



A Continuing Historical Neglect: Human Rights of Smallholder Farmers Within the Context of Farmers' Rights in the Philippines

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Overview

1 The submission discusses complex issues, explores compliance, and provides corresponding recommendations to the Philippine Government in relation to the human rights of farmers as per the various international rights instruments (e.g. Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, Declaration on the Right to Development), within the context of farmers' rights, most especially their rights to seed. Through this submission, we aim to bridge the gaps as it is observable that there is scant emphasis given to these rights. Furthermore, we submit that the Philippine Government has been passive, and at times acted contradictory to the recommendations set forth in previous UPR cyclesⁱ.

2 Within the context of everyone's right to food, right to life, and right to health and a healthy environment, respecting and fulfilling farmers' rights is critical to food security and smallholder farmers continue to have an important role magnified in the developing worldⁱⁱ. In the Philippines, an overwhelming majority of landholdings are household farms – the average land area stands at 1.3 ha, 89% of 5.6M landholdings (around 75% of total area) at less than 3 ha.ⁱⁱⁱ Landlessness and tenancy farming persists in the countryside.^{iv}

3 The continuing historical neglect of farmers' rights is reflected by statistics. Farmers are the poorest of all vulnerable groups, facing regular food shortages with the situation exacerbated in indigenous and remote communities. They register a persistent poverty rate, and in 5 out of 16 regions, 40% of farmers are considered poor located mostly in Mindanao and Visayas.^v

4 A staggering 4 in 5 agricultural households experience food and nutrition insecurity in the Philippines. This extends to rural women and children^{vi}, aggravated by recurrent shocks and transitory food insecurity due to natural hazards and the increasing frequency and intensity of the changing climate.^{vii}

Legal Frameworks on Farmers' Rights

6 Expanding the legal frameworks on the right to food^{viii}, farmers' rights are affirmed under the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP). The provisions of Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)^{ix} give emphasis to the right to seeds.^x

7 Both frameworks recognize the critical contribution and interdependence of smallholder farmers to the sustainable use, conservation, and development of genetic resources. Through robust farmers' seed systems, farmers continue to act as stewards of agricultural biodiversity to which the world owes a broad genetic base of traits that allow breeding plant varieties that withstand climatic changes, and socio-economic turbulence.

8 Similarly, these frameworks acknowledge that this genetic diversity that has been nurtured by generations, resources that are critical to food security and livelihood, along with the

dynamic seed systems of smallholder farmers are all in constant threat from powerful actors that attempt to shape the future of food.

9 Abating the compounding crises of smallholder farmers in the Philippines requires both urgency and intensity especially when placed against the backdrop of the ongoing COVID-19 pandemic which exposed the vulnerability of social, economic, and health systems. But this historical neglect must be overturned through holistic and sustainable policies and programs lifting from grassroots experiences and without disregard for human rights and human dignity.

Incessant Violations to Farmers' Rights to Seeds

10 The infringement of farmers' rights to seeds by the Philippine Government occurs through enacting policies that strictly impose intellectual property rights (IPRs) that prohibit the age-old practice of saving, sharing, and using seeds; implementing programs that actively promote IPRs; encouraging public breeding institutions to carry out researches on genetically modified organisms (GMOs) and other destructive farming practices that ignore socio-cultural aspects of research including traditional knowledge and practices; allowing bio-piracy of genetic resources valuable to farmers by not keenly monitoring and preventing the misappropriation of these resources and their by-products thus prohibiting farmers' free access to such resources, and by limiting democratic spaces for civil society to genuinely participate in decision-making processes consequently denying farmers participation.

National Policies Tangent on Farmers' Rights

11 Magna Carta for Small Farmers (RA 7607) does not specifically provide for the protection and fulfillment of the human rights of farmers, particularly their right to seeds. This law should be amended to conform to the UNDROP, which was adopted by the UN General Assembly on December 17, 2018.

12 The Plant Variety Protection (PVP) Law provides strong penalties against the use of protected varieties. It provides an exemption to farmers but only for "non-commercial" purposes. This diminishes the opportunity for farmers to use protected varieties which could have potential traits to address their challenges. While the law provides for one, there is no farmer representation on the National PVP Board.^{xi} The law is circumvented by deliberate inaction since it is dependent on the appointment of the Department of Agriculture (DA) Secretary. The country is also poised to adopt a more stringent PVP Law one that is patterned to UPOV 1991. Institutions involved in national seed development have been actively pursuing this in the guise of regional harmonization and technology transfer.^{xii}

13 The National Seed Law of the Philippines remains indubitably biased towards the commodity seed system and does not recognize the farmers' seed systems. This bias becomes clearer in government programs on national seed development. The omission fails to recognize the inherent rights to seeds embedded in the farmers' seed system as well as important socio-cultural, traditional values and practices that continue to shape the food system.

14 In the regulation of GMOs, amendments were recently made to the DOST-DA-DENR-DOH-DILG Joint Department Circular (JDC) No. 1, series of 2016. The JDC attempts to harmonize the independent mandate of separate departments through a Joint Assessment Group (JAG) for ease of doing business. In doing so, extensive public participation in decision making, and exhaustive multi-stakeholder public consultation mechanisms were diminished which were already problematic in its previous version. The policy continues to be grossly inadequate in liability and redress mechanisms and essentially absolves accountability from the JAG as it simply acts as a recommendatory body.

15 Considering these policy concerns, we recommend the Philippine Government to:

- Amend the National Seed Law to recognize, strengthen, provide resources to, and create mechanisms favorable to the development and protection of the farmers' seed system.
- Amend the Magna Carta for Small Farmers to conform to the UNDROP, particularly Article 19 of UNDROP which enumerates the rights of farmers and peasants to seeds, as well as the obligations of states to protect this right.
- Reject the UPOV 1991-style PVP and instead enact a sui-generis PVP law that genuinely guarantees the rights of farmers to seeds and decriminalizes the practices of seed-saving.
- Guarantee the participation of right holders at all levels of decision-making from local to national policies on agriculture, including issues on GMOs. Mechanisms of consultation must ensure that they can genuinely affect and assert changes, ensuring that public institutions hold true to their mandate of acting for the public good.

Government Programs Contradicting Farmers' Rights

16 In the Philippines, government programs are swept by corporate agenda rallying behind the buzzwords of productivity, competitiveness, and profitability. The approaches fail to see that the high production cost, limited diversification, low productivity, low-income elasticity, and threats from volatile commodity prices experienced by farmers are long-standing structural issues that have persisted due to mismatched prioritization and employment of the same one-size-fits-all, top-to-bottom approaches. Public expenditure on infrastructure, services, and appropriate technologies remains incredibly low, worsened by the inconsistent, stop-gap solutions.^{xiii}

17 In our previous submission, we have outlined how corporations altered the sustainable distribution of seeds through the introduction of hybrid seeds, especially in corn. Modern cultivars derived from a narrow genetic base contribute largely to the vulnerability of crops to pests and diseases. The push for monocropping has also demonstrated devastating, irreversible effects on the environment. Corporate seeds are usually packaged with technologies and are mostly protected by IPRs. Along with genetic drift, environmental contamination, natural hazards, and long-standing social issues, the situation pushes Filipino farmers into absolute dependency.

18 The promotion of hybrid corn has become more aggressive - from its overemphasis on seed distribution and obscured form of promotion through inclusion in food security and resiliency programs of the DA.^{xiv} This is despite own government data refuting claims that these modern cultivars reduce the use of fertilizers and pesticides and the realities from the ground that calls for the reevaluation of these practices as they are proving to be unsustainable.^{xv}

19 In Cagayan, North of the Philippines, people experienced extreme flooding in 2020 during the onslaught of Typhoon Ulysses. While the disaster was a confluence of environmental factors, one of those identified for the devastation is the GM yellow corn production that caused deforestation and intensive use of herbicides. A year after the devastating floods, the DA continues to push for its inappropriate roadmap on hybrid corn.^{xvi}

20 In Bukidnon, South of the Philippines, the disaster caused by corporatization is slow onset. Farmers are experiencing multiple burdens on declining yield, dependence on chemical inputs, and land incursions on ancestral domains. Ultimate recovery of these areas would require long-term solutions and a push back against conventional approaches.^{xvii}

21 Rice farming communities are affected on multiple fronts. The shadows of the green revolution that reduced the varieties in farmers' fields, continue to this day with government policies of subsidizing and ensuring a limited number of modern varieties. This phenomenon inadvertently deters the cultivation of heirloom varieties that are indigenous only to the Philippines. Despite colossal failures of hybrid rice commercialization programs in the past and statistics showing a measly farm utilization^{xviii}, the Philippine government has likewise become more aggressive in its promotion of hybrid rice, through massive government incentives and farm clustering. These approaches continue to ignore farmers' preferences and encourage the monocropping of selected varieties. Farmers have contributed to genetic diversity through the continuous use of diverse plant varieties in their fields. When there are only a few varieties utilized, there will be fewer varieties to offer traits that can withstand pests and diseases as well as extreme weather changes.^{xix}

22 In the light of the foregoing, we submit our recommendations:

- Create government programs that are participatory, community-based, sustainable, and respectful of the democratic rights of farmers.
- Reevaluate the country's agricultural roadmaps and ensure the inclusion of marginalized groups from planning to implementation.
- Establish consent to indigenous communities that is free, prior, informed, and continuous^{xx}.
- Allocate resources to the establishment of local and community seed on-farm conservation, strengthening farmers' seed systems
- Push for and contribute to the critical discussions on the loss and damage in COP27.

Immediate Concerns

23 Still on rice and linked to GMO regulations, the commercialization of the controversial biofortified crop GM Yellow Rice (Golden Rice) is in full gear in the Philippines despite strong opposition from civil society and farmers' groups. Several issues were leveled against its approval – including ecological and health safety risks, disregard for participation from farmers and civil society in the approval of biosafety permits, and its insignificance in the claims of alleviating nutritional deficiency of already vulnerable populations. Pilot testing areas have since been identified in the country. Due to the emerging threats to the health and environment of GM Yellow Rice and the possible entry of other GMOs through the JDC amendments, we submit that the Philippines ratify the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety and draft consequent national legislation on liability and redress for damage arising from GMOs.

24 In response to its commitments to the World Trade Organization, the Philippines passed the Rice Tariffication Law (RTL) in 2019. This removed the quantitative restrictions for rice imports which promised to lower consumer prices in the immediate and modernize the rice industry in the long run. The intended effects of prices are not felt by consumers and rice farmers continue to bear the brunt of the losses. Local communities report lower farm gate prices of palay, problems with marketing products, and delays in the delivery of government services. We recommend the immediate repealing of the RTL.^{xxi}

25 Finally, we submit that advancing farmers' rights takes place against the backdrop of preserving the fundamental right to life. Since the last UPR cycle, the human rights situation in the Philippines has worsened. All human rights defenders, including those who work with farmers' rights and people's right to food, and farmers themselves have been repeatedly exposed to threats, intimidation, even summary execution.^{xxii} We call on the Philippine government to guarantee the civil and political rights of all persons, allow the conduct of independent investigations of these extrajudicial killings and put an immediate end to the prevailing culture of impunity in the country.

ⁱ SEARICE has previously submitted a review for the Philippines in the 2nd cycle, the situation of smallholder farmers in the Philippines has worsened since.

- ⁱⁱ ETC Group (2017). Who Will Feed Us? The Industrial Food Chain vs. The Peasant Food Web. Retrieved: https://www.etcgroup.org/sites/www.etcgroup.org/files/files/etc-whoillfeedus-english-webshare.pdf_.pdf
- ⁱⁱⁱ Philippines Statistics Office (2015). Special Report - Highlights of the 2012 Census of Agriculture (2012 CA) Retrieved: <https://psa.gov.ph/caf/id/51722>.
- ^{iv} Climate Diplomacy (n.d.) Land Conflict in the Philippines. Retrieved: [https://climate-diplomacy.org/case-studies/land-conflict-philippines#:~:text=Whilst%20some%20wealthy%20landlords%20in,landless%20\(USAID%2C%202011\)](https://climate-diplomacy.org/case-studies/land-conflict-philippines#:~:text=Whilst%20some%20wealthy%20landlords%20in,landless%20(USAID%2C%202011).).
- ^v Fisher folks, women and children are also consistently included in the country's poorest: PSA. (2016). 2015 Full Year Official Poverty Statistics of the Philippines. Diliman, Quezon City. PSA. (2017). 2015 Poverty Statistics for Basic Sectors - Summary Tables. Diliman, Quezon City. PSA (2020). Farmers, Fisherfolks, Individuals Residing in Rural Areas and Children Posted the Highest Poverty Incidences Among the Basic Sectors in 2018. Diliman, Quezon City.
- ^{vi} In terms of nutrition and food security, the data remains discouraging and concerning: one in four pregnant mothers are nutritionally at risk, and three out of ten children under 10 years old continue to experience stunting and wasting. These figures showed little to no development at all over the years amidst all the economic development posturing. The highest prevalence of undernutrition remains concentrated in rural areas and to families that belong to the poorest wealth quintile. See, FNRI-DOST (2013). 8th National Nutrition Survey. Taguig.
- ^{vii} The realities of climate change have also been strongly felt in the country. Philippines remains the 4th most at risk in the world, based on the historical data on extreme weather events and its long-term effects on vulnerable populations. See, Eckstein, Künzel, Schäfer & Wings (2020 & 2021). GLOBAL CLIMATE RISK INDEX 2020 and 2021. Who Suffers Most from Extreme Weather Events? German Watch.
- ^{viii} <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet34en.pdf>
- ^{ix} <https://www.fao.org/plant-treaty/areas-of-work/farmers-rights/promote/en/>
- ^x Seeds, for this context always include all plant materials or vegetative parts of plants intended for propagation and production like tubers, cuttings, bulbs, etc., plant genetic resources for food and agriculture
- ^{xi} The inclusion of a representative for farmers has been a small victory for civil society. No farmer representative has been appointed to the PVP Board. <https://pvpo.buplant.da.gov.ph/board.php>
- ^{xii} Current members of UPOV in Asia are convincing Southeast Asian countries to adopt UPOV 1991 through the East Asia PVP Forum. Several studies are present, including our own in-depth study belying the supposed economic benefits for Vietnam. http://eapvp.org/uploads/EAPVPF_12_03.pdf https://www.apbrebes.org/files/seeds/APBREBES_OAPI_EN_def.pdf https://www.apbrebes.org/sites/default/files/2020-12/APBREBES_UPOV-LitRev_EN_12-20_fin.pdf https://www.searice.org.ph/_files/ugd/af4a94_2d738d5d5e6841709d0f12dc05317adf.pdf
- ^{xiii} Department of Agriculture. 8 Paradigms to Level Up Agriculture and 12 Key Strategies. <https://www.da.gov.ph/ang-bagong-pananaw-sa-agrikultura-8-paradigms-to-level-up-agriculture/> We can borrow the highlighted “long-standing structural problems” outlined in the study while we remain critical to the recommendations that follow, almost patronizing to the current DA strategies. FAO. 2021. *Rapid assessment of the impact of COVID-19 on food supply chains in the Philippines*. Manila. <https://doi.org/10.4060/cb2622en>
- ^{xiv} Several news articles and pronouncements from regional and units corroborate to this: <http://car.da.gov.ph/2021/06/p9-89-m-worth-of-hybrid-corn-seeds-distributed-in-car/> <https://calabarzon.da.gov.ph/da-4a-continues-to-distribute-high-yielding-corn-seeds-to-fas-to-boost-corn-production/> <https://www.pna.gov.ph/articles/1169940> <https://mb.com.ph/2021/06/02/syngenta-repeats-big-win-at-cordillera-corn-derby/>

<https://www.da.gov.ph/farmers-stakeholders-da-to-craft-strategic-corn-industry-roadmap/>

^{xv} Philippine Statistics Office (2014 December). Costs and Returns of Corn Production: https://psa.gov.ph/sites/default/files/crs_corn2013_0.pdf

^{xvi} On the Cagayan flooding, the following are collected statements, and news articles:

<https://www.rappler.com/newsbreak/iq/issues-need-to-be-addressed-cagayan-flooding/>

<https://masipag.org/2020/11/farmer-scientist-network-calls-for-investigation-of-gm-corn-production-following-disastrous-region-wide-flooding/>

<https://newsinfo.inquirer.net/1361922/floods-show-cagayan-environmental-risks>

<https://www.philstar.com/business/2021/09/07/2125294/da-crafts-corn-industry-development-roadmap>

^{xvii} The situation in Bukidnon is succinctly explained by: <https://www.rappler.com/nation/northern-mindanao-vegetable-capital-miarayon-talakag-bukidnon-under-threat/>

^{xviii} David Christina (2006). The Philippine Hybrid Rice Program: A Case for Redesign and Scaling Down. Retrieved from: <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsrp0603.pdf>

Philippine Statistics Office (2015 January) Costs and Returns of Palay Production: https://psa.gov.ph/sites/default/files/crs_palay2013.pdf

^{xix} Selected news articles and pronouncements from DA corroborate to this statement: <https://www.bworldonline.com/only-a-minority-of-farmers-prefer-hybrid-rice-seed/>

<https://business.inquirer.net/338320/agriculture-department-pushing-for-clustered-hybrid-rice-farms>

<https://www.da.gov.ph/rice-farmers-to-receive-free-seeds-fertilizers-for-may-2020-main-season/>

<https://www.philstar.com/business/2017/07/31/1723283/mindoro-gets-p60-m-loan-hybrid-farming>

^{xx} Provides the ability to pull out or retract consent should programs or approaches have unintended threats not realized in the inception.

^{xxi} This news article concretely summarizes the effects of RTL and reflects the situation of the communities that we work with. Farmgate prices for palay declared by PSA and DA are way higher, and losses of rice producers continue to accumulate due to exceptions due to delays in delivery of promised service delivery and areas being exempted from the law.

<https://newsinfo.inquirer.net/1555077/imports-continuing-impact-on-ph-farmers-like-dislocating-the-kneecaps>; <https://www.bworldonline.com/rice-industry-downplays-ultimate-impact-of-rcef/>

^{xxii} Several news articles have reported these killings in the Philippines. Alliances of civil society organizations have likewise issued statements calling to put an end to the killings to farmers, there seems to be no end in sight. <https://international.thenewslens.com/article/117629>

<https://www.hrw.org/news/2018/10/22/philippine-sugar-plantation-massacre>

<https://www.rappler.com/nation/214796-farmers-killed-sagay-negros-occidental-hacienda-nene-october-20-2018/>

<https://foodsov.org/intl-farmers-coalition-to-duterte-peasant-massacres-will-not-go-unpunished/>

<https://www.oaklandinstitute.org/stopkillingfarmers-philippines>