Filipinos’ Right to Food: Violated?

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I. INTRODUCTION

An estimated 4.8 million families (124 million Filipinos for a family of five members, representing 23.8% of the country’s population) said they experienced hunger at least once in the past three months according to a survey conducted by the Social Weather Stations (SWS) on 10-13 March 2012.1

The current percentage of hungry Filipinos is at a historically high level since the survey firm started measuring hunger incidence in the Philippines.

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It is even higher than the 22.5% (4.5 million families) recorded in December 2011, and surpassed the highest record of 23.7% in December 2008.\(^2\)

The survey firm defines hunger as “involuntary suffering due to the lack of anything to eat.”\(^3\)

It is not denied that in almost all policy statements of the government, the right to food of the Filipinos is consistently affirmed.\(^4\) However, there appears to be a significant disparity between policy statements and the prevailing reality.

Against this backdrop, it is inquired whether the basic human right of the Filipino to adequate food and freedom from hunger, guaranteed under international law,\(^5\) is being violated.

\(^2\) Id.

\(^3\) Id.

\(^4\) This policy is enshrined in the Social Justice and Human Rights provisions of the Philippine Constitution. See PHIL. CONST. art. XIII, §§ 11 & 12. Section 11 of the Constitution provides —

Section 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavour to make essential goods, health[,] and other social services available to all the people at affordable costs. There shall be priority for the needs of the underprivileged sick, elderly, disable, woman, and children. The State shall endeavour to provide free medical care to paupers.

PHIL. CONST. art. XIII, § 11 (emphasis supplied). Likewise, Section 12 of the Constitution provides —

Section 12. The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country’s health needs and problems.

PHIL. CONST. art XIII, § 12 (emphasis supplied).

\(^5\) Mainly based on Article 25 of the United Nations Declaration on Human Rights, which provides —

everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care[,] and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age[,] or other lack of livelihood in circumstances beyond his control.

In order to answer this query, this Essay will attempt to assess the nature, legal basis, and extent of this right under international law. It will also attempt to examine the efforts of the Philippine Government in ensuring that such right of the Filipinos is realized.

II. RIGHT TO FOOD; INTERNATIONAL LAW BASIS

Section 38 of the Statute of the International Court of Justice (ICJ)\(^6\) enumerates the four sources of international law:

1. Treaties or international conventions;

2. International custom, as evidence of a general practice accepted as law;

3. General principles of law; and

4. Judicial decisions and the teachings of the most highly qualified publicists.\(^7\)

The aforesaid sources of international law create and contain “norms which are always obligatory” to States.\(^8\) With respect to treaties or international conventions, the principle of \textit{pacta sunt servanda} enshrined in Article 26 of the Vienna Convention on the Law of Treaties is of paramount importance.\(^9\) Article 26 provides that “[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith.”\(^10\) Malgosia A. Fitzmaurice contends that “good faith is itself a legal principle and forms an integral part of the \textit{pacta sunt servanda} principle.”\(^11\)

In certain instances, provisions formulated in a treaty become binding even to non-parties. This is true when what is articulated is already a custom,\(^12\) the elements of which are \textit{usus} (State practice) and \textit{opinio juris}.\(^13\)

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7. Id.


10. Id.


the “subjective” or “mental element” that a State is conforming to a legal obligation, transforming “mere objective usage” into “a norm of international law.”\textsuperscript{14}

As to the general principles of international law, Some contend that there could be two possible interpretations: first, those shared by all or majority of States after comparison of the various systems of municipal law, or second, “general principles applicable directly to international legal relations generally.”\textsuperscript{15} For the Commission of Jurists, these principles were to be applied by the ICJ in deciding cases.\textsuperscript{16} Hugh Thirlway observes, however, that neither the Permanent Court nor the ICJ has decided any case based on this principle.\textsuperscript{17}

Judicial decisions and teachings, on the other hand, are considered subsidiary sources, considering that ICJ decisions are not even binding precedents.\textsuperscript{18}

There are certain norms, however, which may lack the binding nature of treaties, and yet are “intended to have some normative significance,”\textsuperscript{19} or to have some legal effects, in the sense that an “element of good faith commitment” is present, “evidencing ... a desire to influence State practice.”\textsuperscript{20}

These are referred to as “soft law,” which “simply refers to a variety of non-legally binding instruments used in contemporary international relations by States and international organizations.”\textsuperscript{21} It has been defined as “any international instrument other than a treaty containing principles, norms, standards, or other statements of expected behaviour.”\textsuperscript{22} While hard law is always binding, “non-binding soft-law instruments are not law per se, but

\textsuperscript{14} Gerald J. Postema, Custom in International Law as a Normative Practice, in THE NATURE OF CUSTOMARY LAW, LEGAL, HISTORICAL AND PHILOSOPHICAL PERSPECTIVES 280 (Amanda Perreau-Saussine & James B. Murphy eds., 2007).
\textsuperscript{15} Hugh Thirlway, The Sources of International Law, in INTERNATIONAL LAW, supra note 11, at 128.
\textsuperscript{16} Id.
\textsuperscript{17} Id. at 128.
\textsuperscript{18} Id. at 130.
\textsuperscript{19} Alan Boyle, Soft Law in International Law-Making, in INTERNATIONAL LAW, supra note 11, at 143.
\textsuperscript{20} Id.
\textsuperscript{21} Id. at 142.
\textsuperscript{22} Dinah L. Shelton, International Law and “Relative Normativity,” in INTERNATIONAL LAW, supra note 11, at 180.
they may be evidence of existing law, or formative of opinio juris or State
practice that generates new customary law.”

In this regard, the following may be considered as sources of the
Philippine obligation of ensuring the Filipinos’ right to food.

A. Treaty Obligations

The human right to adequate food is recognized and reaffirmed in a number
of binding obligations to which the Philippines is a party. The International
Covenant on Economic, Social, and Cultural Rights (ICESCR)\(^24\) in Article
11 thereof, recognizes the right to an adequate standard of living, including
adequate food, and the fundamental right to be free from hunger as a
separate right.\(^25\)

The Convention on the Elimination of All Forms of Discrimination
Against Women (CEDAW)\(^26\) recognizes the right of pregnant and lactating

\(^23\) Boyle, supra note 19, at 141.

\(^24\) The International Covenant on Economic, Social, and Cultural Rights, adopted

\(^25\) Article 11 of the ICESCR provides:

(1) The State Parties to the present Covenant recognize the right of
everyone to an adequate standard of living for himself and his family,
including adequate food, clothing[,] and housing, and to the
continuous improvement of living conditions. The State Parties will
take appropriate steps to ensure the realization of this right,
recognizing to this effect the essential importance of international
co-operation based on free consent.

(2) The State Parties to the present Covenant, recognizing the
fundamental right of everyone to be free from hunger, shall take,
individually and through international co-operation, the measures,
including specific programmes, which are needed:

(a) To improve methods of production, conservation[,] and
distribution of food by making full use of technical and scientific
knowledge, by disseminating knowledge of the principles of nutrition
and by developing or reforming agrarian systems in such a way as to
achieve the most efficient development and utilization of natural
resources; [and]

(b) Taking into account the problems of both food-importing and
food-exporting countries, to ensure an equitable distribution of world
food supplies in relation to need.

Id.

\(^26\) Convention on the Elimination of All Forms of Discrimination Against
women to special protection with regard to adequate nutrition,\textsuperscript{27} as well as the right of rural women to equal access to land, water, credit and other services, social security, and adequate living condition.\textsuperscript{28}

Finally, the Convention on the Rights of the Child (CRC)\textsuperscript{29} recognizes the right to the highest attainable standard of health,\textsuperscript{30} as well as the right to an adequate standard of living.\textsuperscript{31} Both of these include the right to food and nutrition.\textsuperscript{32}

\textbf{B. Customary International Law}

Article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right to an adequate standard of living, including food.\textsuperscript{33} Since right to food is guaranteed by the UDHR, it is advocated that it partakes of the status of a customary international law, which would make it binding on States regardless of whether they have ratified the relevant treaties.\textsuperscript{34} Furthermore, this view is supported by the wide recognition in international and national laws as well as States’ commitments through soft-law instruments on the right to food.\textsuperscript{35}

\textbf{C. Soft Law}

Relevant to the right to food are several non-legally binding international human rights instruments, including recommendations, guidelines, resolutions, or declarations. Among these are the Committee on Economic, Social, and Cultural Rights Comment No. 12\textsuperscript{36} and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate

\begin{thebibliography}{9}
\bibitem{27} Id. art. 12.
\bibitem{28} Id. art. 14.
\bibitem{30} Id. art. 25.
\bibitem{31} Id. art. 27.
\bibitem{32} Id. arts. 25 & 27.
\bibitem{33} UDHR, \textit{supra} note 5, art. 25.
\bibitem{34} Lidija Knuth & Margaret Vidar, \textit{Constitutional and Legal Protection of the Right to Food around the World} 10 (2011).
\end{thebibliography}
Food in the Context of National Food Security,37 which is considered the most direct and detailed.

It is worth mentioning also that the Philippines joined the rest of the community of nations in declaring and reaffirming “the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger” during the World Food Summit in Rome, Italy held on 13-17 November 2006.38

Apart from these international law sources, there is no domestic law that specifically grants the right to food and to be free from hunger to the Filipinos, unlike other jurisdictions where this right is guaranteed in their constitutions.39 Nevertheless, this international human rights principle is automatically adopted in the Philippine legal system through the principle of incorporation.40

III. RIGHT TO FOOD: MEANING AND EXTENT

The United Nations (U.N.) Special Rapporteur on the Right to Food, Jean Ziegler, defines the right to food as —

[the right to have regular, permanent[,] and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures

39. KNUTH & VIDAR, supra note 34, at 21.
40. See PHIL. CONST. art II, § 2. This Section adopts and incorporates principles of international law into the law of the land. It states —

Section 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

PHIL. CONST. art II, § 2.
a physical and mental, individual and collective, fulfilling and dignified life free of fear.\textsuperscript{41}

States are also obliged to promote full enjoyment of their peoples’ right to adequate food — that is, the food must be sufficient in quantity and quality\textsuperscript{42} and culturally acceptable,\textsuperscript{43} — which must be progressively realized.\textsuperscript{44} While such distinction is more apparent than real, as States are obliged to fulfil both, they must ensure freedom from hunger in their territories as a minimum immediate core obligation.\textsuperscript{45}

The right to food is considered a “basic human right as well as [a] basic human need,”\textsuperscript{46} and is indivisible as such.\textsuperscript{47} The UDHR first recognized the right to food as a human right, which provides that everyone has the right to a standard of living adequate for his health and well-being, including food. It was then incorporated in the ICESCR, which entered into force in 1976 after it was ratified by 156 States, including the Philippines.\textsuperscript{48} The ICESCR obligates States to act:

\begin{itemize}
  \item[(a)] To improve methods of production, conservation[,] and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition[,] and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; [and]
\end{itemize}

\begin{flushleft}
\textsuperscript{42} \textit{General Comment 12, supra note 36, ¶ 8}.
\textsuperscript{43} \textit{Id}.
\textsuperscript{44} \textit{FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS, THE RIGHTS TO FOOD AND ACCESS TO NATURAL RESOURCES} 15 (Lorenzo Cotula ed., 2006).
\textsuperscript{45} \textit{FOOD AND AGRICULTURAL ORGANIZATION OF THE UNITED NATIONS, RIGHT TO FOOD: MAKING IT HAPPEN, PROGRESS AND LESSONS LEARNED THROUGH IMPLEMENTATION} 4 (2011) [hereinafter FAO, \textit{RIGHT TO FOOD]}.
\textsuperscript{46} UDHR, \textit{supra} note 5, art. 25.
\textsuperscript{48} The ICESCR was ratified by the Philippines on May 17, 1974, and entered into force on Jan. 3, 1976.
\end{flushleft}
(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need. 49

Ziegler also contends that —

[the right to food means that Governments must not take actions that result in increasing levels of hunger, food insecurity[,] and malnutrition. It also means that Governments must protect people from the actions of others that might violate the right to food. Governments must also, to the maximum of available resources, invest in eradicating hunger. The right to food is not about charity, but about ensuring that all people have the capacity to feed themselves in dignity.]

The U.N. Committee on Economic, Social, and Cultural Rights (CESCR) commented that the right to food imposes three types of obligations on States parties: “the obligations to respect, to protect[,] and to fulfil.” 51

The obligation to respect “requires State parties not to take any measures that result in preventing access to adequate food.” 52 The obligation to protect “requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.” 53 The obligation to fulfil includes both the obligation to facilitate (which requires States to “proactively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security”) 54 and to provide (which requires States to directly assist individual or group, who are unable to enjoy the right for reasons beyond their control, i.e., victims of natural disasters). 55 It requires the State to create an enabling environment where people become self-reliant for food. 56

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49. ICESCR, supra note 24, art. 11.
51. General Comment 12, supra note 36, ¶ 15.
52. Id.
53. Id.
54. Id.
55. Id.
In this regard, every individual is a right-holder, entitled to demand from the State the performance of these obligations.\textsuperscript{57}

A. Progressive Realization

Article 11 of the ICESCR enjoins State parties to take appropriate steps to ensure the realization of the right to adequate food.\textsuperscript{58} Under Article 2 (1) of the ICESCR,\textsuperscript{59} States agree to take steps to the maximum of their available resources to achieve progressively the full realization of this right.\textsuperscript{60} This implies that the realization of this right requires time, just as it implies the principle of non-retrogression, whereby once a commitment is made, it cannot be withdrawn. Thus, the standard of protection cannot be lowered, but must be progressively and actually realized.\textsuperscript{61}

This right to food, however, like human rights in general, needs to be addressed through a national framework, or a “legal, policy[,] and institutional environment.”\textsuperscript{62} In this regard, the CESCR opined that—

[The most appropriate ways and means of implementing the right to adequate food will vary significantly from one State party to another. Every State will have a margin of discretion in choosing its own approaches, but the covenant clearly requires that each State party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food.\textsuperscript{63}

It also added that this will require the adoption of a national strategy to ensure food and nutrition security for all based on human rights principles.\textsuperscript{64}

As a general rule in human rights law, each State separately has the primary

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\textsuperscript{57} Id.

\textsuperscript{58} ICESCR, supra note 24, art. 11.

\textsuperscript{59} Article 2, ¶ 1 of the ICESCR provides—

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Id.

\textsuperscript{60} General Comment 12, supra note 36, ¶ 14.

\textsuperscript{61} FAO, RIGHT TO FOOD IN PRACTICE, supra note 56, at 4.

\textsuperscript{62} Id.

\textsuperscript{63} General Comment 12, supra note 36, ¶ 21.

\textsuperscript{64} Id.
responsibility to respect and ensure human rights for everyone within its
territory.\textsuperscript{65}

In order to realize this fundamental right to food, the U.N. Food and
Agriculture Organisation (FAO) Council has adopted some guidelines
relating to food security.\textsuperscript{66} In addition, a special Right to Food Unit has
been established within FAO in order to assist States in the realization of this
right.\textsuperscript{67}

It is to be stressed though that the right to food does not mean the right
to be fed, but primarily the right to feed oneself in dignity.\textsuperscript{68}

\textbf{B. Violations of the Right to Food}

Violations of the right to food primarily occur when a State fails to ensure
satisfaction of the minimum essential level required for its people to be free
from hunger.\textsuperscript{69} It is necessary then to distinguish between the State’s inability
as opposed to its unwillingness to comply.\textsuperscript{70} It can be deduced that the
State’s unwillingness to comply is a clear violation of the right. Its inability,
however, may be excusable, although it needs to be demonstrated that every
effort has been made in using all the resources at its disposal to satisfy the
minimum obligations.\textsuperscript{71}

The failure of the State to provide an enabling environment in which
people can use their full potential to produce or procure adequate food for
themselves and their families may result to a violation of the right to food.
Further, violations may also result from the failure of the State to directly


\textsuperscript{69} General Comment 12, supra note 36, ¶ 17.

\textsuperscript{70} Id.

\textsuperscript{71} Id. These are the obligations to respect, protect, and fulfill (which incorporates the obligations to facilitate and provide).
provide food to its people who are not able to feed themselves with their own means because of armed conflicts, natural disasters, or because they are in detention.\footnote{72}

Clearly, violations may either be through action or inaction of the State, or through actions of other entities insufficiently regulated by the State.\footnote{73}

\textbf{IV. Assessment of the Possible Violation of Filipinos’ Right to Food}

The country’s accession to the ICESCR\footnote{74} has created rights and obligations of the Filipinos and the State, respectively. Filipinos are vested with the right to food, and the Philippine Government is obliged to respect, protect, and fulfill these rights.

As previously discussed, there are two inseparable rights being mentioned — the right to adequate food and the right to be free from hunger. The obligation to fulfill the latter is immediate, while the obligation to fulfill the former is progressive.

At the outset, there appears to be a failure on the part of the Philippine Government to comply with its obligation to ensure the Filipinos’ basic right to be free from hunger. Since hunger is defined by the survey firm as the involuntary suffering due to the lack of anything to eat, it follows that said hungry Filipinos — and perhaps even more — lack adequate food. The Philippines became a State party to the ICESCR on 5 August 1981. From the moment of its ratification, the country was obligated to immediately end hunger within its territory. Yet, 31 years after, instead of eradicating hunger, the Philippines has allowed hunger to rise to historic levels.

In light of this reported increase on hunger incidence, an assessment may be made as to whether there is a violation of the Filipinos’ right to food. Given the declarations of the Philippine Government during the World Food Summit affirming its people’s right to food as well as its policy statements, it is difficult to argue that it is unwilling to comply with its international obligation. Clearly, however, the Philippines is unable to comply with said obligation. Whether it can be demonstrated that its inability to comply is excusable may depend on various factors, such as:


\footnote{73. \textit{General Comment 12}, supra note 36, ¶ 19.}

\footnote{74. Supported by the possible status of the right as a customary international law, as well as other soft-law instruments. \textit{See generally} Boyle, supra note 19.}
(1) Is the incidence of hunger increasing or decreasing through time?

(2) What are the causes of hunger?

(3) Are there relevant laws being in place?

(4) Is there a national framework in addressing food security (which includes adequacy of food) and hunger incidence in the Philippines?

(5) What are the efforts of the Philippine Government in ending hunger and providing adequate food?

A. Hunger Incidence

The SWS\textsuperscript{75} data shows an increasing hunger incidence in the Philippines from 1998 to the present year.\textsuperscript{76}

<table>
<thead>
<tr>
<th>Year (on average)</th>
<th>Total Incidence of Hunger\textsuperscript{77}</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>11%</td>
</tr>
<tr>
<td>1999</td>
<td>8.3%</td>
</tr>
<tr>
<td>2000</td>
<td>10.8%</td>
</tr>
<tr>
<td>2001</td>
<td>11.4%</td>
</tr>
<tr>
<td>2002</td>
<td>11.1%</td>
</tr>
<tr>
<td>2003</td>
<td>7%</td>
</tr>
<tr>
<td>2004</td>
<td>11.8%</td>
</tr>
<tr>
<td>2005</td>
<td>14.3%</td>
</tr>
<tr>
<td>2006</td>
<td>16.7%</td>
</tr>
<tr>
<td>2007</td>
<td>17.9%</td>
</tr>
<tr>
<td>2008</td>
<td>18.5%</td>
</tr>
</tbody>
</table>

\textsuperscript{75} The SWS conducts surveys that provide “independent source[s] of pertinent, accurate, timely[,] and credible data on Philippine economic and social conditions.” Social Weather Stations, About SWS, available at http://www.sws.org.ph (last accessed Sep. 6, 2012).

\textsuperscript{76} Social Weather Station, First Quarter 2012 Social Weather Survey: Hunger at record-high 23.8% of families; Moderate Hunger at 18.6%, Severe Hunger at 5.8%, available at http://www.sws.org.ph/pr20120511.htm (last accessed Sep. 6, 2012) [hereinafter SWS, Hunger].

\textsuperscript{77} Id.
In 1998, hunger incidence was at an average of 11% of families, which dipped to 7% in 2003, then spiked at 18.5% in 2008, and reached a historic high of 23.8% in March of this year. While there are instances that the average percentage decreases, the overall trend is an increase in the percentage of families that experience hunger. Considering the figures geographically does not make for a less bleak picture, either.

<table>
<thead>
<tr>
<th>Year</th>
<th>NCR</th>
<th>Luzon</th>
<th>Visayas</th>
<th>Mindanao</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>8.1%</td>
<td>9.9%</td>
<td>11.3%</td>
<td>14.5%</td>
</tr>
<tr>
<td>1999</td>
<td>7.9%</td>
<td>8.3%</td>
<td>7.6%</td>
<td>9.3%</td>
</tr>
<tr>
<td>2000</td>
<td>7.7%</td>
<td>10.3%</td>
<td>9.7%</td>
<td>14.7%</td>
</tr>
<tr>
<td>2001</td>
<td>9.2%</td>
<td>9.8%</td>
<td>14.3%</td>
<td>13.3%</td>
</tr>
<tr>
<td>2002</td>
<td>7.5%</td>
<td>11.8%</td>
<td>8.9%</td>
<td>9.6%</td>
</tr>
<tr>
<td>2003</td>
<td>7.6%</td>
<td>8.2%</td>
<td>4.5%</td>
<td>6.6%</td>
</tr>
<tr>
<td>2004</td>
<td>8.8%</td>
<td>9.4%</td>
<td>11.8%</td>
<td>17.6%</td>
</tr>
<tr>
<td>2005</td>
<td>14.4%</td>
<td>15.1%</td>
<td>13.8%</td>
<td>13.3%</td>
</tr>
<tr>
<td>2006</td>
<td>16.0%</td>
<td>14.3%</td>
<td>18.1%</td>
<td>20.5%</td>
</tr>
<tr>
<td>2007</td>
<td>19.9%</td>
<td>16.7%</td>
<td>13.9%</td>
<td>20.7%</td>
</tr>
<tr>
<td>2008</td>
<td>21.0%</td>
<td>17.1%</td>
<td>16.1%</td>
<td>21.9%</td>
</tr>
<tr>
<td>2009</td>
<td>21.5%</td>
<td>16.7%</td>
<td>21.6%</td>
<td>20.8%</td>
</tr>
<tr>
<td>2010</td>
<td>20.3%</td>
<td>18.1%</td>
<td>18.2%</td>
<td>21.1%</td>
</tr>
<tr>
<td>2011</td>
<td>19.7%</td>
<td>21.5%</td>
<td>19.0%</td>
<td>17.8%</td>
</tr>
<tr>
<td>March 2012</td>
<td>24.3%</td>
<td>28.0%</td>
<td>10.3%</td>
<td>26.7%</td>
</tr>
</tbody>
</table>

78. Id.
The prevalence of hunger is almost uniform in the whole Philippines — National Capital Region (NCR), Luzon, Visayas, and Mindanao (except perhaps in the March 2012 survey, where the Visayas region only recorded an average of 10.3%, while the rest of the geographical areas recorded more than 20%).

B. Causes of Hunger

The increase in hunger incidence is attributed to the oil price increases in the NCR and the calamity that struck Mindanao.79

A party-list lawmaker, however, attributes the continuous rise of hunger to poverty, and the refusal of the government to grant higher wages amid incessant increases in food prices.80

The world leaders officially acknowledge poverty as a major cause of food insecurity, and sustainable progress in poverty eradication is essential to improve access to food.81

The U.N. defines poverty as a “human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security[,] and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political[,] and social rights.”82

Indeed, Philippine experience attests to the fact that people living in poverty cannot fully enjoy the right to food because they cannot afford to buy adequate food nor the means to grow it themselves. The vast majority of Filipinos suffering from hunger are poor and marginalized, struggling to survive at less than $2.00 a day.83

79. As claimed by Social Welfare and Development Secretary Corazon “Dinky” J. Soliman, and quoted by Helen Flores. See Flores, supra note 1.
80. Gabriela Party-List Representative Luzviminda C. Ilagan, and quoted by Helen Flores. See Flores, supra note 1.
83. Annual per capita poverty threshold in 2009 is₱16,841.00; in 2009, 20.9% of the families or 26.5% of the total population of 92.34 million Filipinos live
Just like in most countries, the rural poor in the Philippines often lack access to sufficient productive resources, such as land, water, fertilizers, and seeds, as well as to markets, information, and technology. Sometimes, even when they can produce agricultural products, lack of access to markets prevents them from selling their goods in order to be able to buy food.

For those living in urban areas, access to adequate food is gained through purchasing as opposed to creating and growing it. Gainful employment is thus critical. However, with unemployment or insufficient purchasing capability, their enjoyment of the right to food is undermined as they have no other means of having food access.

It is to be noted that the ICESCR requires State parties to take the measures, including specific programs, which are needed —

to improve methods of production, conservation, and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition[,] and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.

The FAO Right to Food Guidelines provide detailed guidance on ensuring sustainable, non-discriminatory, and secure access to resources and assets, including labor, land, water, genetic resources for food and agriculture, services, etc.

C. Efforts of the Philippine Government


85. Id.

86. In a SWS survey fielded over March 10-13, 2012, adult unemployment is also found to be at a new record-high of 34.4%, or an estimated 13.8 million, surpassing the previous record-high of 34.2% in February 2009. The latest unemployment rate is 10 points higher than the 24.6% (est. 9.7 million) in December 2011. Social Weather Stations, First Quarter 2012 Social Weather Survey: Adult unemployment at record-high 34.4%; 13% lost their jobs involuntarily, 13% resigned, available at http://www.sws.org.ph/ pt20120521.htm (last accessed Sep. 6, 2012).

87. ICESCR, supra note 24, art. 11.

88. FAO, THE RIGHT TO FOOD GUIDELINES, supra note 35, at 191-213.
The Department of Agriculture has come up with a program focused on rice farming and aimed towards uplifting the lives of Filipino farmers.\(^{89}\) The Agri-Pinoy Rice Program “integrates government initiatives and interventions for the agricultural sector, namely: food security and self-sufficiency, sustainable resource management, support services from farm to table, and broad-based local partnerships.”\(^{90}\)

This Rice Program is part of the Administration’s Food Staples Sufficiency Program, which aims to achieve self-sufficiency in rice and other staple food.\(^{91}\) The three major interventions under the program include “production support, enhancing incentives and enabling mechanism, and managing food consumption.”\(^{92}\)

Thus, it cannot be gainsaid that the Philippines has some efforts in addressing the country’s food security, and the aforesaid program attests to such efforts. These efforts may be evidenced, among others, by legislative measures, policies, and specific programs and projects.

1. Legislative Measures

There are a number of legislative measures that support either directly or indirectly the right to food of the Filipinos:

(1) *Agriculture and Fisheries Modernization Act of 1997* (Republic Act (R.A.) No. 8435),\(^{93}\) which enunciates the policy, among others, of promoting food security, including sufficiency in our staple food, namely rice and white corn.\(^{94}\) It provides that the production of rice and white corn shall be optimized to meet

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90. Id.


92. Id.


94. Id. § 2.
local consumption and shall be given adequate support by the State.\textsuperscript{95} It also promotes the principle of food security, whereby the State shall assure the availability, adequacy, accessibility, and affordability of food supplies to all at all times.\textsuperscript{96}

(2) *Comprehensive Agrarian Reform Law of 1988* (R.A. No. 6657),\textsuperscript{97} aimed at a more equitable distribution and ownership of land to provide farmers and farm workers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands.\textsuperscript{98} The program is founded on the right of farmers and regular farm workers, who are landless, to own directly or collectively the lands they till.\textsuperscript{99} The Act was amended by R.A. No. 9700, passed on 7 August 2009.\textsuperscript{100} The acquisition and distribution of all agricultural lands was extended until 20 June 2014.\textsuperscript{101}

(3) *Labor Code of the Philippines* (Presidential Decree No. 442),\textsuperscript{102} which provides, among others, labor standards such as conditions of employment, minimum wages,\textsuperscript{103} health, safety, and welfare of workers.\textsuperscript{104}

\textsuperscript{95} Id.
\textsuperscript{96} Id. § 2, ¶ b.
\textsuperscript{97} Comprehensive Agrarian Reform Act of 1988, Republic Act No. 6657, as Amended (1988).
\textsuperscript{98} Id. § 2.
\textsuperscript{99} Id.
\textsuperscript{100} An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of all Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, as amended, and Appropriating Funds Therefor, Republic Act No. 9700 (2009).
\textsuperscript{101} Id. § 5.
\textsuperscript{102} A Decree Instituting a Labor Code Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace Based on Social Justice [LABOR CODE], Presidential Decree No. 442, as Amended (1974).
\textsuperscript{103} Id. book 3. The minimum wage is currently set by the National Wages and Productivity Commission (NWPC), created pursuant to Republic Act No. 6727, also known as the “Wage Rationalization Act.” Id.
\textsuperscript{104} Id. book 4.
(4) Indigenous People Rights Act of 1997 (R.A. No. 8371),\textsuperscript{105} which recognizes, protects, and promotes the rights of indigenous cultural communities (ICCs)/indigenous peoples (IPs).\textsuperscript{106} The law guarantees members of the ICCs/IPs, regardless of sex, to equally enjoy the full measure of human rights and freedoms without distinctions or discriminations.\textsuperscript{107}

2. Programs and Projects

The country’s programs and projects of ensuring food sufficiency include:

(1) Food Security and Self-Sufficiency Program,\textsuperscript{108} which is a multilingual intervention program focused on achieving self-sufficiency in staple foods such as rice and other crops;\textsuperscript{109}

(2) Pantawid Pamilyang Pilipino Program (4Ps),\textsuperscript{110} which is the centerpiece of the Aquino administration in eradicating extreme poverty and hunger, among others. 4Ps is a human development program of the national government that provides conditional cash grants to extremely poor households to improve their health, nutrition, and education particularly of children aged 0–14.\textsuperscript{111} The program has dual objectives: “Social Assistance — to provide cash assistance to the poor to alleviate their immediate need (short term poverty alleviation)”\textsuperscript{112} and “Social Development — to break the intergenerational poverty cycle through investments in human capital.”\textsuperscript{113}

(3) The National Food Authority, which is vested with the functions of ensuring the food security and the stability of supply and price

\textsuperscript{106} Id. § 2 (a).
\textsuperscript{107} Id. § 2 (b).
\textsuperscript{108} Government to Launch Food Staples Sufficiency Program,’ supra note 91.
\textsuperscript{109} Id.
\textsuperscript{111} Id.
\textsuperscript{112} Id.
\textsuperscript{113} Id.
of the staple grain—rice through various activities and strategies (i.e., “procurement of paddy from individual bonafide farmers and their organizations, buffer stocking, processing activities, dispersal of paddy and milled rice to strategic locations and distribution of the staple grain to various marketing outlets at appropriate times of the year”).\textsuperscript{114} It also sells rice and grains at subsidized prices;\textsuperscript{115} and

(4) Increased budget for agricultural infrastructure — a big chunk of the Department of Agriculture’s 2012 budget of P61.73 billion is appropriated for the implementation of Food Staples Sufficiency Program, particularly on infrastructure like irrigation, farm-to-market roads, and postharvest facilities.\textsuperscript{116}

Despite this array of legislative measures, programs, and projects of the Philippine Government in addressing food security and adequacy, there is still a continuing increase in hunger incidence in the country.\textsuperscript{117}

The Philippine Government has been known for remarkable laws, programs, and projects; yet, much has always been desired on the degree and quality of implementation.\textsuperscript{118} The Philippine Government’s success may be wanting, but its efforts in addressing the right to food of its people cannot be ignored. Viewed in this context, the Philippine Government may argue that its failure to provide adequate food and arrest the continuing increase in hunger incidence among its people is excusable. Whether these efforts are sufficient to claim that all the resources at its disposal were expended to satisfy its minimum obligation appears to be doubtful.


\textsuperscript{115} Id.


\textsuperscript{117} SWS, Hunger, supra note 76.

V. CONCLUSION

Past and present administrations never waned on their assurance to the Filipinos of adequate food on their tables. Yet, 31 years after the country’s accession to the ICESCR and in this modern 21st Century, freedom from hunger for the Filipinos remains an elusive dream.

The Philippine economy posted a 6.4% Gross Domestic Product growth in the first quarter of 2012, yet, on the same period, hunger incidence and unemployment increased. There are some doubts as to whether such economic growth is inclusive as it does not redound to the benefit of the poor and the marginalized. If such trend is not averted, and the Philippine Government does not undertake immediate action to correct such anomaly, a case of the country’s violation of its international law commitment to respect, protect, and fulfill the right to food of the Filipinos is strengthened, notwithstanding the pieces of evidence to support the country’s probably excusable failure.

Indeed, the Philippine Government has to realize that while the country’s obligation to ensure the right to food of its people is primarily owed to the international community as a whole; once this right is violated, the victims are its own people — the Filipinos themselves.


120. SWS, Hunger, supra note 76.