



**THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES**  
on the Occasion of the Right to Food Forum

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delivered by

**LEILA M. DE LIMA**

Chairperson, Commission on Human Rights of the Philippines

Good day.

First, my sincerest appreciation to the organizers, the Food and Agriculture Organization (FAO), for having invited me to this forum on right to food, it is my honor and privilege to be here before you. As Chairperson of the Commission on Human Rights of the Philippines (CHRP), this is an excellent opportunity to learn from the experts and that of the experiences of other countries in implementing the right to adequate food.

**Status**

In the Philippines, there is so much to be done in the realization of the right to adequate food. If it weren't the case, more than half of the Filipino population would not be, as I speak, experiencing hunger. In some countries, people go on hunger strikes to make a statement and make government listen. People are "forced" to go on "hunger strikes" because they simply do not have the means to feed themselves.

In June 2008, forty-nine percent (49%) of Filipino families or 8.8 million rate themselves as food-poor while twenty-six percent (26%) consider themselves in the borderline, according to the Social Weather Survey (SWS). There was a 15% increase from December 2007 or 2.7 million more families.<sup>1</sup>

Poverty incidence in 2006 or the proportion of the Philippine population with per capita income below the poverty threshold is 32.9%. There is a 2.9%

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<sup>1</sup> "Second Quarter Social Weather Survey: Self-rated poverty jumps to 59%" 31 July 2008 SWS conducted a survey on self rate poverty fielded on June 28 to 30, 2008.

increase since 2003. Likewise, there is also a rise in the subsistence incidence which refers to the number of individuals who do not have the sufficiency to buy their basic food requirements. From 13.5% in 2003 the number rose to 14.6% --- translated, 10.6 million in 2003 to 12.2 million Filipinos.<sup>2</sup>

The increase in statistics must be given due attention and concrete action by government.

The Philippines is a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). In Article 11 of ICESCR, it recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food. As a state party, the Philippines has the standing obligation to fulfill these rights in accordance to its present capability, but nonetheless, to achieve progressively the realization of these rights over a period of time.<sup>3</sup>

Early this year, due to climate change, we have experienced the global rice crisis. The Philippines, a heavy rice importer, was tremendously affected. Long queues were seen every morning outside the National Food Authority where subsidized rice was sold. Making it worse, because of the increase in the price of rice per kilo from USD 0.60 to USD 0.72, many Filipino families have foregone including sources of protein, like fish and meat, in their diet.<sup>4</sup>

Furthermore, according to Food and Nutrition Research Institute, one out of four children is underweight; four million children under ten years old are undernourished.<sup>5</sup>

### **How right to food is integrated into the National Human Rights Action Plan**

On 8 September 2000, the Philippines, along with other member countries of the United Nations, adopted the United Nations Millennium Declaration. This gave birth to the Millennium Development Goals (MDGs). The MDGs are also included in other national developments plans of the country such as the Medium-Term Philippine Development Plan. Pertinent to our discussion is Goal 1 which refers to the eradication of extreme poverty and hunger. It has two targets. The first target is to halve the proportion of people living in extreme poverty. While the second target is to halve the proportion of

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<sup>2</sup> Statistics and definitions of poverty and subsistence incidences were based on the National Statistical Coordinating Board (NSCB) posted 5 March 2008. <http://www.nscb.gov.ph>. (Accessed on 18 September

<sup>3</sup> ICESCR Art. 2(1). The Philippines adopted the International Covenant on Economic, Social and Cultural Rights on 19 December 1966. It entered into force on 3 January 1976.

<sup>4</sup> "PHILIPPINES: Rice shortage hits poor as government grapples for solution". <http://www.irinnews.org/Report.aspx?ReportId=77478>. accessed on 16 September 2008.

<sup>5</sup> "PHILIPPINES: Nutrition gains at risk". <http://www.irinnews.org/Report.aspx?ReportId=77822>. accessed on 24 September 2008.

population below the minimum level of dietary energy consumption and halve the population of underweight children under five years old.

The “Philippines Midterm Progress Report on the Millennium Development Goals” reported that the country in general has a high probability to achieve Goal 1, though some parts of the country may need extra assistance to alleviate poverty and hunger.

### *National Human Rights Action Plan*

Taking off from the 1993 Vienna Declaration<sup>6</sup>, the Commission spearheaded the formulation of the first human rights action plan in the country. This action plan was focused on guaranteeing the human rights of the vulnerable groups or marginalized sectors of the society. Hence, fifteen vulnerable groups were identified.

The process entailed a multi-sectoral consultation from the government, non-governmental organizations, civil society organizations and the private sector. However, the success of this plan highly depends on the policy direction the government will take. The government, as the duty-bearer, has the resources and the capacity to actualize the said plan. The Commission, on the other hand, exists to facilitate and ensure that the plan was geared towards the fulfillment of human rights. Thus, the process undertaken would be through the human rights framework.

The first Philippine Human Rights Plan (PHRP-I) served as a compliance document of the government with international human rights instruments to which the country is a state party and the mainstreaming of human rights in development.<sup>7</sup>

PHRP-I was the first comprehensive document that illustrated the human rights situation in the country and promoted greater awareness of human rights among the different government offices or agencies, NGOs, and the private sector. The formulation of a human rights plan instigated the collaboration and cooperation between the duty-bearers and the rights-holders.<sup>8</sup>

Although the PHRP-I did not explicitly address the right to food, it assured, nonetheless, the well-being of each sector integrating the interdependence and indivisibility of civil and political rights, and economic,

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<sup>6</sup> “The Vienna Declaration and Programme of Action” was adopted on 25 June 1993. Part I, para. 36: *Reaffirms the constructive and important role of national institutions for the promotion and protection of human rights*

<sup>7</sup> Evaluation of the Philippine Human Rights Plan (1996-2000). Published by the Human Rights Resource Center of the Commission on Human Rights. undated. p. 2.

<sup>8</sup> Ibid.

social and cultural rights. Likewise, fundamental human rights to adequate food, clothing, shelter and improving the living condition are given prime consideration.

The Philippine government has made human rights part of its agenda. On 8 December 2006, the President issued Administrative Order No. 163, which aimed at strengthening and expanding the membership of the Presidential Human Rights Committee (PHRC). The committee is the primary advisory body to the President in effectively addressing the human rights concerns and issues of the country. One of its functions is to formulate the National Human Rights Action Plan in accordance with human rights treaty obligations and to adopt a “rights-based approach” in the formulation of the said plan.<sup>9</sup>

Last May 2008, the PHRC convened the government, NGOs, Civil Society Organizations, academe and the private sector to conduct the first of the series of the multi-sectoral consultations on the formulation of the second National Action Plan on Human Rights. The Commission’s role is “to provide technical expertise and advice to PHRC in the formulation of the National Action Plan to cover both the content and the process of the action planning.”<sup>10</sup>

As such, the Commission is recommending the inclusion of fundamental human rights such as the realization of right to adequate food of the identified vulnerable sectors.

### **Experience in Using Rights-Based Indicators to Right to Food**

#### *“Pilot Study on the Rights-Based Indicators on Selected ESCR”*

In 2005, the Commission embarked on a pilot study on developing rights-based indicators on selected economic, social and cultural rights particularly, the right to food.<sup>11</sup> The study aimed to generate a common set of indicators that would help the government in objectively reporting to fulfill its international obligations. This, on the other hand, will assist the Commission in monitoring the government’s compliance with international human rights instruments. Hence, it will maintain its impartiality on evaluating the government’s performance in implementing the right (to food).

<sup>9</sup> Administrative Order No. 163 – “Strengthening and Increasing the Membership of the Presidential Human Rights Committee, and Expanding Further the Functions of Said Committee, Section 2 and 3. issued on 8 December 2006.

<sup>10</sup> A Primer on National Human Rights Action Plan. Published by the Commission on Human Rights and UNDP. Undated. p. 9.

<sup>11</sup> “Indicators on Right to Food”. Terminal Report on the Pilot-Study: Rights-Based Indicators on Selected Economic, Social and Cultural Rights. Prepared by the Government Linkages Office of the Commission on Human Rights of the Philippines. Undated.

The pilot study found essential the identification of stakeholders who will facilitate the determination of indicators consistent with General Comment No. 12 elaborating on the normative content of right to adequate food. Therefore, representatives of different government agencies and non-governmental organizations were invited to participate. Participants included both government and non-government organizations

*Government Agencies:*

1. Department of Agriculture
2. Department of Agrarian Reform
3. Department of National Defense
4. Department of Environment and Natural Resources
5. Department of Interior and Local Government
6. Department of Labor and Employment
7. Department of Health
8. Department of Public Works and Highways
9. Department of Science and Technology
10. Department of Social Welfare and Development
11. Department of Trade and Industry
12. National Anti-Poverty Commission
13. National Food Authority
14. National Economic Development Authority
15. Office of Muslim Affairs
16. National Commission on Indigenous Peoples

*Non-Governmental Organizations (to name a few)*

17. KAISAMPALAD
18. Food First Information Agency
19. Philippine Alliance of Human Rights Advocates
20. Philippine Human Rights Information Center
21. Task Force Detainees of the Philippines
22. INAM Philippines
23. Philippine Network on Rural Development Institute.<sup>12</sup>

Most of the participants, particularly representatives from government agencies, were unaware of the State obligations under the ICESCR, which gave the CHRP a first-hand glimpse of possible reason behind the apparent lack of conscious effort to fulfill ESC rights on the part of the government agencies. The process of reviewing and analyzing existing indicators, therefore, had to be done even as the participants were still internalizing the concept of human rights and the integration of the rights-perspective in their respective agency plans and programs.

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<sup>12</sup> Ibid. p.4

Thereafter, simultaneous discussions on human rights concepts and principles and the development of human rights indicators to right to food were conducted.<sup>13</sup>

But even before these discussions, there were already existing indicators. The challenge at hand was how to regard the indicators in the rights framework. Government agencies have their own set of indicators as well as definitions differing from what non-government organizations including media would use in making government account for the situation of the Filipino in respect of the Right to Food.

The Pilot study, therefore, initiated a leveling off by review and analysis of existing indicators and has selected indicators that would reflect the core content of the right.<sup>14</sup>

General Comment No. 12, adopted in 1999, enumerated the core content of right to food, namely, *adequacy, sustainability, availability, accessibility, dietary needs, freedom from adverse substances, and cultural or consumer acceptability*.<sup>15</sup> The output of the activity, therefore, considered indicators on the following “categories”: adequacy, sustainability, availability, accessibility, safety and acceptability.<sup>16</sup>

To illustrate how institutional mechanisms are in place to ensure the right to food in accord with its core content, the Pilot Study provided a process of dialogue to engage government position their mandates in accordance to each core content:

*Adequacy.* This pertains to the sufficiency and appropriateness of the food intake including the dietary needs. Dietary needs imply that the diet as a whole contains a mix of nutrients necessary for physical and mental growth.<sup>17</sup> For instance, the Department of Agriculture, through its attached agency, the Bureau of Agricultural Research, has the mission managing the country’s agricultural research and development system responsive to the needs of farmers and fisherfolk. The Department of Agriculture itself has the mandate of ensuring that research results are communicated to the farmers through appropriate training and extension activities.

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<sup>13</sup> Id. p3.

<sup>14</sup> Id.

<sup>15</sup> General Comment 12, “The right to adequate food” adopted on 12 May 1999. General Comments are issued by the treaty bodies to further define and clarify the scope of a right contained in the hr instrument.

<sup>16</sup> Id.(n6)

<sup>17</sup> Id. (n14) par. 7.

*Sustainability.* It is intrinsically linked with food security, which implies the accessibility for both present and future generations.<sup>18</sup> The National Food Authority is the body of government responsible in ensuring food security even in times and places of natural or man-made emergencies.

*Availability.* This refers to the possibilities either for feeding oneself directly from productive land, or for well functioning distribution system. The Department of Agrarian Reform has been undertaking agrarian reform programs to protect access to land of poor farmers and their right to own, directly or collectively, the land they till. Also, the National Commission on Indigenous Peoples has the duty to protect the rights of Indigenous Peoples to their ancestral domain, on which they depend for their very survival, mostly through subsistence farming.

*Accessibility.* It encompasses both economic and physical accessibility.<sup>19</sup> For the Department of Labor and Employment, in relation to economic accessibility, it recognized its role in relation to the right to food in terms of ensuring that workers are capacitated to buy/purchase the food they need. As for physical accessibility, the Department of Public Works and Highways is mandated to construct farm-to-market roads, which is a key infrastructure in transporting food products without delay.

*Safety.* It concerns that the food are free from adverse substances.<sup>20</sup> Recently, the Bureau of Food and Drugs issued an advisory temporarily banning milk products from China as it contains melamine. “Melamine is a compound used for plastic and herbicide manufacture by itself is non-toxic in low doses. However, when combined with cyanuric acid, it can cause fatal kidney stones.” In China, about 53,000 children have fallen ill after intake of contaminated milk.<sup>21</sup>

*Acceptability.* The need to take into account perceived non nutrient based values attached to food and food consumption and informed consumer concerns regarding the nature of accessible food supplies.<sup>22</sup> In the Philippines, an NGO called the *Islamic Da’wah* of the Philippines, Inc. extends voluntary services especially to Muslim communities. They conduct seminars, orient manufacturers on *halal* food and issue *halal* certifications to qualified products and manufacturers.<sup>23</sup>

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<sup>18</sup> Id. par.7.

<sup>19</sup> Id. par. 13

<sup>20</sup> Id. par.10

<sup>21</sup> “BFAD expands inspection to include other milk products”. GMA News.TV. <http://www.gmanews.tv/print/122213>. accessed on 25 September 2008.

<sup>22</sup> Id.(n19). par. 11

<sup>23</sup> Id.(n10). p. 6.

An important tool resulting from the pilot study was the mapping of government and non-government organizations on their respective duties in the respect, protection and fulfillment of the human right to food.<sup>24</sup> This exercise helped the government agencies to view their mandates in a different light, in light of human rights.

Even as the categorization of indicators and responsibility areas were established, some contentious issues and concerns that surfaced during discussions were left unsettled. Since the conduct of this project in 2005, follow-up activities on the same have yet to be taken.

### **[Cases on the Right to Food]**

To date, there are yet no cases specifically dealing with the right to food filed with or being investigated *motu proprio* by the CHRP. The apparent reason for this is the lack or inadequacy in the recognition of the right to food in the Philippines, both on the part of the duty-bearers as to their obligations, and on the part of the claim-holders as to their rights. This is exemplified by the inadequacy of the Philippine legal framework itself on the right to food and the issue of justiciability of ESC rights.

As comprehensively discussed in the study entitled “*The Right to Food: An Assessment of the Philippine Legal Framework Governing the Right to Food*,” dated 20 August 2008, commissioned by the Asia Pacific Policy Center (APPC) and funded by the FAO, in the Philippine legal framework, starting with the Constitution, there is no express recognition of the right to food. In fact, as mentioned by the study, in the entire Constitution, only one provision mentions the word “food,” and not in the context of human rights *per se*, but in reference to the obligation of government to “establish and maintain an effective food and drug regulatory system. At best, it is only by inference from the more general rights of “social justice,” “adequate standard of living” and the like.

Even in legislation, there is no law at all, dealing squarely with the right to food. This is sought to be remedied in the present Congress, where two pending bills dealing with the right to food, namely:

1. **House Bill 3711**, filed on 5 March 2008, with the proposed short title “**Food Security Act of 2008**,” and authored by Rep. Eduardo Nonato N. Josen. The Bill was read on 10 March 2008, and has been pending with the House of Representatives Committee on Food Security since then.

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<sup>24</sup> Id. p.4.

2. **House Bill 3870**, filed on 21 April 2008, with the proposed short title “National Food Security Act of 2008,” and authored by Rep. Leonila V. Chavez. The Bill was read on 28 April 2008. It was primarily referred to the House of Representatives Agriculture and Food Committee, but is currently pending with the House Committee on Food Security since 7 May 2008.

Both Bills, although separately filed, were authored by Representatives from the province known as the “rice bowl of the Philippines” – Nueva Ecija.<sup>25</sup> Hopefully, the fate of these bills will be known some time in the near future.

The Commission has issued a Human Rights Based Legislative Agenda that prescribed the state obligation to harmonize the principles and standards of human rights instruments into domestic law. This has included the Framework Law on the Right to Food.

### *Justiciability of ESCR*

Linking with the Judiciary was actively undertaken by the Commission in November 2004, when the CHRP hosted a “*Conference-Workshop for Judges and Lawyers on the Justiciability of Economic, Social and Cultural Rights in Southeast Asia.*”

Atty. Marvic F. Leonen, the current Dean of the University of the Philippines College of Law, has the following to say on the issue of justiciability of ESCR Rights, such as the right to food:

The problem is not only how to make remedies for violations of ESCR plain, speedy and adequate, *but whether or not there is an available remedy.*” Not only is there no court or tribunal in the Philippines mandated to try, on an exclusive basis, cases involving ESCR, the justiciability of ESCR is not quite settled. For one, unless there is a statute providing sanctions and penalties for violations of each provision touching upon an ESCR, *it would appear that one cannot just go to court, invoke ESCR on demand that he be accorded the benefits, or recover damages, for a violation of such right.*

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<sup>25</sup> Statement delivered by Atty. Jessica Gambol-Schuck in behalf of the CHR on the occasion of the “High-Level Multi-sectoral Consultation: Fighting Hunger the Right to Food Way”. 4 September 2008. Taal Vista, Tagaytay City, Philippines

If even legal luminaries are in doubt as to whether an ordinary citizen can go to court in order to invoke his economic, social and cultural rights and demand redress for their violation, it is no wonder that the same ordinary citizens – who are not as educated about their human rights in general and their ESC rights most particularly – have never even attempted to go to the Commission on Human Rights complaining about the violation of their “right to food.”

Unfortunately, in the Philippines, there is a perception that the poor should be blamed for their situation and, therefore, not victims of human rights violations. A good example is the case of the homeless. The National Statistics Office defines “homeless” as “households living in parks, along sidewalks and all those without any form of shelter.” The *Philippine Human Rights Reporting Project* reported that there are about 4.5 million homeless Filipinos.<sup>26</sup> Some of them are forced to build shanties on public and, sometimes, private property. They were previously referred to as squatters, but the legal term for them now is “informal settlers.”

Attempts made by the CHR to promote and protect their rights under the law – such as the right against illegal demolitions, right to prior notice, and right to relocation – have been criticized. In fact, after the CHR, through yours truly, announced that it intends to seek a moratorium on the demolition of squatter shanties, a member of the media warned government men “not to be fooled by squatters.”<sup>27</sup> The Commission Chairperson was described as “another bleeding heart whose heart bleeds for the wrong people and the wrong reasons” because “it is the squatters themselves who are violating the rights of property owners.” The journalist even went so far as to say that “Squatters have nothing to do the whole day except put up their shanties in any unguarded vacant space, so they have all the time to march to offices like the CHR and pressure their officials to suspend the workings of the law if it goes against them.”

This sentiment most probably partly accounts for why those who are hungry, or those whose right to food are being violated, rarely consider filing complaints with government agencies in general, and the CHR in particular.

### *Investigative Monitoring*

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<sup>26</sup> Cawicaan, Sweet Mary J. “*Homeless But Not Hopeless*,” posted on 12 August 2008 at the *Philippine Human Rights Reporting Project* website ([http://rightsreporting.net/index.php?option=com\\_content&task=view&id=937&Itemid=130](http://rightsreporting.net/index.php?option=com_content&task=view&id=937&Itemid=130)).

<sup>27</sup> Cruz, Neal. “*As I See It: Gov’t men: Don’t Be Fooled By Squatters*,” *Philippine Daily Inquirer*, 8 September 2008. (Also posted at <http://opinion.inquirer.net/inquireropinion/columns/view/20080908-159290/Govt-men-Dont-be-fooled-by-squatters>).

The CHRP is the only national human rights institution (NHRI) in the country, and has an “A” accreditation” with the International Coordinating Council for National Institutions after full compliance with the Paris Principles governing NHRIs. However, its powers in relation to ESCR in general, and the right to food in particular, have been considerably curtailed by jurisprudence. This also explains why the CHRP could not act *motu proprio* on such cases. In the landmark case of *Simon vs. CHR*,<sup>28</sup> where the demolition activities by government agents were again the issue and, therefore, ESCR, the Supreme Court of the Philippines categorically declared that:

Recalling the deliberations of the Constitutional Commission, aforequoted, it is readily apparent that the delegates envisioned a Commission on Humans Rights that would focus its attention to the more severe cases of human rights violations. Delegate Garcia, for instance, mentioned such areas as the "(1) protection of rights of political detainees, (2) treatment of prisoners and the prevention of tortures, (3) fair and public trials, (4) cases of disappearances, (5) salvagings and hamletting, and (6) other crimes committed against the religious." While the enumeration has not likely been meant to have any preclusive effect, more than just expressing a statement of priority, it is, nonetheless, significant for the tone it has set.

Why limited to civil and political rights? It is well to remember that the Commission was created by the 1987 Constitution, which was drafted right after the end of the twenty-year martial law rule under the Marcos regime. Hence, the priority of the Constitutional Commission was to focus on preventing future recurrence of the common human rights violations committed under that regime.

Efforts of my predecessors have been resolute. In December 1995, under the leadership of Chairperson Sedfrey Ordoñez, the First Commission issued Resolution No. A95-069. This landmark issuance declared, as one of its operational priorities: “*investigative monitoring* of incidents and/or conditions obtaining in the country, which are violative of concerns in both areas of civil and political rights *and economic, social and cultural rights*.”

It invoked, as its basis, the international principles that “human rights is concerned with issues in both areas of civil and political rights and economic, social and cultural rights founded on internationally accepted human rights

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<sup>28</sup> G.R. No. 100150, 6 January 1994.

obligations to which the Philippine Government is a state party.”<sup>29</sup> This, in conjunction with its Constitutional mandate to:

1. monitor Philippine Government’s compliance with international treaty obligations on human rights;<sup>30</sup>
2. provide appropriate legal measures and services to the underprivileged whose human rights have been violated or need protection;<sup>31</sup>
3. to establish a continuing program of research, education and information to enhance respect for human rights, or their families;<sup>32</sup> and
4. recommend to Congress effective measures to protect human rights.<sup>33</sup>

Through this Resolution, the CHRP paved the way to the so-called “investigative monitoring” function which it shall apply when dealing with human rights complaints involving ESC rights.

We in the Fourth Commission, continues the resolute action of our predecessors. We are unfazed by the Simon decision, we intend to pursue the issue and challenge this again in the courts.

### *Documenting ESC Rights*

In furtherance of its investigative monitoring function, the CHRP is currently in the process of establishing a data-banking system to incorporate and standardize all records with respect to investigations of human rights violations, jail visitations and education programs.

The Commission is fortifying its capability building program not only Information Technology capacity but, more importantly, on the substantives of human rights including the right to food. This includes the designation of internal focal persons on the eight core international human rights treaties, the vulnerable groups and the United Nations Special Procedures. Focal Person System is designed to facilitate and maximize the limited financial and human resource of the CHRP, and to focus and emphasize on sectors and human rights issues that need immediate attention.

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<sup>29</sup> First whereas clause of CHR Resolution No. A95-069.

<sup>30</sup> Paragraph 7, Section 18, Article XIII, 1987 Constitution.

<sup>31</sup> Paragraph 3, *ibid.*

<sup>32</sup> Paragraph 5, *ibid.*

<sup>33</sup> Paragraph 6, *ibid.*

For the “right to food,” the focal office is the CHRP’s Government Linkages Office.

Presently, records of the Commission since 2000 to present reveal various investigations and legal intervention in relation to ESC rights. On the right to food, the CHRP is in the process of exploring cases that could bring us back to the courts to invoke our role in the promotion and protection of economic social and cultural rights. We are looking into reports of hunger and other right to food issues in the jails across the country.

### *Rights-Based Approach to Legislation*

Functioning as an advisor to the government<sup>34</sup>, the Commission has also placed itself in a strategic position where it can integrate human rights in the policies, programs and plans of the government. The Commission has an on-going activity on mainstreaming human rights framework in governance. Since 2003, the Commission has been providing Rights-based Approach (RBA) training-workshops to different government offices, local government units and non-governmental organizations.

Specifically in the area of legislation, the CHRP is undertaking a continuing program of “*Human Rights Based Approach to Legislation*” (HRBA). This project is aimed at giving seminar-workshops for the following purposes:

1. to orient technical staff of various committees of both houses of Congress, legislative staffs of congressmen and senators, as well as local legislators, on basic human rights concepts, as well as international human rights principles, norms and standards under the eight core international treaties;
2. to discuss pressing human rights issues and concerns;
3. to introduce and provide working knowledge on the human rights based approach/framework in the context of legislation in order to ensure translation of international human rights principles to domestic legislation; and
4. to strengthen partnership between the CHR and Congress in terms of relevant engagement in the process of legislation.

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<sup>34</sup> Paragraph 6, Section 18, Article XIII of the 1987 Constitution.

To date, the CHRP has already conducted three seminar-workshops on the HRBA to Legislation. Two of the three were participated in by technical staffs of the House of Representatives, while the other was conducted for local legislators in Iligan City and Lanao del Norte. In the last seminar-workshop, held last July for the House of Representatives, one of the issues discussed was the current rice crisis. We are pleased to say that all three seminar-workshops were well-attended and warmly received by the participants which has paved the way for a human rights consciousness in the Legislature.

With our current engagement with the Legislature and converging with the on-going efforts with the executive to draft the second national human rights action plan, we are confident that the executive and legislative measures concerning vulnerable sectors especially the urban poor, farmers, persons deprived of their liberty, internally displaced persons will include the administrative and legislative measures on their right to food.

With a view to ensure a framework law on the right to food in place, it is hoped that the elaboration of the right to food in the Judiciary will inevitably be forthcoming to give further cause to the justiciability of Economic Social and Cultural Rights.

#### *Specific Cases, Closest to Right to Food Cases, Handled by the CHRP*

There have been cases filed before or brought to the attention of the CHRP by the active civil society and non-governmental organizations in the country. Although these were not strictly seen as involving infringement of the right to food, they have elements that indicate curtailment of the core content of the right to food.

For instance, the FoodFirst Information and Action Network (FIAN) has actively lobbied for the vindication of the rights of a number of farmers that have been threatened by either the landlords or the government itself. One case, the case of Mr. Enrico Cabanit, a peasant leader advocating land redistribution to landless peasants within the framework of the Comprehensive Agrarian Reform Program (CARP), was killed last 24 April 2006 in Panabo City. At its core, the case stemmed from a dispute as to the right to access to land of peasant farmers, which is, therefore, a case involving the right to food. However, the Commission considered this case as a case of extrajudicial killing first, because the case was brought to its attention when Mr. Cabanit was killed, and, second, because of the limited mandate of the CHR with regards to ESC Rights.

Similarly, the CHRP also had the opportunity to investigate the land/labor dispute in the Hacienda Luisita, a sugarcane plantation in Tarlac City. Laborers

have been protesting alleged violations of their labor rights, such as the failure of the management to grant their demands for improvement in working conditions and their standard living, and the failure of the authorities to place the Hacienda under the Comprehensive Agrarian Reform Program. Settlement of the dispute through collective bargaining was attempted. However, when the process failed, violence resulted, killing at least seven sugarcane workers and injuring more than 100 other workers. The incident happened when the workers were dispersed when they decided to stage a strike.

The CHR issued a Resolution condemning the incident as a violation of the right to life of the victims and violation of the right to public assembly. However, it was not seen as a violation of the right to food.

Quite recently, last August, the CHR investigated and monitored the case of mothers who went on a hunger strike with their children in tow in Cadiz City. On July 5, thirteen farmers were arrested by Task Force Ilahas (chickens) for illegal logging activities, prompting their wives and children to conduct a hunger strike to demand their release. Based on the report from the CHR Region 6, at least 10 children, aged three months old to seven years old, went on hunger strike together with their parents.

The incident resulted in the death of a three-year-old boy, and the confinement of his younger brother in St. Anne Hospital. The child reportedly died of cardio-respiratory arrest caused by severe dehydration, pneumonia and third-degree malnutrition.

The case was not seen strictly as a violation of the children's right to food, but as a violation of the "best interests of the children," necessitating the action of the CHR as the Ombudsman for Children in the Philippines.

### **Key Learnings and the Way Forward**

The Commission has been criticized as "contributing very little – if at all – to address the hunger situation in the country and vindicate breaches of the right to food."<sup>35</sup> While the CHR welcomes constructive criticisms, which are essential in light of the Fourth Commission's commitment to improving the CHR's effectiveness in fulfilling its mandates, we invite our critics to measure our performance in the light of the language of the express grant of powers by the Constitution, the major roadblocks – legislative, jurisprudential, fiscal, administrative and otherwise – that have negatively affected our power and capacity to act, and other challenges that we have faced, are facing and will face

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<sup>35</sup> Study entitled "*The Right to Food: An Assessment of the Philippine Legal Framework Governing the Right to Food*," dated 20 August 2008, commissioned by the Asia Pacific Policy Center (APPC) and funded by the FAO.

in the foreseeable future, which includes even the mindset of Philippine society. We invite them to assist us in invoking our role as a National Institution in this regard.

The Constitution, the laws or lack thereof, and even jurisprudence are against us in some respects, which is why the CHRP, particularly the four and a half month-old Fourth Commission, is continuously and indefatigably trying to find ways to move past these present problems.

### *CHRP Charter and other Legislative Agenda*

Since the last Congress, the CHRP has been advocating for a CHRP Charter, which we hope will address the needs of the changing times and will resolve the many problems currently hindering the CHRP. It is high time that the organizations and functional structures of the Commission be reviewed and modified as necessary. Strengthening the CHRP through the charter will bolster its independence, elaborate its mandates and, consequently, its effectiveness.

When representatives of the FAO visited the CHRP in early September of this year, we eagerly welcomed the opportunity to partner with organizations like the FAO, especially because of the very recent appointment of the members of the new Fourth Commission. While we welcome constructive criticisms, we embrace the opportunity to be educated even more.

In this endeavor, we hope to engage our local experts, as well as international experts and civil society organizations strongly working on Right to Food to work with the Commission to better promote and protect right to food. After all, we are all bound; we are all responsible to the realization of the right to food.

More than a necessity, more than a need, right to food is an entitlement of every person, of every Filipino. As such it entails strong political will from the Government in order for the people to truly enjoy this right.

With this, we once again thank the organizers for inviting the Commission on Human Rights, not only for the opportunity to share what it can, but also for the opportunity to learn from our fellow human rights advocates.