already completed a Committee Report which stated its approval of the measure and recommended passage by the Senate. It was ready to be signed by other senators, but the legislators' focus had shifted to the May 9 elections and the bill was left untouched.

[What to expect: If the House and the Senate versions of the bill are passed, a conference committee composed of representatives of the two chambers will work on a final version which will then be sent back to the congressmen and senators for final approval. Once passed, the bill goes to the president for signing into law. The president, however, can still veto the bill. If he doesn't act on it within 30 days, it will pass into law.]

The NFC has issued an urgent call for the immediate adoption by the Philippines of a right to adequate food framework law. On October 16, 2013, the NFC called on former President Benigno Aquino III and Congress to immediately pass an RtAF framework law. Recognizing several implementation gaps in almost all policies pertaining to the RTFN, the United Nations Special Rapporteur on the Right to Food also recommended that the Philippines should pass the Bill.³¹

4. Assessment of the State Party's Report

On November 24, 2014, the Philippines submitted its combined fifth and sixth period reports of State parties due in 2013 to the Committee on Economic, Social and Cultural Rights. In relation to the state party's international obligations under international human rights law, FIAN Philippines identified the following failures of the state party in referencing it:

4.1. Failure to Mention Lack of Explicit Law on the RTFN

The government report fails to mention that there is no Philippine statute that expressly guarantees the right to adequate food. The Magna Carta of Women guarantees the right to food, but only for women. The inspiration for the right to adequate food can be found in the right to life in Article III, Section 1, of the 1987 Philippine Constitution.

4.2. Failure to Highlight the Inadequate Implementation of the Comprehensive Agrarian Reform Law

In addition to RA 6657, there are other laws related to food availability such as CARPER (the amended CARL); RA 8435 – the Agricultural and Fisheries Modernization Act (AFMA); and RA 7607 – Magna Carta of Small farmers.

CARL provides for redistributive justice in the dual spirit of distributing wealth and providing access to land for food production and support services to farmers.

Although the government report stated the distribution of Hacienda Luisita owned by the family of President Aquino, it failed to report on the status of the agrarian reform program.

After more than two decades of implementing CARL, land reform remains an unfulfilled promise. The deadline set by CARPER to complete one of its key components – Land Acquisition and Distribution (LAD) – was June 30, 2014. Unfortunately, DAR failed to meet the LAD completion target, leaving more than a million farmers still landless and impoverished. Meanwhile, farmers who have received lands still live in poverty and unable to feed themselves and their families sufficiently due to the lack of government support services to make their lands fully productive.

³¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/293/32/PDF/G1529332.pdf?OpenElement,%20p.%2017>, p. 17.

The Philippine agricultural policy is enunciated in RA 8435 (AFMA), which aims to promote industrialization and full employment based on agricultural development and agrarian reform. The AFMA also clearly provided for self-sufficiency in food staples like rice and white corn and committed state support for these objectives.

However, the government report has not shown how far the AFMA has been implemented. This indicates that the government is relegating the agricultural sector to the background and has forgotten the twin goals of achieving equity and agricultural productivity, leaving the marginalized sectors still hungry and impoverished.

4.3. Failure to Assess the Extent of the Implementation of Social Security Measures

The government provided a lengthy report on wages and employment, on income generating opportunities and social protection which are all under the food accessibility laws under the Philippine legal framework governing the RTAF. However, there was no in-depth analysis and it did not elaborate on the extent of the implementation.

The government report also incorporated the IPRA (Indigenous Peoples Rights Act) under this category but it also fell short in providing the details, especially the status, effects and impact of the IPRA implementation as it did not quantify the distribution of the ancestral domains among indigenous peoples who are totally dependent on their land for food and sustenance. The IP lands are now in constant threat from the incursions of extractive industries.

The IPRA recognizes the rights of indigenous peoples to their ancestral domain, water, basic services, health and infrastructure, and their rights to full ownership and control over indigenous seeds and other plant genetic resources.

The proposed Land Use Act, which is a critical avenue for food accessibility, has yet to be passed and signed into law.

The government report does not acknowledge the persistent hunger among a large number of Filipinos. Hunger, which is a multidimensional problem, continues to be widespread in the Philippines.

5. Cases of Right to Food Violations in the Philippines

The marginalized sectors in the Philippines – farmers, rural workers, urban poor, indigenous peoples, fisherfolks, and factory workers – have always asserted their economic, social and cultural rights to be able to feed their families, send their children to school, and live in decent homes. As they try to defend or improve their sources of livelihood – their lands, fish ponds, jobs and wages – their human rights are violated by the government and by non-government forces, including landowners, mining companies, and local and foreign companies. Many leaders of labor groups, urban poor communities, indigenous peoples, peasants and fisherfolk

have been arrested, charged in criminal cases, abducted or summarily killed. FIAN Philippines³² with the support of FIAN International has documented several cases of violations of the RTFN, and has been closely following two controversial agrarian reform cases which are highlighted below. The following cases are examples of how violations of the RTFN occur in the Philippines.

The Comprehensive Agrarian Reform Law (CARL, also known as RA 6657) took effect on June 15, 1988.³³ In the CARL's Declaration of Policies and Principles, the Philippines emphasized the importance of pursuing a Comprehensive Agrarian Reform Program (CARP)³⁴ to ensure the welfare of landless farmers and farmworkers so that they "will receive the highest consideration to promote social justice and to move the nation toward sound rural development and industrialization, and the establishment of owner cultivatorship of economic-size farms as the basis of Philippine agriculture."³⁵ As a way forward, equitable distribution of land ownership was to be undertaken which shall "provide an opportunity for farmers and farmworkers to enhance their quality of living, taking into consideration just compensation for landowners and "the ecological needs of the nation."³⁶

5.1. Hacienda Luisita

Hacienda Luisita is a 6,500-hectare sugar plantation which comprises 11 barangays (smallest administrative divisions, equivalent to villages or wards) and cuts across two municipalities (La Paz, Concepcion) and one city (Tarlac City). Hacienda Luisita is formally owned by the Cojuangco clan, the maternal side of former President Aquino's family.³⁷ It was one of the mass landholdings that was supposed to be redistributed under the CARP. However, Section 31 of the CARL gave corporate landowners the option to voluntarily transfer ownership over its agricultural landholdings either to the Republic pursuant to Section 20, or to qualified beneficiaries under terms and conditions they may agree upon, provided that it is consistent with the CARP and approved by the Department of Agrarian Reform.³⁸

³² FIAN Philippines was established in 1999 as a section of FIAN International, a human rights organization that works for the worldwide implementation of the right to food and nutrition (RTFN). <http://www.fianphilippines.org/>

³³ DOJ Opinion No. 044, s.1990, see also *Junio v. Garilao*, G.R. No. 147146. July 29, 2005, wherein the court declared: "Lands already classified and identified as commercial, industrial or residential **before June 15, 1988 -- the date of effectivity of the Comprehensive Agrarian Reform Law (CARL)** -- are outside the coverage of this law. Therefore, they no longer need any conversion clearance from the Department of Agrarian Reform (DAR)." [emphasis supplied] <http://www.lis.dar.gov.ph/documents/5445>

³⁴ hereinafter CARP

³⁵ RA 6657, Section 2; <http://www.gov.ph/downloads/1988/06jun/19880610-RA-6657-CCA.pdf>.

³⁶ *ibid.*

³⁷ FIAN International: Urgent Action - Philippines, Hacienda Luisita, available at <http://www.fian.org/get-involved/take-action/urgent-actions/urgent-action-philippines-hacienda-luisita/#c1585>, last accessed June 18, 2014, hereinafter FIAN INTERNATIONAL LUISITA

³⁸ *Id.*, see also RA 6657, Section 31. Relevant to the discussion is: "...Upon certification by the DAR, corporations owning agricultural lands may give their qualified beneficiaries the right to purchase such proportion of the capital stock of the corporation that the agricultural land, actually devoted to agricultural activities, bears in relation to the company's total assets, under such terms and conditions as may be agreed upon by them. In no case shall the compensation received by the workers at the time the shares of stocks are distributed be reduced..."

The landowner opted for the Stock Distribution Option (SDO) and a majority of the beneficiaries voted in favor of it, although questions have been raised about whether proper consultations were made prior to the vote. Under the SDO, beneficiaries received shares – in lieu of land – which were computed based on the number of work days.³⁹ Gradual conversion of large areas of the hacienda by HLI for residential, commercial, and other purposes, however, reduced the size of the agricultural land, leading to less production and person-days, lower take-home pay and eventual retrenchment of the farmworkers.⁴⁰ The retrenched farmworkers were then removed from the payroll, and consequently, did not receive any shares of stock.⁴¹ Finally recognizing that the farmers and farm workers were deprived of the means to sustain their livelihood, the SDO was revoked by the Presidential Agrarian Reform Council (PARC) through Resolution No. 2005-32-02 in December 2005. The PARC then directed the DAR to redistribute the land under the compulsory acquisition scheme of the CARP. In January 2006, the landowner filed a petition questioning the PARC resolution.

The Supreme Court issued a temporary restraining order in August 2006, stalling the process of land distribution while it studied the case.⁴² Following the farm workers' consistent opposition of the SDO and decades-long struggle prompted, the Court finally ruled on April 24, 2012 against Hacienda Luisita, revoking the SDO and ordering the distribution of 4,102 hectares of farmland to the farmworkers.⁴³ It was a landmark victory for the farmworkers.

On February 27, 2013, the Department of Agrarian Reform (DAR) released the list of the beneficiaries. DAR said the hacienda will be distributed to 6,212 farmworkers, each to acquire a 6,600 square-meter lot. While the majority of the farmworkers have received their land titles, they are not yet in possession of the lands awarded to them and thus cannot till the land and exercise their right to have access to land and grow food to eat or to sell. There are several obstacles. First, the DAR has not finished conducting ground survey and placing boundary markers to delineate property lines. The ground survey work is almost done, according to Iliona Pangilinan, the provincial agrarian reform officer of Tarlac province. However, she said that as of mid-August 2016 the distribution of CLOAs has not been completed. The ground survey is being hampered by the removal of property markers by “ariendadors” – people who rent tracks of land from cash-strapped agrarian reform beneficiaries to continue sugar cane production. The land survey and marking of property boundaries must be completed before the beneficiaries can be installed on their lots. The second obstacle is that majority of the plots to be distributed is planted to sugar cane by the “ariendadors.”⁴⁴ As a result, farmers who want to grow rice or other crops cannot do so because their lands have been tied to years-long leases or rental contracts to the ariendador who produce sugar cane for the Hacienda Luisita mills.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² <http://www.gmanetwork.com/news/story/159124/news/nation/hacienda-luisita-workers-ask-supreme-court-to-lift-tro#sthash.L0Qrdj7W.dpuf>

⁴³ *Id.*, see generally *HLI v. Luisita Industrial Park*, G.R. 171101, promulgated April 24, 2012. The decision also fixed the amount of just compensation for HLI.

⁴⁴ <http://www.cbcnews.com/cbcnews/?p=34750>

The three major components of the CARP are: 1) land tenure improvement that deals with the acquisition and distribution of lands; 2) support services which involve the provision of extension services, credit, and infrastructure support, among others, to farmer-beneficiaries of the Program; and, 3) delivery of agrarian justice which entails the settlement of cases relating to landlord-tenant relationship and cases pertaining to land valuation and disputes.⁴⁵

However, due to a lack of support services such as extension services, credit, and infrastructure support (e.g. irrigation facilities, seeds, farm machineries/tractors), among others, contrary to CARP provisions and to the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER – the amended CARP law that extends again the deadline of distributing agricultural lands to farmers for five year, which expired on June 30, 2014), the farmworkers had no choice but to rent out their lands under informal contracts to these “ariendadors” in order to survive.⁴⁶ Very often “ariendadors” are influential and powerful persons (e.g. a congressman, a former high ranking government official, among others). Under this “ariendo” system, farmers rent out land for two to three years for a maximum of PhP7,000 per year as loans. The system is unjust because it takes away the entire awarded landholding from farmers’ control. Its existence is tantamount to the failure of land reform since there is no real transfer of power. Such informal contracts contain unjust conditions. For instance, some agreements do not allow farmworkers to grow their own crops for their own needs on parts of their lands; in some others, farmworkers are not given access to their lands or given a share of the profit.⁴⁷ Now, as much as 80% of Hacienda Luisita lands are rented by the “ariendadors.”⁴⁸ Since it takes at least 12 months before sugar cane can be harvested, farmers might be forced to rent out these lands to the “ariendador” once again.

Food-poor farmer-beneficiaries had very little choice and became easy prey to these middlemen who offer instant cash in exchange for the land that the “ariendadors” will use to continue growing sugarcane to feed the Luisita mills. Some farmers failed to avail of loans from formal sources due to high interest rates. Most farmer-beneficiaries who are members of the ten Agrarian Reform Beneficiaries Organizations (ARBOs) formed by DAR entered the “ariendo” system were unable to benefit from any support services of the government, while other farmer organizations, such as the Farmworkers Agrarian Reform Movement (FARM), many of whose members rejected the “ariendo” system, also were unable to benefit from the whatever government support services because they were not recognized as recipient organizations.

Lack of support from the government has prompted the farmers to turn to money lenders who charge high interest rates. A significant portion of farmers’ earning from their land goes to paying off their loans and interest, instead of using it as capital for the next cropping cycle. Many farmers search for additional means of livelihood – vending, driving tricycles and finding work outside the hacienda in order to provide food and other basic needs for their families. With the present economic condition of the farmers in Hacienda Luisita, it will take a long time

⁴⁵ http://www2.gsid.nagoya-u.ac.jp/blog/anda/files/2012/01/10_jose-elvinia1.pdf

⁴⁶ <http://www.cbcnews.com/cbcnews/?p=34750>

⁴⁷ *Id.*

⁴⁸ *Id.*

before they can recover/redeem their lands from the hands of “ariendadors” and fully benefit from the lands they have fought for and have made productive for decades. Unless the government seriously takes steps to provide sufficient and timely support, the farmers will remain poor and food insecure.

Members of FARM who did not enter into the “ariendo” system and started to cultivate “palay” (rice) and vegetables of their own choice. These farmers were supported by RIGHTS Network⁴⁹ which provided them with a loan and assisted in acquiring the means to start cultivation. Unlike the preferred sugarcane production of the “ariendadors,” which can only be harvested once a year, rice can be grown up to four times annually. Moreover, farmers could generate a yearly income of 120,000 pesos (approximately US\$ 2,700) instead of the PhP 7,000 (about US\$ 160) the “ariendadors” are paying as land rent. However, due to typhoon “Lando” in October 2015, some of these farmers’ harvest were damaged and they suffered income losses. The income from their harvest covered just the first amortization schedule.

According to FARM Vice President, Rodger Amurao, his family plants rice and vegetables such as eggplant, corn and ladyfinger on a rotational basis every three months. His family sells the rice – depending on the quality – to a trader for PhP 12 to PhP 14 per kilo. With the support of RIGHTS Network, they apply organic fertilizers and insect repellents – made from a mix of molasses, vinegar and alcohol, or organic compost and worms. They plan to establish a piggery in the middle of the farm. Further support services are necessary, such as a tractor to speed up and facilitate the harvesting of rice. Compared to the many farmer-beneficiaries who entered the “ariendo” system, Mr. Amurao experienced a positive change since the distribution of the CLOAs in December 2013. He is able to secure food for his family and pay for the education of his children.

Those who leased their land to the “ariendadors” still suffer from hunger and poverty despite having received a single payment of up to PhP 24,000 for a three-year lease contract. While DAR claims to have successfully completed the land distribution process, the majority of the farmer-beneficiaries are not able to make use of their awarded land. Agrarian reform does not end with land distribution. CARP will only be successful on a sustainable basis if the farmer-beneficiaries are able to cultivate the awarded land, with the immediate provision of support services.

For the Hacienda Luisita farmers, access to land is crucial to being able to feed their families adequately. In this regard, the Philippines, as a state party to the ICESCR, has the obligation to fulfill the RTFN of the farm workers in Hacienda Luisita by implementing the CARPER and redistributing the land to the farmers. Agrarian reform is central to the fulfillment by the Philippine state of its obligation to ensure the RTFN of the Hacienda Luisita farmers.

⁴⁹ RIGHTS Network is a network of grassroots-based organizations which are located in major agrarian reform hotspots in the Philippines. Aside from playing a significant role in shaping and implementing important agrarian reform policies, its network members operate in 16 provinces where landownership concentration is most pronounced. For more information, see <http://www.rightsnetphils.org/home.htm>

Furthermore, agrarian reform, from a human rights perspective, requires more than just the distribution of land. Farmers need other forms of support to use land fully and become self-reliant. Therefore, the DAR should provide farmers the needed extension services, credit facilities, irrigation, marketing, and training, which are all part of the Comprehensive Agrarian Reform Law (Section 2 “Declaration of Principles and Policies” and Chapter IX “Support Services”) but have not been provided adequately.

In order to fulfill the human right to food of the Hacienda Luisita farm workers and their families, the government must go beyond land redistribution, considering that the process entails a transition phase that would prepare the farm workers to take up the challenges of land ownership and develop their newly-acquired land into productive small farm holdings. Without providing financial and technical support to the farmers, agrarian reform in Hacienda Luisita is bound to fail, and the right to food of the farm workers can never be fulfilled. As such, support during this transition period and even beyond the land redistribution phase, is essential for the farmers to cultivate their land in a sustainable manner and to provide their families with adequate food and income, ultimately guaranteeing their human right to food now and in future.

5.2. Hacienda Matias

Hacienda Matias is a large estate in the town of San Francisco in the Bondoc Peninsula in Quezon province. Bondoc is a strip of land that extends from the southern part of Luzon, the main northern Philippine island. Due to inadequate government services and lack of infrastructure, many areas in Bondoc remain poor and isolated. Poverty is pervasive, especially among the landless as they continue to endure long years of exploitative share tenancy system – despite its abolition under the Agricultural Land Reform Code of 1963 – wherein they get 30% - 40% of the produce from the land.

Since 2004, 500 farmers have been petitioning that 1,176 hectares of farmland in Hacienda Matias, in San Francisco, Quezon province, be covered by the CARP.⁵⁰ As share croppers of the estate, their claim making process started with a bid to increase their share from 30% to 75% of the net income of the land.⁵¹ The landowner resisted the increased sharing arrangement, keeping the farmers’ income under the old regime. It is too paltry a sum that isn’t enough to feed themselves adequately.⁵² The leasehold arrangement was never realized because the would-be leaseholders were forcibly evicted. The landowner retaliated by charging farmers

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

⁵¹FIAN INTERNATIONAL MATIAS, supra note 482

⁵²*Id.*

with criminal offenses and applying various forms of harassment.⁵³ The hacienda finally fell under CARP coverage in 2014.

The landowner of the Hacienda at first filed a protest against land reform coverage, then a Petition for Exclusion of the coconut lands from the CARP, arguing that the land is devoted to livestock production and thus should be exempted from CARP coverage. Both petitions were denied by the Department of Agrarian Reform.⁵⁴ Undeterred, the landowner elevated the case to the Office of the President, which also denied the same and reaffirmed the previous decisions.⁵⁵ In response, a Motion for Reconsideration was filed by the landowner in the regular court and the resolution has dragged on for years. DAR's Administration Order 7 also prevented the Department from "taking possession of the land unless the protest or exemption application has become final and executory."⁵⁶ Adding to the troubles of the farmers, the landowner has made ingress and egress to the farmlands more difficult by constructing barricades around the property. Farmers and their children are forced to walk considerable distances just to go in and out of the hacienda or take a hazardous boat rides to go to their homes.

In 2014, a decade later, DAR ordered the distribution of Hacienda Mathias lands to the petitioners. Of the 500 claimants, only 253 farmer-beneficiaries were awarded Certificates of Land Ownership Awards (CLOAs) covering 639 hectares. Other farmers are still waiting to receive their CLOAs. Those awarded with CLOAs still have difficulty occupying their land even if they are accompanied by DAR personnel due to the strong resistance from the former landowners, whose guards obstruct their entrance to the hacienda and harass them.

The farmers, however, have persisted. Nevertheless, they are not yet able to maximize the use of their newly acquired lands as the cattle of the former owner continue to roam and graze in the area, even on land where they have planted food crops. Furthermore, the owner's guards continue to harass the farmers. The former landowner even filed a case in court against some farmers who harvested coconuts from their newly acquired farm lots.

After CLOAs have been awarded to 283 farmer-beneficiaries covering 639 hectares, there are still four lots remaining for which CLOAs are yet to be distributed to the outstanding farmer-beneficiaries (around 340 to 400 beneficiaries). Aside from the fast tracking of CLOA distribution, they are demanding a more security protection in the face of harassment by the landowner.

Another legal battle for land ownership has also erupted. In January 2016, one of the former landowners filed a petition for cancellation of CLOAs awarded to 50 ARBs in a 101-hectare lot before the DAR Adjudication Board (DARAB) in Gumaca, Quezon. The petition was based on the right of the landowner to retain five hectares under Section 6 of RA 6657. The petitioners

⁵³ <http://www.rightsnetphils.org/matias.htm>

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

argued that they were deprived of their right to choose the five hectares guaranteed to each landowner when their landholding was placed under CARP coverage. The agrarian reform beneficiaries now face the prospect of losing their CLOAs. The DAR Provincial Office, being the main respondent, has opposed the petition. It maintained that it observed the process in the implementation of CARP. The petition is still pending as of mid-August 2016.

The four remaining lots mentioned above are now officially government properties as titles have been transferred to the Republic of the Philippines. Farmers in these lots are no longer obliged to pay the share they used to give to the former landowner. The DAR has explicitly reaffirmed their right to the land, including harvesting of coconuts and planting of crops. The farmer-beneficiaries have already been identified and awaiting their CLOAs. The main problems, aside from the pending decision, are continuing harassments by the former landowner against farmer-beneficiaries on a portion of the distributed lands and in the area for which CLOAs still have to be issued. Farmers face the seizure of their harvest, and destruction of their crops – corn, banana, coconut seedlings, root crops and vegetables – by cattle belonging to the former landowner. The farmers have requested funds to buy barbed wire to protect their crops. DAR explained it is not allowed to purchase construction materials under government procurement rules and process. It, however, promised to send a warning letter to the former landowner and encouraged the farmers to document the incidents and file a legal complaint. The farmers also need support services such as start-up credits to support farmer cooperatives, livestock, seeds and farming implements (e.g. tractor).

As a result of the lack of timely provision of support services, the farmer-beneficiaries who already obtained CLOAs were forced to use their own small savings to establish a cooperative that would allow them to trade their produce for just and fair prices. They founded a cooperative through their organization, the Kilusang Magbubukid ng Bondoc Peninsula (KMBP), with the support and guidance of RIGHTS Network⁵⁷ in 2015. This cooperative had 200 members as of October 2015. With a PhP250 membership fee, PhP500 share capital and a one-time contribution of two pesos per kilo of harvest, the cooperative is building up their capital for trading and to establish a storage house for their harvest. The cooperative had already conducted several collective harvests and sold copra and whole nuts directly to oil mills in Lucena, Quezon province, and San Pablo City, in nearby Laguna province. At the same time, the farmer-beneficiaries also initiated collectively a self-financed demonstration farm in mountainous areas to cultivate vegetables through inter-cropping. This is an attempt of the farmers to generate a fair income and to secure their livelihood but it is fragile and risky as it is based on their own small savings. Further support services are needed in the form of start-up capital to build a storage house and acquire transportation to bring their produce to buyers, as well as farming implements and livestock.

While some have yet to receive their CLOAs and be officially installed on their land, the farmers' main means of livelihood is the collective harvesting and selling of copra (dried coconut meat).

⁵⁷ RIGHTS Network is a network of grassroots-based organizations which are located in major agrarian reform hotspots in the Philippines. Aside from playing a significant role in shaping and implementing important agrarian reform policies, its network members operate in 16 provinces where landownership concentration is most pronounced. For more information, see <http://www.rightsnetphils.org/home.htm>

In the past, however, due to the enduring tenancy-system, harassment and incomplete land distribution process, the farmers were unable to constantly and regularly pursue their work and could not generate decent income to feed themselves and their families. During those years when they were unable to harvest their produce, farmers who are also fishers relied on fishing as their main source of livelihood during fishing season. Men usually go fishing from December to March. Fish are consumed by the farmers or sold to traders or neighbors. Women are also involved in drying fish, which they sometimes exchange with sweet potatoes or vegetables at the closest local market in San Francisco, or keep aside for those days when there is no catch. Fishing, however, is not a long-term solution; during rainy seasons, the sea is too rough.

The options to secure their food are limited for many of them during the rainy season. Some farmers produce charcoal (uling) or broom (walis tingting) – acquiring only a petty amount in additional income (PhP 70-80 per sack of charcoal, or PhP 21-25 for three brooms), while some go to Manila or other cities to look for jobs as domestic workers. Those who live in the mountains are able to plant some vegetables (e.g., corn, eggplant, string beans, etc.) in their backyard gardens. However, as mentioned above, the cattle of the former landlord often destroy their crops. Those who live in coastal communities can only plant moringa (malunggay). Others depend on money borrowed from loan sharks or relatives who work outside of the hacienda.

The nutritional-intake of the farmers and their families in Hacienda Matias is insufficient due to their meagre income. They eat mainly rice (mixed with corn) with soy sauce or fish (also dried), bananas, canned sardines, instant noodles, and very occasionally eggs. Diversified food intake which contains necessary vitamins and minerals is not possible, and due to lack of money, a meat dish is extremely rare. Also, since the closest market is located 15 km away from the hacienda, many do not have money to regularly go to the market.

The only social governmental programs the farmers are receiving are feeding programs at day-care centers in each sitio (a smaller part of a barangay or village). Some children receive feeding every day, some only two to three times a week. Some farmers are recipients of the Conditional Cash Transfer (CCT) program. However, according to the farmers, the selection process is doubtful since some beneficiaries are not the worst-off families.

Access to and control over land is crucial in ensuring the RTFN of people in rural areas. By delaying the implementation of the CARP due to negligence of the DAR in the past and by inaction against the prevalent share tenancy system, which was supposed to have been long abolished, the Philippine government has failed to respect, protect, and fulfill the RTFN of the Hacienda Matias farmers. This is also contrary to CARL and CARPER. In accordance with its human rights obligations, the government of the Philippines must immediately issue a decision denying the petition for cancellation of CLOAs in lot 101 and fast-track CLOA distribution and installment of the farmers. The government has also failed to protect the tenant-farmers and

their families from harassment and violence. The failure to meet these obligations amounts to violations of their human rights.⁵⁸

5.3. Typhoon Yolanda

The Philippine archipelago lies in the path of destructive typhoons and sits in the Pacific Ring of Fire where earthquakes and volcanic eruptions are common, resulting in periodic disasters that cost numerous lives and exacerbate hunger and poverty. This was tragically dramatized in the aftermath of the November 2013 Super Typhoon Yolanda (known internationally as Haiyan), which killed more than 6,000 people, displaced over 4 million others and caused PhP89.6 billion (\$2 billion) in damages, including PhP31.4 billion (\$707.3 million)⁵⁹ in infrastructure and production as well as social and cross-sectoral losses, resulting in widespread hunger and malnutrition in the affected areas. Typhoon Yolanda destroyed landholdings, killed titleholders, erased property boundaries and displaced survivors in areas where land provided not only shelter, but also livelihood. Nearly every family head who has survived has lost his/her means of livelihood. Thousands of people still live in makeshift shelters years after the typhoon struck.

On November 20, 2013, more than a week after Yolanda struck, then Social Welfare Secretary Dinky Soliman announced that relief distribution in Tacloban for the typhoon victims had been turned over to local government units. After a week, there were reports of hoarding of relief goods by several mayors and officials in different parts of Eastern Visayas, mostly in Leyte. Worse, local officials reportedly have been selectively distributing food to their political allies instead of giving it to all their constituents, denying other hungry people access to much needed food.⁶⁰ There were also reports in 2014 that some food had been thrown at a barangay (village) garbage dumpsite because they were already spoiled or rotten. The Commission on Audit reported that “7,527 family food packs worth P2.7 million; 95,472 assorted canned goods; 81 packs of noodles; and, 21 sacks of rice went to waste due to improper handling in Yolanda devastated areas, particularly in Central and Eastern Visayas.”⁶¹ Food that was supposed to be distributed to victims of the typhoon was instead left to rot.

The government allocated more than P100 billion to efforts to rehabilitate devastated areas, and aid came pouring in for the survivors from local and international donors. However, the delivery of the promised help and relief seemed to be move slowly. By December 2015, two

⁵⁸ *Id.*

⁵⁹ Data available at:

[http://ndrrmc.gov.ph/attachments/article/1329/FINAL_REPORT_re_Effects_of_Typhoon_YOLANDA_\(HAIYAN\)_06-09NOV2013.pdf](http://ndrrmc.gov.ph/attachments/article/1329/FINAL_REPORT_re_Effects_of_Typhoon_YOLANDA_(HAIYAN)_06-09NOV2013.pdf) viewed 20 April 2014

⁶⁰ According to accounts of residents in Coron in northern Palawan, which was also devastated by Yolanda, the mayor allegedly set aside relief supplies for selected allies or supporters. Available at: <http://www.book.xlibx.info/bo-economy/3453957-4-by-fian-philippines-aurea-miclat-teves-president-february-2015-ma.Php>.

⁶¹ <http://www.gmanetwork.com/news/story/378162/news/nation/thousands-of-dswd-food-packs-for-yolanda-relief-lost-to-spoilage-coa>

years after the super typhoon hit the Philippines, the Aquino government has only completed 30.3% of projects and activities to rebuild affected communities.⁶²

5.4. Sicogon and the Victims of Typhoon Yolanda

The confusion over land tenure following Typhoon Yolanda illustrates one of the most significant factors that turns a short-term humanitarian problem into a long-term economic plague in the affected areas. As a natural disaster inevitably changes the land and destroys documentation, there will be much confusion as to who owns what, and disputes over the location of both public and private lands. This situation opens up the opportunity for land grabbing. In cases where corruption is rampant, there will be unscrupulous efforts to take advantages of the situation.

From recent natural disasters are emerging signs of an age-old problem, which is fundamental to many disaster-ridden areas: lack of access to land. The typhoon providentially brought to light a simmering land dispute between residents of an island in the Visayas and the family who claims ownership of most of the island. Local media have reported that the Sicogon Development Corp. (SIDEKO), a tourism and resort developer owned by the Sarrosa family, has been grabbing land abandoned by residents who fled in the wake of the disaster. The company had blocked about 1,300 families or about 6,000 residents from returning to their homes, claiming it owns the land.⁶³

Sicogon residents under the Federation of Sicogon Island Farmers and Fisherfolk Association, and the Save Agrarian Reform Alliance, have reported the failure of the government to protect their land rights from SIDEKO. The family that owns the company claims it has bought much of the island in the early 1970s. The residents of Sicogon complained that they were prevented by SIDEKO security guards from rebuilding their houses on the land they have been living on for decades. The situation was exacerbated by the no-dwelling/no-build zone policy of the government, which practically rendered more than 1,000 families homeless. This policy disallows residents in coastal villages, even fisherfolks, from building their homes within 40 meters from the edge of the water. In many poor, rural areas, dwellings are built close to their sources of livelihood. With no additional options, the Sicogon folks rebuilt their houses on public forest lands, without support and approval from official authorities. Responsible government agencies have failed to protect the rights of the local communities in what they claim as SIDEKO's post-Yolanda land-grabbing efforts.⁶⁴

The Sarrosa family is denying the land grabbing charges, saying it bought 809 hectares or about 70% of the 1,160-hectare island in 1972 from two families.⁶⁵ Sicogon was a prime tourist

⁶² <http://www.rappler.com/nation/117585-yolanda-haiyan-rehabilitation-update-2015>

⁶³ <http://interaksyon.com/article/101580/big-corporations-take-advantage-of-post-yolanda-rehab-harass-disaster-victims---church-official>

⁶⁴ Yolanda-Focus, supra note 493.

⁶⁵ <http://www.philstar.com/nation/440645/trouble-paradise-island>

destination in the 1970s, but its fame faded following a series of economic and financial crisis that hit the country in the 1970s and 1980s.⁶⁶

SIDECO has been trying to revive the tourist appeal of the island and has partnered with Ayala Land Inc. (ALI), one of the country's prime property developers for its tourism project. Residents, mostly farmers and fishermen, have complained that they have been harassed and eased out of their homes by SIDECO to make way for the project, a charge denied by Eduardo Sarrosa, president of the company. SIDECO has been seeking to reclassify the island for commercial use in order to be exempted from agrarian reform, particularly 334 hectares being claimed by fisherfolks and farmers under the agrarian reform program.

The residents say that the devastation of their homes by Typhoon Yolanda has been used by SIDECO as an opportunity to keep them away from their former communities. A week after the typhoon, an NGO working for Ayala Land offered two choices to the displaced farmers and fisherfolk: a) PhP150,000.00 for each family that voluntarily leaves the island; or b) move to a relocation site in Barangay Jolog, part of Estancia town in Iloilo province.⁶⁷ Federation members have been trying to establish a camp in a public forest land located near Barangay Buaya since March 28, 2014.⁶⁸ However, the Federation claimed that SIDECO had prohibited the residents from repairing or reconstructing their houses even in the forest. By May 5, 2014, about 100 families have already accepted either of the offers, but according to Commission of Human Rights Investigator Leo Sapana, there was no free, prior, and informed consent from the affected, and thus the offer was "not appropriate."⁶⁹ To compound the problem, SIDECO and several officials from the DENR have threatened to file cases against the Federation for the illegal occupation of public forest lands.⁷⁰

Ayala Land stepped in to provide housing assistance to these displaced folks of Sicogon. In June 2014, the property developer, one of the corporate partners of the government's Yolanda rehabilitation agency, announced it had built houses for those who lost their homes at a different site.⁷¹ This wasn't a purely philanthropic project by Ayala Land. Early in 2014,⁷² there have been reports that Ayala Land was planning to redevelop the island for tourism. It was clear that Ayala Land's assistance was not intended to secure the livelihood or ensure the right to food and nutrition of the farmers, but to make headway in transforming the island into a tourist haven. In fact, SIDECO entered into a joint-venture with Ayala Land.⁷³ Ayala Land said it is committed to the sustainable tourism development of the island and provide as many as

⁶⁶ *Id.*

⁶⁷ repub.eur.nl/pub/77539/wp603.pdf

⁶⁸ <http://focusweb.org/content/yolanda-displaced-families-philippines-forced-occupy-forests-harassed-land-developers>

⁶⁹ <https://www.facebook.com/IloiloMetroTimes/posts/583816305067041>

⁷⁰ Yolanda-Focus, supra note 493. DENR representative Salvador Manglinog Jr. stated that "Under the law, their entry there is illegal. ... Just because it's classified as public land doesn't mean they can occupy it. They cannot just occupy the area without any authority or if they did not ask permission." Ayala to bankroll Sicogon Island Project, available at <http://www.thedailyguardian.net/index.PHP/local-news/39934-ayala-to-bankroll-sicogon-project>, last accessed June 18, 2014.

⁷¹ <http://www.thedailyguardian.net/local-news/42043-new-houses-for-yolanda-victims>

⁷² Ayala land to bankroll, supra note 500

⁷³ <http://interaksyon.com/business/126596/cocktales--ayala-set-to-transform-sicogon-island-into-another-boracay>

20,000 jobs.⁷⁴ On November 8, 2014, the National Anti-Poverty Commission (NAPC) brokered a compromise agreement between the Federation on one hand and SIDECO and Ayala Land on the other.⁷⁵ Under the agreement, Ayala Land and SIDECO will build resettlement sites for residents and provide livelihood and training projects so that the islanders could be hired in the new tourism haven. In exchange, 784 families belonging to the Federation will drop their agrarian reform claims to the 334 hectares of agricultural land, part of the 809-hectare SIDECO property. Finally, on March 3, 2016, the Department of Agrarian Reform approved the conversion of the 334 hectares from agricultural to commercial or tourism use, paving the way for the full implementation of the SIDECO-Ayala tourism project.⁷⁶

A FIAN Philippines staffer who visited the island and spoke with affected villagers in mid-August reported that basic amenities such as water supply, electricity and sanitation have not yet been finished at the relocation site in Jolog, Estancia. The market buildings have not yet been constructed. A school and training centers have been built but not yet functional. Most of those who opted to move to Jolog have not completely relocated and partly reside in Sicogon continuing their fishing livelihood. They say they are being allowed by Ayala Land to stay on the island because the facilities at the relocation site are not yet finished, but they have to move out once these are completed.

The experience of the residents of Sicogon demonstrates how one state party to the ICESCR, the Philippines, hasn't lived up to its obligations under international law "to mitigate and alleviate hunger, even in times of natural or other disasters." (ICESCR, General Comment 12, Sec. 11 (2)). By failing to provide immediate aid to the victims of typhoon Yolanda, the Philippines has violated its fulfilment-bound obligation under the RTFN.

The failure to perform its duties was aggravated by the fact that it did not intervene in a timely manner to settle the land dispute. The fact that a private corporation had to provide housing assistance highlights the lack of State attention to the rights of the people of Sicogon.

This national calamity has demonstrated the need for protecting the people's livelihood from such shocks and to strengthen their capacity to recover from natural or man-made catastrophes and prevent opportunists such as big landlords or land grabbers from taking advantage of disasters to advance their economic or business agenda. But more important in the long-term is for the Philippine government to align its disaster response programs not just for immediate relief and rehabilitation but also to climate change mitigation policies that ensure adequate food for all at all times from a human rights perspective. Climate change-induced super typhoons and other similar events highlight the degree to which food production is compromised and undermine the right to adequate food. In the Philippines, those that have been food insecure before a disaster strikes are the same people who suffer most from hunger

⁷⁴ <http://www.ayalaland.com.ph/2016/03/04/sicogon-island/>

⁷⁵ <http://www.bworldonline.com/content.Php?section=Economy&title=ayala-sarrosa-joint-venture-commits-p114m-for-sicogon-farmers&id=98132>; <http://www.napc.gov.ph/articles/sicogon-framework-agreement-forged>

⁷⁶ <http://www.iloilo.gov.ph/dar-approves-sicogon-conversion>; <http://www.sunstar.com.ph/iloilo/local-news/2016/03/03/dar-approves-sicogon-island-conversion-460513>

and deprivation after a catastrophe. Concrete and meaningful steps must be taken early on to prevent similar crises from happening again, or at least to soften their impact, in order to save precious lives. In embarking on disaster risk reduction, the Philippine government should consider climate change mitigation from an RtAF perspective, to be more comprehensive.

6. Recommendations

The situation in relation to the right to adequate food is most dire. While putting a spotlight on hunger and poverty in the Philippines and bringing intimately connected issues out of the shadows, the following recommendations must be advanced:

6.1 Overall Recommendation

The government should pass immediately the Right to Adequate Food Framework Bill commonly known as the Zero Hunger Bill now pending in Congress.

There are several deficits in the government's efforts, particularly in the degree with which it ensures the right to food. In this regard, the Philippines should heed the recommendation of the Special Rapporteur on the Right to Food to facilitate the passage the Zero-Hunger Bill (Right to Adequate Food Framework Bill), and related laws, including Agrarian Reform, House Bill 4296 and House Bill 2016, and the Land Use Act.

The President should certify these bills as urgent and the House of Representatives and Senate leaders should take steps to ensure their immediate passage.

Furthermore, the Philippine should ratify soon the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

Ending hunger is not a matter that can be put off. The different agencies of the executive branch, especially those whose work relates to food, should come together in support of the bill, with a view to urgently ensuring the right to adequate food for all.

In the meantime that the Commission on RTAF has not yet been established, a Committee on RTAF under the Development Council must be created at every level ensuring the integral and equitable membership of civil society.

6.2 Specific Recommendations

A. Socio-Economic and Political Condition: Good Governance and Rule of Law, Corruption and Extrajudicial killings

President Rodrigo Duterte should look into the issue of PDAF and the Disbursement Acceleration Program (DAP) and impose appropriate punishments on the offenders to stop corruption.

The President should also establish an industrialization policy and an agricultural modernization program on the bedrock of agrarian reform.

Extrajudicial killings must be stopped. The right to life must be respected fully. All measures must be taken to prevent their occurrence. Should they occur, there must be a full and independent investigation and the perpetrators must be brought to justice.

B. On Social Protection:

There must be an assessment of the efficacy of insurance-based systems. Direct provision of general social services must be instituted especially since public service providers depend on public investments.

Labor contractualization must be stopped. Workers should be regularized. Their wages must be raised to keep pace with the rising food prices and their other needs. Positive measures should be adopted for the special needs of women workers.

Economic growth should be made inclusive. It should take into account the most vulnerable in society, especially the poor and the hungry.

C. Effects of Climate Change: Typhoon Yolanda Case

In the case of the Sicogon Farmers, there must be protection of the people's livelihood from shocks. Their capacity to recover from natural or man-made catastrophes should be strengthened. Opportunists such as big landlords or land grabbers must be prevented from taking advantage of disasters to advance their economic or business agenda. In the long-term, the Philippine government must align its disaster response programs not just for immediate relief and rehabilitation but also to climate change mitigation policies that ensure adequate food for all at all times from a human rights perspective.

The government should implement climate change mitigation measures from the perspective of the right to adequate food to be comprehensive, with special attention to the rights protection of the vulnerable groups – women, children, elderly, and persons with disabilities.

D. Agrarian Reform Cases: Hacienda Luisita and Hacienda Matias

A new agrarian reform law should be passed to complete the distribution of the lands not previously covered to deserving and qualified agrarian reform beneficiaries (ARBs).

The loans of the holders of a CLOA (Certificate of Land Ownership Award) should be condoned as a social justice measure. Social protection measures and support services to all ARBs must be provided.

The government must put a stop to land grabbing and protect the land rights of the vulnerable groups. Special attention should be given to victims of crises (e.g. those in conflict areas, disasters due to typhoons and other calamities).

On Hacienda Luisita and Hacienda Matias – Distribute all the remaining agrarian lands to the farmers and provide economic support beyond the land redistribution phase. This is essential for the farmers to cultivate their land in a sustainable manner and to provide their families with adequate food and income, ultimately guaranteeing their human right to food now and in future.

E. On the Agriculture and Fisheries Sector:

The government should implement the AFMA (Agricultural Fisheries Modernization Act) and the Magna Carta for Small Farmers to respect, protect and fulfill the rights of farmers and fisherfolks. The government should also pass the Land- Use Act now pending in Congress.

The government should steadfastly uphold the rights of the Philippines over the Kalayaan Group of Islands and protect the right to adequate food of our fisherfolks to access Philippine resources especially the Scarborough Shoal. Appropriate steps should be taken to address conflicting maritime claims between the Philippines and China, mindful of the decision of the UN Convention on the Law of the Sea arbitration panel favoring the Philippines.

F. Indigenous People's Rights

The government must fully implement the Indigenous Peoples Rights Act in recognition of the indigenous people's right to their ancestral domain by issuing the CADTs (Certificate of Ancestral Domain Titles) to all IP communities in the Philippines, and by enforcing these CADTs.

The government should review gaps, weaknesses and issues in the Guidelines on Free Prior Informed Consent (FPIC) and revise it in favor of the indigenous peoples' right to their ancestral domain.

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