

FARMERS' RIGHTS in the Philippines

A LEGAL ANALYSIS



Farmers' Rights in the Philippines: A Legal Analysis

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Contents

1: Introduction

Mapping the Legal Landscape of Farmers' Rights in the Philippines: A Framework for Analysis	3
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2: The Legal Landscape of Farmers' Rights in the Philippines

Who is the Small Farmer?	5
Economic Rights of Small Farmers	8
Trade Liberalization and Its Impact	9
Right to Benefit from the Country's Natural Resources	14
Right to Benefit from Water Resources	16
Right to Seed as an Adjunct to the Right to the Country's Natural Resources	16
Intellectual Property Rights to Seeds	19
Right to Organize	23
State Duty for Each Right	24
Magna Carta Obliges Farmers	25

3: Conclusions and Recommendation

<i>In Pari Materia</i>	27
The Doctrine of Incorporation	29
Ways Forward	29
Prioritize Support for Small Farmers	31
The State Should Report on Its Duty to Fulfill Farmers' Rights	33
Support Farmers' Seed System	37
Gene Banks Should Be Accessible to Small Farmers	39
Epilogue	40

Acronyms

AFMech Law	Agricultural and Fisheries Mechanization Law
AFMA	Agriculture and Fisheries Modernization Act
ASEAN	Association of Southeast Asian Nations
BPI	Bureau of Plant Industry
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CWRs	crop wild relatives
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
FAO	Food and Agriculture Organization
FFFCI	Federation of Free Farmers Cooperatives, Inc.
FR	farmers' rights
GATT	General Agreement on Tariffs and Trade
IPRA	Indigenous Peoples Rights Act
IPRs	Intellectual property rights
IRRI	International Rice Research Institute
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
NEDA	National Economic Development Authority
NFA	National Food Authority (NFA)
NIA	National Irrigation Administration
NSIC	National Seed Industry Council
OECD	Organization of Economic Cooperation and Development
PBRs	plant breeders' rights
PCA	Philippine Coconut Authority
PCIC	Philippine Crop Insurance Corporation
PGRFA	plant genetic resources for food and agriculture
PIDS	Philippine Institute of Development Studies
PSA	Philippine Statistics Authority
PVP	Philippine Plant Variety Protection Act
SDGs	Sustainable Development Goals
SEARCA	Southeast Asian Regional Center for Graduate Study and Research in Agriculture
TRIPS	Trade Related Aspects of Intellectual Property Rights
UN	United Nations
UNDROP	United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
UPLB	University of the Philippines at Los Baños
UPOV	International Union for the Protection of New Varieties of Plants
WTO	World Trade Organization



Introduction

This paper seeks to present a comprehensive mapping of national laws governing farmers' rights in the Philippines, looking particularly at whether these laws are sufficient to fulfill farmers' rights and comply with the country's obligations on farmers' rights.



Mapping the Legal Landscape of Farmers' Rights in the Philippines: A Framework for Analysis

In particular, this paper will analyze international agreements, including the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), and how these compare with the Magna Carta of Small Farmers (Republic Act [R.A.] 7607), in promoting and protecting farmers' rights to seeds, which is regarded as the embodiment of farmers' rights.

The UNDROP Declaration, which was adopted by the General Assembly of the United Nations (UN) on December 17, 2018 reaffirms, among others, the special relationship and interaction among small farmers and other groups working in rural areas and their contribution to conserving and improving biodiversity and to promoting their own and global food security.

The ITPGRFA is a comprehensive international agreement which aims to guarantee food security through the conservation, exchange and sustainable use of the world's plant genetic resources for food and agriculture (PGRFA), the fair and equitable benefit sharing arising from its use, as well as the recognition of farmers' rights.

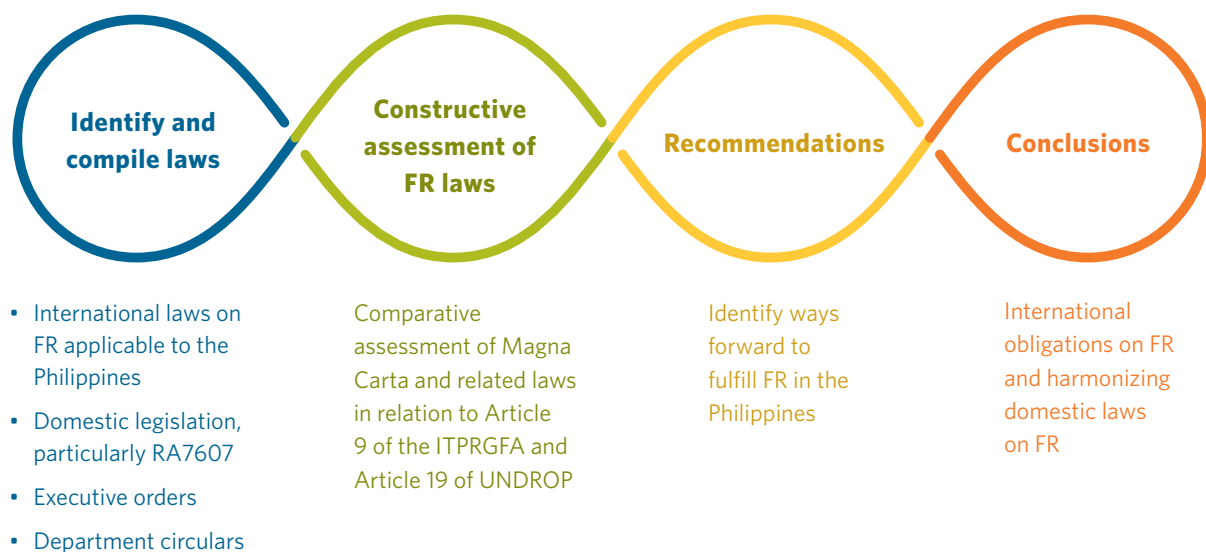
The Philippines became a state party to the ITPGRFA on 27 December 2006, and was one of the 121 signatories to the UNDROP in 2018.

Enacted into law on June 4, 1992, the Magna Carta of Small Farmers [hereafter referred to as Magna Carta] preceded these international agreements. It is considered as a landmark legislation for the empowerment of farmers and is at the center of any analysis of agricultural policies and laws on farmers' rights.

Thus, this paper will study and analyze Philippine agricultural policies and laws to determine how these international agreements affect the rights of small farmers, using the Magna Carta as a springboard for analysis.

At the same time, this paper will show if the current legal framework supports the attainment of farmers' rights in a sustainable manner, or if it is weak or inadequate and thus could in effect undermine farmers' rights in the Philippines.

Framework for Analysis: Farmers' Rights (FR) in the Philippines



The Legal Landscape of Farmers' Rights in the Philippines

Defining who the small farmer is, is crucial since the rights and benefits accruing to small farmers by law can only be availed of by those that fit the definition of the small farmer.



Who is the Small Farmer?

Defining who the small farmer is, is crucial since the rights and benefits accruing to small farmers by law can only be availed of by those that fit the definition of the small farmer.

The UNDROP defines the small farmer in a number of ways, as follows:

“[A]ny person who engages or who seeks to engage, alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies

significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land. [Article 1(1)]

Any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.” Article 1(2)

“Indigenous peoples and local communities working on the land, transhuman, nomadic and semi-nomadic communities, and the landless engaged in the above-mentioned activities.” Article 1(3)

“Hired workers, including all migrant workers regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises. Article 1(4)

The UNDROP definition of the small farmer also includes indigenous persons and peoples who are engaged in the enumerated agricultural activities.

Relatedly, the Convention on Biological Diversity (CBD) [Article 8j] does not specifically contain the word farmer or peasant and makes a distinction between indigenous peoples from local communities.

In 2013, efforts were made to include the small farmer/ peasant in the definition of “local communities” in Article 8j of the CBD. However, lumping the farmer/ peasant with all those who belong to local communities made the farmer/peasant invisible and marginalized.

In contrast, the Magna Carta provides a more limited definition of the small farmer as referring to those that are dependent on small-scale subsistence farming as their primary source of income, and whose sale, barter or exchange of agricultural products do not exceed a gross value of One hundred eighty thousand pesos (P180,000) per

annum based on 1992 constant prices.

This definition poses problems because the Php180,000.00 annual income cap for small farmers could include farmers who are not actually considered “small.”

A Php180,000.00 annual income translates to a Php15,000 monthly income, which is above most recent poverty thresholds.

Data from the Philippine Statistics Authority (PSA), released on June 3, 2020, showed which sectors posted the highest poverty incidences as of 2018, as follows: farmers (31.6 percent), fisherfolk (26.2 percent), individuals residing in rural areas (24.5 percent) and children who belong to families with incomes below the official poverty thresholds (33.5 percent). These sectors also registered the highest poverty incidences in 2015 at 40.8, 36.9, 34.0 and 33.5 percent, respectively¹. Consistently, 2017 data showed that these sectors (farmers, fishermen and children) posted the highest poverty incidence among basic sectors².

The high income threshold set by the Php180,000.00 annual income cap could have resulted in a process of ‘selective’ development, where large farmers are preferentially benefiting more than small farmers [are].³

Thus, a better indicator, based on income, should target the poorest of the poor small farmers whose incomes fall *below* the poverty threshold. Poverty threshold refers to the minimum income/expenditure required for a family/individual to meet basic food and non-food requirements⁴.

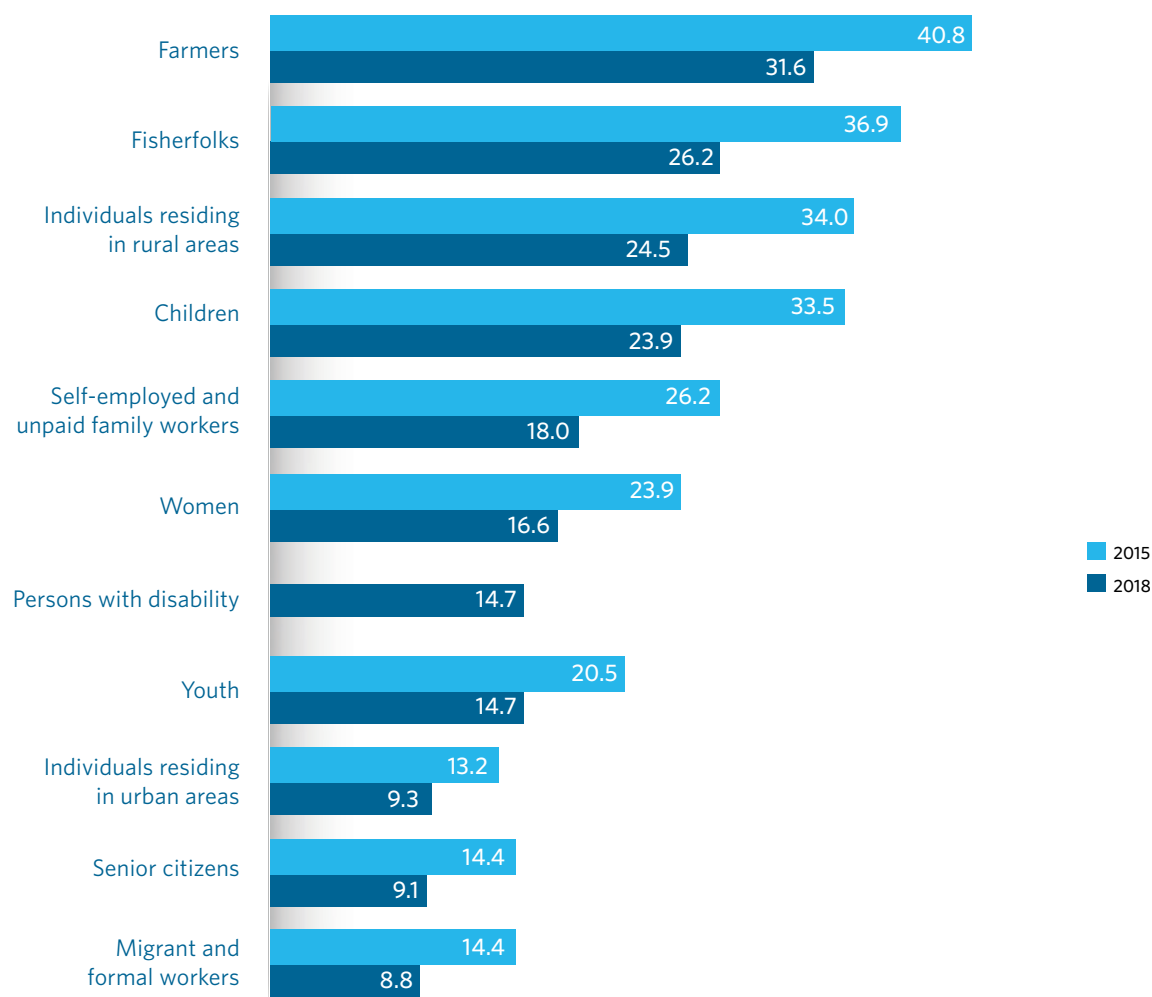
1 <https://psa.gov.ph/poverty-press-releases/nid/162541>.

2 <https://psa.gov.ph/poverty-press-releases/nid/120251>.

3 chrome-extension://efaidnbmnnnibpcajpcglefindmkaj/https://pdf.usaid.gov/pdf_docs/Pnadu403.pdf

4 <https://psa.gov.ph/content/poverty-threshold-pt-2>

Table 1: Poverty Incidence Among the Basic Sectors (%)
2015 and 2018



Source: <https://psa.gov.ph/poverty-press-releases/nid/162541>

After the Magna Carta of Farmers, other laws were passed that defined what a small farmer was. Under Republic Act (R.A.), 11511 enacted on December 23, 2020 to amend the Organic Agriculture Act of 2010, a small farmer is defined thus:

Article 2(w) Small farmer/fisherfolk refers to those utilizing not more than five (5) hectares of land for the single purpose of, or a combination of the following purposes for, agricultural crop production, including rice and corn, aquaculture, and poultry/livestock raising:

Provided, That poultry/livestock raising shall not have more than the following:

- **Poultry:** 1,000 poultry layers or 5,000 broilers
- **Swine/native pigs:** 10 sow level or 20 fatteners
- **Cattle:** 10 fatteners or 5 breeders
- **Dairy:** 10 milking cows
- **Goat, sheep and other small ruminants:** 50 heads
- **Other animals** permitted to be raised, the limits of which are to be determined by the National Organic Agriculture Board (NOAB).

Economic Rights of Small Farmers

The UNDROP provides for 22 rights of small farmers.* The Declaration contains the whole gamut of civil, cultural, economic, political and social rights of peasants and people working in rural areas. The enumeration of rights is comprehensive and is tailored to the needs of the rights of peasants and people working in the rural areas.**

Meanwhile, the Magna Carta stipulates 11 rights, as follows:

Section 8. Farmers' rights.

The farmers have the right to:

- (1) Conduct their activities in an atmosphere guaranteed by a support price program for certain agricultural commodities such as rice and corn;
- (2) Participate in a market free from monopoly, cartel or any other situation which may suppress prices to their disadvantage;
- (3) Be covered by social security to serve as protection from event such as calamities, death, sickness and disability;
- (4) Avail of credit at minimal interest rates and with a minimum of collateral requirements for their farm and basic household needs;

- (5) Avail of and distribute farm inputs and services;
- (6) Be heard and represented in the Government;
- (7) Be regularly informed of such vital information as market prices, government agricultural policies, market demands and farming practices;
- (8) Benefit from our country's natural resources under existing laws;
- (9) Pursue any appropriate education and skills development towards the improvement of the quality of life;
- (10) Eventually assume certain processing and marketing functions of government agencies; and
- (11) Avail of technical assistance from the appropriate government agency in the preparation of project feasibility studies in availing loans and other forms of government economic assistance.

Eight of the 11 rights enumerated in Article 8 are related to economic rights with the sixth right pertaining to the farmers' political right of participation. The ninth right in this list pertains to the farmer's right to education—to improve his or her quality of life. Viewed in the context of the Magna Carta, the farmer's right to improve one's income is also considered an economic right.

* Articles 3 to 26 of the UNDROP specifies 22 rights of small farmers, with 24 of its 28 Articles exclusively devoted to identifying and defining these rights.

** The preambular text of the UNDROP considers and reaffirms the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, relevant conventions of the International Labour Organization and other relevant international instruments that have been adopted at the universal or regional level, the Declaration on the Right to Development, the United Nations Declaration on the Rights of Indigenous Peoples.

Trade Liberalization and Its Impact

Undermining of small farmers' economic rights

On January 1, 1995, the Philippines joined the World Trade Organization (WTO). Thereafter, the country passed laws to comply with the country's obligations to the WTO and the General Agreement on Tariffs and Trade (GATT) under the Uruguay Round.

The General Agreement on Tariffs and Trade (GATT), signed in 1947 by 23 countries, is a treaty minimizing barriers to international trade by eliminating or reducing quotas, tariffs, and subsidies. The Uruguay Round was the largest ever international trade negotiation. It took place within the framework of the GATT.

As a result of its membership to the WTO, the Philippines opened up its local markets to public goods from other countries and removed quantitative restrictions on goods and services.

In the same year, the Philippines passed into law the Agricultural Tariffication Act or Republic Act (R.A.) 8178, which provides for the removal or reduction of tariff rates for most agricultural products except rice and corn.

In 1997, still in compliance with its WTO commitments, the country passed the Agriculture and Fisheries Modernization Act (AFMA), which provides that:

“The State shall adopt the market approach in assisting the agriculture and fisheries sectors while recognizing the contribution of the said sector to food security, environmental protection, and balanced urban and rural development, without neglecting the welfare of consumers, especially the lower income groups. The state shall promote market-oriented policies in agricultural production to encourage farmers to shift to more profitable crops.”

In 2003 the country entered into agreements with the Association of South East Asian Nations (ASEAN) to reduce tariffs. In 2019, it removed all quantitative restrictions on the importation, exportation, and trading



of rice through Republic Act (R.A.) 11203, or “An Act liberalizing the Importation, Exportation, and Trading of Rice”. This law completely deregulated the rice industry, thus allowing the unlimited importation of rice. Also as a result of this law, the National Food Authority (NFA) was stripped of its authority to regulate the rice trade and to trade rice itself.

In 2019, the Philippines overtook China as the world’s biggest rice importer. The Philippines’s rice imports in 2019 rose to an all-time high of 3.2 million metric tons (MMT), surpassing China’s 2.4 MMT.* [Previously, China had been the world’s top rice importer since 2013.] This surge in imports reduced the country’s rice self-sufficiency to 85 percent, its lowest in 10 years⁵.

In a continuation of this trend, in 2020⁶, the Philippines tied with China as the world’s top importers of rice. In 2021, the Philippines ranked second, with \$1.2 billion worth of rice imports next to China’s \$1.9 billion of rice imports⁷.

An analysis⁸ by Raul Montemayor, National Business Manager and Program Officer of the Federation of Free Farmers

Cooperatives, Inc. (FFFCI)⁹ shows that using the period March 2018 to February 2019 as base period, rice producers lost around Php80 billion in 2019 due to the drop in palay prices from a high of Php 23.14 per kilo in September 2018 to a low of Php 15.36 in 2019. Montemayor’s estimates are similar to PSA’s own computation of a Php 87 billion reduction in the palay sector’s value of production in 2019 compared to the previous year.

Critics of this analysis claimed that the base period was a crisis year during which rice prices were abnormally high. They also argued that only the 83 percent of the rice that farmers actually sold in the market, called marketable surplus, should be used in the computations, since the 17 percent that farmers kept for their own consumption was not affected by any movement in market prices. However, when Montemayor recalculated, using March 2017 to February 2018 as the reference period and accounted only for the marketable surplus of farmers, farmers’ losses in the first year halved to about Php 40 billion which Montemayor claims to still be significantly large. This is close to the Php38.4 billion in losses estimated by the Philippine Institute of Development Studies (PIDS) of the

* According to data from the United States Department of Agriculture (USDA)

5 Arcalas, Jasper, “PHL ends decade as world’s top rice importer”. The Business Mirror, January 14, 2020. <https://businessmirror.com.ph/2020/01/14/phl-ends-decade-as-worlds-top-rice-importer/>

6 Simeon, Louise Marie. “Philippines, China tie as world’s biggest rice importers.” The Philippine Star, December 12, 2020. <https://www.philstar.com/business/2020/12/12/2063132/philippines-china-tie-worlds-biggest-rice-importers>

7 Workman, Daniel. “Rice Imports by Country.” <https://www.worldstopexports.com/rice-imports-by-country/>

8 Montemayor, Raul. “Winners and losers from the rice tariffication law”. Philippine Daily Inquirer Digital Edition. September 6, 2020. <https://newsinfo.inquirer.net/1332019/winners-and-losers-from-the-rice-tariffication-law#ixzz7aaN1YJ8H>

9 Raul Montemayor has been the National Business Manager and Program Officer of the Federation of Free Farmers Cooperatives, Inc. (FFFCI). He is also a member of the National Policy Board of the FFFCI’s mother organization, the Federation of Free Farmers (FFF), which is registered as a peasant labor union. Montemayor was formerly a Vice-President of the International Federation of Agricultural Producers (IFAP). He recently completed his term as a Board member of the International Food and Agricultural Trade Policy Council (IPC). He continues to sit in the board member of the Global Horticulture Initiative. He is a private sector advisor to the Philippine government in agricultural trade negotiations in the WTO and regional and bilateral trade venues. He also acts as an advocate and spokesperson for small farmers on issues like trade, rural development, agricultural cooperatives, climate change and food security. <https://www.responsiblebusiness.com/speakers/raul-montemayor/>

National Economic Development Authority (NEDA) when using a similar reference period. Montemayor added that, compared to the 12-month period preceding the Rice Tariffication Law (RTL), farmers' incomes dropped by 21 percent, or Php 17,355 per cropping per hectare on the average.

Montemayor also belied arguments that farmers' net losses would just be Php6 billion if government support to them were considered. R.A. 11203 also created the Rice Competitiveness Enhancement Fund (RCEF), amounting to Php 10 billion annually for six years, to assist rice farmers with seeds, farm machineries, credit and technical extension. But Montemayor said that even crediting the Php10B in 2019 would still lead to losses of more than Php30B because only Php 3 billion was actually given to farmers—mainly in the form of free seeds—and only around Php 4 billion was actually lent out to farmers.

Farmers continued to suffer drastic losses as a result of the continuous decline in the farmgate price of palay. As of April 2022, the PSA reported that the average farmgate price of palay per kilogram at the national level decreased to PhP 17.23 during the month, which is -1.1 percent lower than the previous month's average price of PhP 17.43 per kilogram. Year-on-year, the average farmgate price of palay in April 2022 registered a growth rate of 0.9 percent from its average price of PhP 17.07 per kilogram during the same period of the previous year¹⁰.

Government neglect of duty to provide market price support services

The Magna Carta emphatically mandates the state to provide market price support services. [Section 8]

Section 25 also holds the country's Department of Agriculture (DA) accountable for “establish[ing] a price support system for certain agricultural products, especially rice and corn, taking into consideration the need to increase the real income of small farmers...”*

However, the country's adoption of the free market economy and its entry into the GATT curtailed the government's regulatory function, specifically its duty to control market prices and provide a support price program for rice farmers.

Instead, the government passed laws that were focused on modernizing cultivation methods, integrating farmers and crop production into the market economy, and “industrializing crop production to ensure that agricultural products are integrated into the market. (See Table 2.)

The “Agricultural Policies in the Philippines”¹¹, published by the Organization for Economic Cooperation and Development (OECD), traces three stages of policy reform in the Philippines, beginning with government control of agricultural markets and ending with complete market deregulation and liberalization. (See Table 3.)

* provided, however, that the price support established shall not result in the increase of the retail prices of such products beyond the paying capacity of the average consumer: provided, further, that the Government shall also endeavor to set farmgate prices that respond to the changing economic conditions”.

10 <https://psa.gov.ph/farmgate-prices-palay/node/167574>

11 OECD (2017), *Agricultural Policies in the Philippines*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264269088-en>

Table 2: Laws Passed by the Philippine Government

<p>High Value Crops Development Act of 1995 or Republic Act 7900</p> <hr/> <p>Develop high-value crops as export crops that will significantly augment the foreign exchange earnings of the country, through an all-out promotion of the production, processing, marketing, and distribution of high value crops in suitable areas of the country.</p> <p>Enabling Factors To encourage the cultivation and marketing of high value crops, the High-Value Crops Development Fund with an initial fund of One Billion Pesos was created “for the purpose of providing the funding requirements of the production, marketing, and processing of high-value crops, and the establishment of low-cost credit to qualified project proponents”. The law also provides incentives to encourage the cultivation of high value crops such as crop insurance, credit assistance, tax exemptions, market linkage, post-harvest facilities, and good seeds and planting materials.</p>	<p>Agricultural and Fisheries Mechanization (AFMech) Law or RA10601 of 2012</p> <hr/> <p>Promote the development and adoption of modern, appropriate and cost-effective and environmentally safe agricultural and fisheries machinery and equipment.</p> <p>Enabling Factors The law tasks a government agency to evaluate and accredit farm machinery for sale to farmers.</p>	<p>Sugarcane Industry Development Act of 2015 or Republic Act No. 10659</p> <hr/> <p>Promote the competitiveness of the sugarcane industry.</p>	<p>2018 Act Instituting the Farmers and Fisherfolk Enterprise Development Program of the Department of Agriculture or the Sagip Saka Act or RA11321</p> <hr/> <p>Achieve sustainable modern agriculture and food security by helping the agricultural and fishing communities to reach their full potential, increasing farmers' and fishermen's incomes, and bridging gaps through, public-private partnerships, thereby improving their quality of life; b) strengthen the farmers and fisherfolk enterprise development program by establishing a comprehensive and holistic approach in the formulation, coordination and implementation of enterprise development initiatives, consolidating the roles of different government agencies involved in farmers and fisherfolk enterprise development, and intensifying the building of entrepreneurship culture among farmers and fisherfolk.</p>	<p>Coconut Farmers and Industry Trust Fund Act signed by President Rodrigo Roa Duterte on February 26, 2021</p> <hr/> <p>Improve incomes and rehabilitate the coconut industry to ensure the inclusive growth of the sector.</p> <p>Enabling Factors Utilize the Php 75 billion for a Coco Levy Fund Coconut Development Plan with the corresponding Trust Fund</p>
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Table 3: Three Stages of Policy Reform in the Philippines





Importation of domestically available seeds

Section 23 of the Magna Carta restricts the importation of agricultural products when these products are produced locally in sufficient quantities. This is for the benefit of small farmers, including agricultural share tenants and lessees, regular and seasonal farmworkers and beneficiaries under the Comprehensive Agrarian Reform Law (CARL).

Section 23 also states that: “[I]mportation policies should include the protection of new and developing crops such as soybean, ramie, sorghum and wheat. Importation policies shall be reviewed periodically by the Government in consultation with farmers’ organizations”.

The second paragraph of Section 25 of the Magna Carta also requires government to “minimize importation of farm inputs which are being developed locally, such as fertilizers and seeds, except at times of calamities or emergencies”.

The government is obliged to present documentation that these provisions were complied with in respect to importation of seeds and planting materials of PGRFA in the country.

Right to Benefit from the Country’s Natural Resources

The Magna Carta guarantees the right of small farmers to “benefit from our country’s natural resources under existing laws” (Article 8). This right is not found in the various declarations on human rights cited in the preambular text of the UNDROP. Thus, it can be said that this is a unique feature of the Magna Carta. This right to the country’s natural resources is consistent with Section 16, Article II of the 1987 Constitution of the Philippines which states that:

“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature”.

Related provisions of the 1987 Constitution of the Philippines are as follows:

- Section 2, Article XII of the 1987 Constitution of the Philippines provides for state ownership over natural resources that include all lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources.

- Section 1 of Article XII enumerates the goals of the national economy:
 - 1) more equitable distribution of opportunities, income, and wealth;
 - 2) a sustained increase in the amount of goods and services produced by the nation for the benefit of the people;
 - 3) and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

One of the most important pieces of legislation that reflect the country's commitment to fulfill the right of small farmers to benefit from the country's natural resources is the Comprehensive Agrarian Reform Law (CARL) of 1988 or Republic Act (R.A.) 6657.

CARL adopted the UN definition of land reform, as “an integrated program of measures designed to eliminate business obstacles to economic and social development due to defects in the agrarian structure”.

CARL had the triple objectives of equity/ social justice, improvement of farming efficiency, and poverty reduction. CARL



expanded the coverage of agrarian reform beyond rice and corn lands to all agricultural lands; broadened the definition of beneficiaries to include tenants and farmworkers; and reduced the size of land that landowners may retain from seven to five hectares. The law also mandated support services for agrarian reform beneficiaries.¹²

In May 2023, the PSA reported that in the period 1972 to 2020, the cumulative accomplishment of the Comprehensive Agrarian Reform Program (CARP) in land distribution and registration reached 4.84 million hectares of agricultural lands. This indicated an accomplishment rate of 88.9 percent of the national revised target scope of 5.44 million hectares. The country's number of agrarian reform beneficiaries (ARBs) from 1972 to 2020 totalled 2,902,443.

A 2017 study on the CARP, after 30 years¹³ of implementation, points to evidence that the program has been poorly targeted in terms of areas covered and beneficiaries because of the absence of parcel-based information on land use and ownership and as a result of the poor land record system in the country. The study found that there was no inventory of farmers or tenants, and that the targeting of farmers was “largely influenced by landowners, and local officials, including officials of the Department of Agrarian Reform (DAR) at the local level”. There have been some welfare effects but there is “no clear evidence whether the objectives of CARP to increase investments in agriculture, increase access to formal credit of farmers and equity have been achieved.”

12 Ballesteros, Marife M. Ancheta, Jenica; and Ramos, Tatum. CARP after 30 Years. Accomplishment and Forward options.m December 11, 2017: Philippine Institute for Development Studies JEnica<https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1734.pdf>

13 Ballesteros, Marife M. Ancheta, Jenica; and Ramos, Tatum. CARP after 30 Years. Accomplishment and Forward options.m December 11, 2017: Philippine Institute for Development Studies JEnica<https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1734.pdf>

Right to Benefit from Water Resources

Additionally, data from the PSA¹⁴ shows that from 2016 to 2020 the total area serviced for irrigation was 2.01 million hectares. This is 64.1 percent of the estimated total irrigable area of 3.13 million hectares for the 2016-2020 period. Note, however, that there are about nine hectares of agricultural lands in the Philippines and the National Irrigation Administration (NIA) defines “irrigable lands” as agricultural lands with slopes no greater than three degrees (3°) to be feasible for conventional irrigation systems.

PSA Data¹⁵ also reveal that in 2020, the total expenditure of the national government amounted to Php4.10 trillion, with Php147.33 billion having been spent for the agriculture and the agrarian reform sector. This amounted to 3.6 percent of the total national government expenditure.



Right to Seed as an Adjunct to the Right to the Country's Natural Resources

Both the ITPGRFA and the UNDROP provide for the right of farmers to save, use, exchange and sell farm-saved seed or propagating material. These international instruments recognize the traditional farmer seed systems that have sustained agricultural processes for thousands of years.

The Magna Carta for does not provide for similar rights pertaining to seeds. However, the right to save, sell, and exchange seeds is embodied in Section 16 of this law, which reads:

Section 16. Use of Good Seeds and Planting Materials.

The State shall ensure that every farmer has the equal opportunity to avail of, to produce and to market good seeds and planting materials recommended by the Department of Agriculture (DA) as capable of producing high-yielding, pest-and-disease resistant, and widely-adapted crops for irrigated, rainfed and upland areas. Farmers' organizations shall coordinate with the field offices of the DA and other concerned government agencies in ensuring that seeds and the means necessary to engage in the production and marketing of seeds suited to prevailing conditions in their respective communities are made available to small farmers.

14 https://psa.gov.ph/sites/default/files/%5BSigned%5D%20FO_01_Government%20Support%20in%20the%20Agri%20Sector%202016-2020%20ao%20May%2028.pdf

15 https://psa.gov.ph/sites/default/files/%5BSigned%5D%20FO_01_Government%20Support%20in%20the%20Agri%20Sector%202016-2020%20ao%20May%2028.pdf

To ensure the constant availability of appropriate and affordable seeds of recommended varieties, the DA through the Bureau of Plant Industry (BPI), and in cooperation with the private seed producers' associations, the farmers' organizations, the Institute of Plant Breeding of the University of the Philippines at Los Baños (UPLB), and other state universities, colleges, and other institutions, shall extend all the necessary support needed to give the farmers the capability to undertake seed production and distribution services.

The DA shall conduct information campaigns and accelerate dissemination of technology on the use, production and storage of quality seeds. It shall also provide seed quality control services to discourage the use of inferior seeds and other varieties.

Small farmers have the right to avail of, produce, and market seeds. However, this right pertains only to "good seeds".

"Good seeds, in the Magna Carta of Small Farmers, refer to "seeds that are the progeny of certified seeds so handled as to maintain a minimum acceptable level of genetic purity and identity and which is selected at the farm level".

"Certified seeds" refer to seeds that have passed the seed certification standards of the Bureau of Plant Industry (BPI) and which are the progeny of foundation, registered or certified seeds that are

so handled as to maintain satisfactory genetic identity and varietal purity¹⁶.

However, Section 25 of the Magna Carta makes it a state duty to fulfill the rights of farmers to avail of, produce and market good seeds, and thus carries with it an implicit promise to fulfill farmers' right to seeds. This provision also makes it impossible for government researchers and scientists to obtain commercial rights over certified seeds that were developed in government facilities. At the same time, Section 25 does not preclude government from certifying seeds developed by small farmers, for so long as these farmers seeds meet the requirements of genetic identity and varietal purity.

Furthermore, the Philippine Technology Transfer Act of 2009 or Republic Act (R.A.) 10055 could be read together with Section 25 and Section 7 of the Magna Carta as prohibiting any intellectual property regimes or commercialization of certified seeds and good seeds developed by government researchers.

Unfortunately, the Country's Report as of 2019 on the Implementation of Farmers' rights at the national level by Government and farmers in compliance to ITPGRFA Obligations provided that:

"There is already an existing platform for the protection and promotion of Farmers' rights. However, there are no implementing rules specific for PGRFA."¹⁷

¹⁶ Paragraphs 23 and 24, Section 2 (Definition of Terms) of the Magna Carta of Small Farmers.

¹⁷ <http://www.fao.org/3/ca6370en/ca6370en.pdf>.



In relation to the right of farmers to seeds and planting materials, another relevant law is the Seed Industry Act of 1992 or Republic Act (R.A.) 7308. This law was approved on March 27, 1992 or almost three months earlier than the Magna Carta which was enacted on June 4, 1992.

The Seed Industry Act declares the policy of the government to promote and accelerate the development of the seed industry and to conserve, preserve and develop the plant genetic resources of the nation. The provisions of the Seed Industry Act, however, lean more heavily towards promoting and accelerating the development of the seed industry rather than towards conserving, preserving and developing the plant genetic resources of the nation. Consequently, R.A. 7308 makes the seed industry a “preferred area of investment” and promotes formal seed systems and seed industry enterprises.

The law also created the National Seed Industry Council (NSIC) which is mandated to “formulate a comprehensive medium- and long-term national seed industry development program in order to achieve

self-sufficiency in the supply of high quality seeds”¹⁸ within 90 days from the constitution of the council¹⁹. However, 30 years after the creation of this council, the plan has yet to be formulated.

While the Seed Industry Act specifically provides for support to the private sector and the farmers’ organizations to engage in the seed industry, it lacks specific provisions “to conserve, preserve and develop the plant genetic resources of the nation”. Even then, the NSIC has the responsibility to include in its program, activities to fulfill this purpose of the law inasmuch as the council is also tasked to:

- formulate policies that will stimulate plant breeding activities for the development of the genetic resources of the country in accordance with the provisions of this Act; and
- encourage persons, associations, cooperatives and corporations engaged in genetic resources conservation, varietal development, production and processing, quality control, storage, marketing and distribution of seeds to adopt systems and practices which improve the quality of seeds for distribution to farmers²⁰.

¹⁸ Section 5(d) of the Seed Industry Act.

¹⁹ Section 13 of the Seed Industry Act.

²⁰ Sections 5 (a) and (b) of the Seed Industry Act.

While it refers to farmers' organizations, the Seed Industry Act makes no mention of the farmer. Nevertheless, "seed industry" as defined in this law,

"shall mean the different components of the chain of activities undertaken by an individual, association, cooperative, corporation or firm, academic institutions, public agricultural research institutes in the production, processing, testing, handling, grading, storage, distribution, and marketing of seeds for agricultural production with economic benefits"²¹.

A farmer is an *individual* and hence, a farmer, particularly a small farmer, is not precluded from the "production, processing, testing, handling, grading, storage, distribution, and marketing of seeds for agricultural production with economic benefits".

Seed sharing as a reciprocal obligation

There is a caveat, however, because the farmer as an *individual* under this law, is one who is absorbed in the formal seed system, and/or one who seeks to benefit from the marketing of seeds. It must be emphasized that some small farmers would opt to share seeds as their traditional practice. Sharing is a reciprocal obligation among farmers and as such involves a circular process: a farmer who shares seeds with other farmers are assured that in subsequent transactions, the other farmer will share his or her seeds as well.

²¹ Section 3(g) of the Seed Industry Development Act.

Intellectual Property Rights to Seeds

The 1987 Philippine Constitution recognizes the importance of intellectual property:

"The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law." [Article XIV, Section 13]

On January 1, 1998, the Intellectual Property Code of the Philippines came into force. Section 22.4, which covers non-patentable inventions, prohibits the patenting of plant varieties or animal breeds and allows the Philippine Congress to adopt a *sui generis* protection of plant varieties and animal breeds, including a system of community intellectual rights protection:

22.4. Plant varieties or animal breeds or essentially biological processes for the production of plants or animals. This provision shall not apply to micro-organisms and non-biological and microbiological processes.



Provisions under this subsection shall not preclude Congress from considering the enactment of a law providing sui generis protection of plant varieties and animal breeds and a system of community intellectual rights protection.

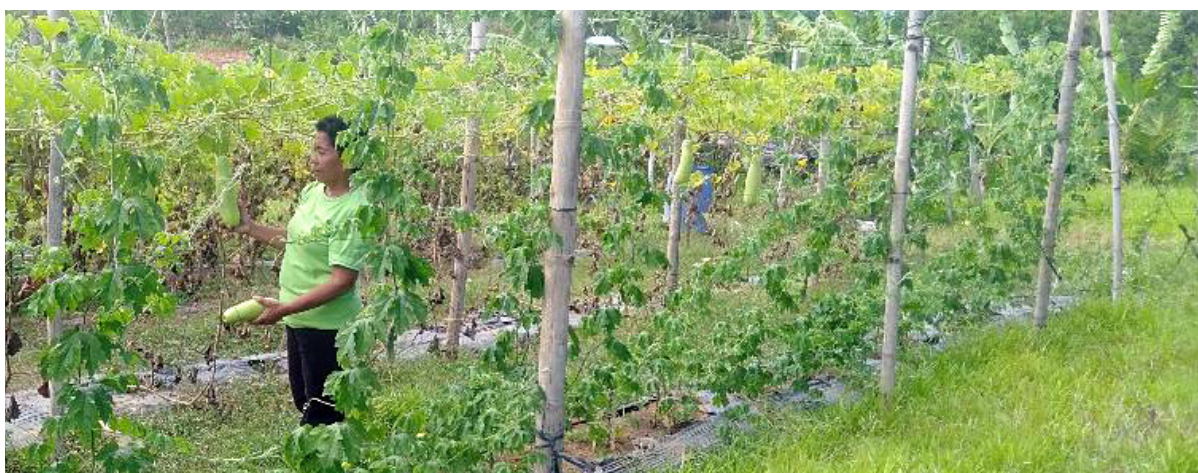
While the patenting of plant varieties is expressly prohibited by law, the seed industry encourages the privatization of seeds through the formal seed system and supports the worldwide trend to put seeds into the hands of a few.

A study by the Organization of Economic Cooperation and Development (OECD)²² shows that a series of horizontal and non-horizontal mergers and acquisitions over the past 30 years created the “Big Six”: Monsanto, Bayer, BASF, Syngenta, Dow and DuPont. The report states that these multinationals were all active in agrochemicals, and (with the exception of BASF) had strong positions in seed and biotechnology. The report also notes that the recent merger wave reduced the number of major firms to four and the merger of Dow and DuPont, the acquisition of Syngenta by ChemChina, and the merger of Bayer and

Monsanto have recently reshaped the global seed industry.

These corporations grew with the support of international trade agreements that impose Intellectual Property Rights (IPR) frameworks on new plant varieties. The World Trade Organization (WTO), through its Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS, 1995), explicitly states that Member States shall provide for the protection of plant varieties either by patent or by an effective sui generis system (national law of its own kind) or by any combination thereof.

One of the IPR frameworks that have been promoted in the WTO and increasingly imposed in other trade agreements is the International Union for the Protection of New Varieties of Plants (UPOV). Member States of UPOV adopt laws that assign Plant Breeders’ Rights (PBRs) to the breeders of new registered plant varieties, thus limiting the access, availability and use of these seeds by farmers. The latest version of the UPOV (UPOV91) is more restrictive than previous versions and criminalizes seed saving of these varieties.



22 OECD (2018), Concentration in Seed Markets: Potential Effects and Policy Responses, OECD Publishing, Paris. <https://doi.org/10.1787/9789264308367-en>

To comply with TRIPS 1995, the Philippines enacted the Philippine Plant Variety Protection (PVP) Act of 2002 or Republic Act (R.A.) 9168 on June 7, 2002. This law seeks to “protect and secure the exclusive rights of breeders to their new plant varieties and provides for the elements of novelty, distinctness, uniformity, and stability of a new variety to be issued a Certificate of Plant Variety Protection.

Non-government organizations and farmers’ groups deserve credit for successfully pushing for the protection of farmers’ rights in the PPV, and for inserting it into the text of the law, as follows:

Section 43. Exceptions to Plant Variety Protection.

The Certificate of Plant Variety Protection shall not extend to:

(d) The traditional right of small farmers to save, use, exchange, share or sell their farm produce of a variety protected under this Act, except when a sale is for the purpose of reproduction under a commercial marketing agreement. The Board shall determine the condition under which this exception shall apply, taking into consideration the nature of the plant cultivated, grown or sown. This provision shall also extend to the exchange and sell of seeds among and between said small farmers: Provided, That the small farmers may exchange or sell seeds for reproduction and replanting in their own land.

The UPOV Council objected to the first sentence of Section 43(d) of the Law, which prohibits the exchange, share or sale of their farm produce of a variety protected

under the PVP law only if such exchange, share or sale is covered by a commercial marketing agreement. The Council said that regardless of whether such exchange, share or sale is covered by a commercial marketing agreement, the exchange, share or sale of a protected variety is still an infringement of the breeder’s right as per Article 14(1) of the 1991 UPOV Act.

The UPOV Council also objected to the third sentence in Section 43(d) of the Law which allows the exchange and sale of protected seeds for reproduction and replanting in the land owned by the small farmers, stating that the exception under Article 15(2) of the 1991 Act requires that for such an exception to be enforced, it should still be “within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder”. The UPOV Council said that “[T]he exchange and sale of seeds among and between the said small farmers in their own land, as provided in the third sentence of Section 43(d) of the Law, goes beyond the exception of Article 15(2) of 1991 Act and therefore would constitute an infringement to the breeder’s right (Article 14(1) of the 1991 Act).

The Council then recommended to amend Section 43(d) of the Law to comply with Article 15(2) of the 1991 Act²³.

The Council also questioned Section 71 of the PVP Law which establishes a “Gene Trust Fund”. It claimed that the purpose of the fund was “not clearly established in the Law but seems to be related to conservation of genetic resources”. Section 71 reads:

²³ https://www.upov.int/edocs/mdocs/upov/en/c_extr/24/c_extr_24_02.pdf.

“Gene Trust Fund. There shall be an independent and separate trust fund established under this Act, to be administered by the Board, for the benefit of bona fide organizations or institutions managing and operating an accredited gene bank. An amount to be determined by the Board but not to exceed twenty percent (20%) of the fees and charges, shall be used for the purposes of the gene trust fund. The trust fund may also accept donations from national and international institutions and other organizations and individuals interested in strengthening genetic conservation.”

The Council wanted Section 71 repealed and placed in a different law. The Council said:

“[S]ince measures concerning conservation of genetic resources pursue different objectives and require a different administrative structure than the legislation dealing with the grant of breeders’ rights, it would be appropriate to include those measures in a different piece of legislation, although such legislation should be compatible and mutually supportive”.

The Council also found Section 75 of the Philippine PVP law, which provides for the Relation of the PVP law with other laws. Section 75 provides that:

[T]he interpretation of the provisions of this Act shall not negate the effectivity and application of Republic Act No. 8371 otherwise known as the Indigenous People’s Rights Act, Republic Act No. 9147, otherwise known as The Wildlife Resources Conservation and Protection Act, Presidential Decree No. 1151,



otherwise known as the Philippine Environmental Policy and Executive Order No. 430 and Administrative Order No. 8, Series of 2002 of the Department of Agriculture of the rules and regulations for the importation and release to the environment of plant products derived from the use of biotechnology.” (emphasis added).

The UPOV Council found this contradictory to Article 18 of the 1991 Act which provides:

Measures Regulating Commerce 34. Article 18 of the 1991 Act provides that: “The breeder’s right shall be independent of any measure taken by a Contracting Party to regulate within its territory the production, certification and marketing of material of varieties or the importing or exporting of such material. In any case, such measures shall not affect the application of the provisions of this Convention.”

In brief, the UPOV Council found that the Philippine PVP Law failed to comply with UPOV 1991.

Right to Organize

For an organization to be considered a “farmers’ organization”, the Magna Carta requires that farmers’ cooperatives, associations, or corporations must possess the following qualifications:

- duly registered with appropriate government agencies;
- composed primarily of small agricultural producers, farmers, farmworkers, and other agrarian reform beneficiaries who voluntarily join together; and
- form business enterprises which they themselves own, control and patronize.

This definition of a farmers’ organization is limited. A farmers’ group that is not registered with any “appropriate” government agency cannot avail of rights, benefits, and resources as provided for in the Magna Carta.

Furthermore, as specified in the Magna Carta, the farmers’ organization’s main purpose should be to “form business enterprises” and that the said business enterprise must be “owned, controlled, and patronized” by the farmers’ organization. Thus, a farmers’ organization that is formed for any other purpose, such as engaging in seed sharing under a farmers’ seed system, is not considered a farmers’ organization and cannot avail of the benefits arising from the

law. Neither could an organization that is not primarily composed of small agricultural producers, farmers, farmworkers, and other agrarian reform beneficiaries. The law does not even define what a “farmworker” is.

Another instance where small farmers could be deprived of benefits provided for in the Magna Carta pertains to their right to organize and participate in all processes, particularly government processes that have a bearing or an impact on them.

While the Magna Carta recognizes the rights of farmers to participate, participation is restricted to those who qualify as defined by the law. Section 6 of the Magna Carta requires farmers to organize at the barangay, municipal, provincial, and national level. However, only national officials can sit in the boards of the Philippine Coconut Authority (PCA), the National Food Authority (NFA), the Philippine Crop Insurance Corporation (PCIC), the National Irrigation Administration (NIA) and others.

Section 6 further states that “[O]n all other levels, the farmer representatives shall serve as members of planning and implementing units of the local governments and shall act as the official representatives of the farmers with whom the Government shall coordinate with.”



However, the law provides for a caveat:

“[P]rovided, that all farmer representatives are members of primary farmers’ organizations, preferably cooperatives, and have been elected in all preceding levels”.

Given these restrictions on qualifications, there is no guarantee that small farmers would be properly represented in these government bodies.

State Duty for Each Right

Most international declarations on human rights list down the specific rights but an outstanding feature of the UNDROP is that for each specified right of small farmers and other people working in rural areas, there is a corresponding obligation or duty on the part of the state to respect, protect and fulfill such right.

Article 2 of the UNDROP requires states to promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights set forth in the present Declaration (UNDROP) that cannot be immediately guaranteed. Article 2 furthermore compels states to:

1. Respect, protect and fulfill the rights of peasants and other people in the working areas.
2. Address multiple forms of discrimination in implementing the provisions of the UNDROP;
3. Consult and cooperate in good faith with peasants and other people working in rural areas, before adopting and

implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes:

4. Elaborate, interpret and apply relevant international agreements and standards to which they are a party in a manner consistent with their human rights obligations as applicable to peasants and other people working in rural areas.
5. Regulate non-State actors, such as private individuals and organizations, and transnational corporations and other business enterprises, so that these non-State actors respect and strengthen the rights of peasants and other people working in rural areas.
6. Take appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of peasants and other people working in rural areas, among others.

On the other hand, Article 2 of the Magna Carta recognizes the policy of the state to give the highest priority to the development of agriculture such that equitable distribution of benefits and opportunities is realized through the empowerment of small farmers. In the same article, the State recognizes the fact that the welfare and development of the small farmers is



their primordial responsibility, and that the State shall provide the necessary support mechanism towards the attainment of their socioeconomic endeavors.

Section 7 of the Magna Carta defines the empowerment of farmers as referring to the “provision of opportunities whereby farmers can have access to ownership or management of production resources”. Section 7 adds that for empowerment to be achieved, “small farmers’ rights and obligations that specifically promote such empowerment are hereby given a legislative mantle”. This could be interpreted to mean that the legislature should promote the empowerment of farmers so that they can own or manage their production resources.

This provision on the empowerment of farmers [with the ultimate aim of enabling small farmers to own or manage their production resources] is broad enough to encompass the right of farmers to own and manage production resources such as seeds, planting materials, land, and other resources.

Duties of the State and of Small Farmers under the Magna Carta

Most of the government obligations outlined in the Magna Carta pertain to the duty of government to provide the following:

- (1) irrigation and water management facilities;
- (2) transportation infrastructure to include among others, farm-to-market roads, feeder roads, bridges, piers or ports and airports;
- (3) communications infrastructure facilitated and operated by the DA or by duly recognized and designated farmers’ organization;
- (4) postharvest facilities/services;
- (5) market infrastructure;
- (6) good seeds and planting materials;
- (7) fertilizers and pesticides; and
- (8) a Rural credit delivery system.

Magna Carta Obliges Farmers

Meanwhile, the Magna Carta provides for obligations of small farmers:

Section. 9. Farmers’ Obligations.

The farmers shall:

- (1) Make use of their farmers’ organizations preferably cooperatives in order to enhance their capabilities in production, processing, marketing and financing towards self-reliance;
- (2) Aim for increased productivity through the use of recommended farm practices and quality inputs;
- (3) Comply with the terms and conditions stipulated in the availment of any form of assistance from the Government, financial institutions and non-government

- organizations to enable others to usually benefit from such assistance;
- (4) Adopt production and marketing strategies to avail of economies of scale, soil and climatic conditions, idle farm labor and innovative agricultural technology through crop zonification, diversification, home and backyard industries, farming systems and similar activities;
 - (5) Through their cooperative, share with the consuming public the benefits derived from economies of scale, integration of processing and marketing activities and the application of better technology in the form of reasonable prices and superior quality of products;
 - (6) Share in the delivery of public services by contributing available labor and material resources to activities such as the maintenance of irrigation canals, the construction of small water impounding projects, the establishment of buying stations and public markets, and the establishment of plant nurseries and seed-banks;
 - (7) Exert efforts to meet local demand requirements to avert any shortage that may necessitate importation;



- (8) Participate in the conservation, protection and development of the national patrimony;
- (9) Promptly pay all applicable fees, license fees and taxes to the appropriate government agencies;
- (10) Participate in and contribute to government insurance and social security programs; and
- (11) Undertake self-help community development projects such as cottage industries, backyard farming and other economic-enhancement projects.

There is a risk to assigning these obligations to farmers in the Magna Carta. Farmers can be blamed due to their poor conditions or when the government does not achieve productivity targets. For instance, in “Agricultural Policies in the Philippines,” published by the OECD, it is reported that Philippine farmers were under-applying fertilizers, thus driving down yields²⁴. Small farmers are also obligated to “comply with the terms and conditions stipulated in the availment of any form of assistance from the government, financial institutions and non-government organizations.” Gene banks like the International Rice Research Institute (IRRI) make seeds and planting materials available to farmers but only through farmers’ organizations accredited by government. Similarly, the dispersal of seeds, farm implements, fertilizers, and livestock is done only through government accredited farmers’ organizations. The same is true for availing of credit. If farmers are not able to comply with these terms and conditions, they are blamed and their rights are ignored.

24 https://read.oecd-ilibrary.org/agriculture-and-food/title-agricultural-policies-in-the-philippines_9789264269088-en#page62

Conclusions and Recommendations

Taken individually, the major laws on farmers' rights in the Philippines such as the Magna Carta of Small Farmers of 1992, the Seed Industry Development Act of 1992, and the PVP Law of 2002, fall short of providing for the whole gamut of farmers' rights, specifically the farmers' right to seeds and planting materials.



In Pari Materia

The Magna Carta provides for the economic rights of farmers, including through a provision on the right to empowerment and the right to benefit from the country's natural resources. However, this law does not specify how such right to the environment can be fulfilled, especially through the farmers' right to seeds and planting materials.

The Seed Industry Development Act provides for the rights of small farmers who belong to the description of "individuals" that access, replicate, and market seeds that are certified by the government as "good seed". On its own, the Seed Industry Act is silent on small farmers' or farmers' rights.

The PVP law expressly allows farmers to save, use, exchange and sell seeds covered by breeders rights, albeit only in their own farm.



The law also provides that breeders' rights shall respect the provisions of various laws, such as the IPRA and the Wildlife Act.

It is a basic principle of statutory construction that laws referring to the same persons or acts should be construed or interpreted together. This is the principle of *in pari materia*.

The Supreme Court defined *in pari materia* thus:

Statutes are *in pari materia* when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "interpretare et concordare legibus est optimus interpretandi," or every statute must be

so construed and harmonized with other statutes as to form a uniform system of jurisprudence²⁵.

Applying the principle of *in pari materia*, the Magna Carta of Small Farmers, the Seed Industry Development Act and the PVP Law should be analysed in relation to their provisions involving farmers' rights. When these three laws are taken together, a complete, coherent and intelligible system arises where farmers' rights as per ITPGRFA and UNDROF provisions are respected, and promoted in the Philippines.

Most importantly, the interpretative rule of *in pari materia* finds proper application considering that the Magna Carta supports the empowerment of small farmers. Empowerment, as per section 7 of the law, "refers to provision of opportunities whereby farmers can have access to ownership or management of production resources".

A distinct feature of the Magna Carta is the provision of the right to benefit from the country's natural resources which is consistent with the 1986 Constitutional provision on the right to ecology. However, this right is not elucidated in the Magna Carta. The CARL was game-changing in affording land to small farmers and the landless.

The Magna Carta also limits the definition of the right to seeds and planting materials to access, production, and sale of good seeds. The PVP law with respect to seeds covers breeders' rights to the use, exchange, and sale of farm-saved seed in their own farm.

²⁵ Philippine Economic Zone Authority, v. Green Asia Construction & Development Corporation, G.R. No. 188866 : October 19, 2011.

The Doctrine of Incorporation

Besides the laws passed by the Philippine Congress, the international treaties such as ITPGRFA, the CBD and the UNDROP also form part of the legal framework on farmers' rights in the Philippines in accordance with Section 2, Article 2 of the 1987 Constitution. This provision stipulates that the State adopts the generally accepted principles of international law as part of the law of the land.

The Magna Carta of Farmers failed to provide for farmers' rights in the same way that Article 9 of the ITPGRFA did. Since the ITPGRFA was ratified by the Philippine Senate and is consistent with the Supreme Court ruling in *Republic v. Sandignabayan*²⁶, ITPGRFA enjoys the level of a statute in the Philippine hierarchy of laws. The country's ratification of the ITPGRFA fills the gap in the Magna Carta of providing for farmers' rights. The ITPGRFA supplements domestic Philippine laws on farmers' rights, and consequently, all the provisions of the plant treaty, including Article 9 on farmers' rights have the force of national law in the Philippines.

Additionally, having signed the UNDROP, the Philippines is obliged to reflect UNDROP's provisions on farmers' rights and state obligations in the Magna Carta. Similarly, in drafting the Magna Carta of Women, or Republic Act (R.A.) 9710, the Philippines harmonized all domestic laws, as well as the country's obligations to women's rights as per Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international obligations.

²⁶ G.R. No. 104768, July 21, 2003.

Ways Forward

Laws pertaining to farmers' rights in the Philippines need to be refined. Here are some suggested ways forward.

An all-inclusive definition of a small farmer

As earlier discussed, the definition of a small farmer in the Magna Carta of Small Farmers is not inclusive of small farmers. The definition, based on an income cap, includes farmers that are better-off and who have better access to government services.



The Comprehensive Agrarian Reform Law of 1988 (Republic Act 6557) provides for a more encompassing definition of a small farmer and farmworkers:

- (f) “Farmer” refers to a natural person whose primary livelihood is cultivation of land or the production of agricultural crops, either by himself, or primarily with the assistance of his immediate farm household, whether the land is owned by him, or by another person under a leasehold or share tenancy agreement or arrangement with the owner thereof.
- (g) “Farmworker” is a natural person who renders services for value as an employee or laborer in an agricultural enterprise or farm regardless of whether his compensation is paid on a daily, weekly, monthly or “pakyaw” basis. The term includes an individual whose work has ceased as a consequence of, or in connection with, a pending agrarian dispute and who has not obtained a substantially equivalent and regular farm employment.
- (h) “Regular Farmworker” is a natural person who is employed on a permanent basis by an agricultural enterprise or farm.
- (i) “Seasonal Farmworker” is a natural person who is employed on a recurrent, periodic or intermittent basis by an agricultural enterprise or farm, whether as a permanent or a non-permanent laborer, such as “dumaan”, “sacada”, and the like.



- (j) “Other Farmworker” is a farmworker who does not fall under paragraphs (g), (h) and (i).

Note that paragraph (j) even provides for a catch-all phrase which includes any member having characteristics similar to the previous descriptions, and who can be said to be in the same class as those provided in the previous descriptions under the principle of *ejusdem generis*²⁷. [meaning “of the same kind”.] Inasmuch as the Philippines had signed the UNDROP, Philippine laws should adopt the UNDROP definition of a peasant or other people working in the rural areas. Women and children also need to be recognized as farmers.

Furthermore, there needs to be a uniform definition of what a small farmer is in all laws relevant to farmers in the Philippines. While laws are expected to cater to certain purposes, the definition of small farmers should be the same.

²⁷ Under the doctrine, *ejusdem generis* where general terms follow the designation of particular things or classes of persons or subjects, the general term will be construed to comprehend those things or persons of the same class or of the same nature as those specifically enumerated (NPC v. Angas, et. al., G.R. Nos. 60225-26. May 8, 1992 citing Crawford, Statutory Construction, p. 191; Go Tiaco v. Union Ins. Society of Camilan, 40 Phil. 40; Mutuc v. COMELEC, 36 SCRA 228)

Prioritize Support for Small Farmers

The 2012 census²⁸ for agriculture reports that:

- There are 5.56 million farms/holdings whose combined area is 7.19 million hectares. This translates to an average area of 1.29 hectares per farm/holding. The number of farms/holdings increased from 1980 to 2012 by 62.6 percent whereas the average area of farms/holdings decreased from 2.84 hectares per farm/holding in 1980 to 1.29 hectare per farm/holding in 2012. This could be explained by the partitioning of farms/holdings from one generation of agricultural holders/operators to the succeeding generation.
- About 98 percent of the total farms/holdings in the country in 2012 were seven hectares in size or smaller. Of these, three in every five farms/holdings were below 1 hectare in size, with an average area of 0.28 hectare per farm/holding. About 32 percent or 1.78 million farms/holdings were 1.000 hectare to 2.999 hectares in size. The combined area of these farms/holdings was 2.59 million hectares, farms/holdings averaging 1.46 hectare in size. One out of 10 farms/holdings that was 3.000 hectares to 7.000 hectares in size had an average area of 4 hectares per farm.
- Ninety-nine percent (or 5.51 million) of the farms/holdings in the country were operated by the households or by individual persons. These farms/holdings covered 6.78 million hectares and translated to an average area of 1.23 hectares per farm/holding. Other farms/holdings were operated by

partnership (0.8 percent), corporation (0.04 percent), cooperative, government institution, private institution, etc.

- The land tenure of farm/holding reported in 2012 depended on the land tenure of its parcels. Three out of five farms/holdings (3.45 million) in the country were fully owned or in owner-like possession and covered 4.34 million hectares. About 15 percent of the farms/holdings, covering a total area of 1.07 million hectares, were tenanted (using payment in-kind); about three percent, covering 301,000 hectares, were leased/rented (using payment in cash). Another 8 percent of the farms/holdings were rented free.

This report shows that about 60 percent of farmers in the Philippines cultivate an area of less than one hectare, or an average of 0.28 hectare/2800 square meters per farm/holding. This being the case, it is important for government to redirect its attention to these small farmers and recalibrate its policies and plans to adjust to this reality in dealing with small farmers and small landholdings.

It is equally important to provide government support to the poorest of the poor small farmers. With a view towards meeting the Sustainable Development Goals (SDGs) of doubling the agricultural productivity and incomes of small-scale food producers by 2030, the Food and Agriculture Organization (FAO) developed a definition of small-scale food producers, by poring through scientific literature and policy documents. The FAO found four criteria for defining a small-scale food producer:

²⁸ Philippine Statistics Authority Special Report - Highlights of the 2012 Census of Agriculture (2012 CA) Reference Number: 2015-71 Release Date: Monday, December 21, 2015 <https://psa.gov.ph/content/special-report-highlights-2012-census-agriculture-2012-ca>

1. **Size of operated land:** Land size is the most commonly used criterion, as the definition of the vast majority of “small-scale food producers” is based on the physical size of the farm and the number of livestock heads.
2. **Amount of labor input employed for agricultural production:** Labor is provided by family members or other agricultural workers.
3. **Market orientation:** The output of the farm is either for own-final consumption or for sale and/or barter in markets.
4. **Economic size of the holding:** Expressed through the gross monetary value of agricultural production.

The FAO study stated that using just any one of these criteria will not be able to target small food producers. For instance, relying only on land size and the size of herds could possibly capture structural constraints in production with the assumption that those who have less production resources (land, animals, machinery) are more likely to be disadvantaged than those who have more. However, physical size could fail to consider the quality of the land and the livestock, the type of crops grown, the farming systems, and other socio-economic and agro-ecological characteristics and distribution of resources.

In addition, relying on physical size alone will not consider the differences between one hectare of specialized horticultural production in high-tech greenhouses in a rich peri-urban area that is well-connected

to markets as compared to one hectare of cassava in a remote small village. On the other hand, using the income threshold only to identify small-scale food producers is problematic since this does not take into account differences in production costs among farms²⁹.

For the law to be able to identify small farmers who are more disadvantaged than others, the definition of small farmers in the Magna Carta needs to be amended so as to ensure that government projects and plans are geared towards helping the poorest of the poor farmers.

Using the FAO analysis, small farmers should be identified, using two criteria, income threshold and physical threshold.

1. **Income threshold:** A farmer whose income falls below the prevailing poverty threshold of the country. As explained earlier, a Php180,000.00 annual income translates to a Php15,000 monthly income requirement for a small farmer. In 1997, the poverty threshold was at least P11,319 to meet his/her food and non-food and those below this poverty threshold were considered poor³⁰. Even in today's poverty threshold levels, the Php15,000.00 income cap is still high. In a report released on 17 December 2021, the PSA estimated the poverty threshold at Php12,082.00 for a family of five in the first semester of 2021. If income is to be used as a criterion to define a small farmer, a better indicator so as to target the poorest of the poor small farmers who are more in need of

29 <https://unstats.un.org/unsd/statcom/49th-session/documents/BG-Item3j-small-scale-food-producers-definition-FAO-E.pdf>. Also see <https://www.fao.org/3/i6858e/i6858e.pdf>

30 “A Closer Look on the Magna Carta of Small Farmers in the Philippines”. Policy Brief is published quarterly by the World Agroforestry Centre (ICRAF-Philippines) . Issue No. 2. June 2009 [chrome-extension://efaidnbmnnnibpajpcglclefindmkaj/https://psa.gov.ph/sites/default/files/1997%20Philippine%20Poverty%20Statistics.pdf](https://efaidnbmnnnibpajpcglclefindmkaj/https://psa.gov.ph/sites/default/files/1997%20Philippine%20Poverty%20Statistics.pdf)

government services would be those whose incomes fall below the poverty threshold.

2. Physical threshold: Criteria for physical size should cater to the landless, and those whose lands are less than one hectare in size. The latest Agricultural Census in the Philippines in 2012 shows that in the Philippines, 88 percent of all farm holdings are less than three hectares in size, while those under one hectare comprise the bulk (57 percent)³¹.

The State Should Report on Its Duty to Fulfill Farmers' Rights

The Magna Carta of Small Farmers lists a number of duties that the government must fulfill to empower farmers. The government also has the duty to bring about the rights of farmers as embodied in the Magna Carta, the Seed Industry Act, and the PVP Law, along with the plant treaty and the treaty on biological diversity.

The Magna Carta of Farmers provides for the farmer's right to benefit from the country's natural resources, and these natural resources include PGRFA. As discussed earlier, the ITPGRFA is considered part of domestic law as this was ratified by the Philippine Senate. Article 9 of the ITPGRFA requires the government to:

- protect traditional knowledge relevant to PGRFA;
- fulfill the right of small farmers to equitably participate in sharing benefits arising from the utilization of PGRFA;

- fulfill the right of farmers to participate in making decisions at the national level on matters related to the conservation and sustainable use of PGRFA; and
- fulfill the right of small farmers to save, use, exchange, and sell farm-saved seed/propagating material.

As discussed earlier, there are laws and policies in place for government to fulfill farmers' rights. The challenge is for government to report on its accomplishments in implementing these policies.

For instance, the government needs to report on its accomplishments in implementing the Magna Carta of Farmers—in terms of:

- fulfilling the right of farmers to benefit from natural resources, particularly to benefit from PGRFA;
- fulfilling the economic rights of the farmers, and the rights of farmers to organize and participate on matters affecting them.

The Government needs to account for which benefits have farmers obtained from the country's PGRFA. Laws have been passed creating funds for the benefit of farmers. How large is this fund and in what way has it benefitted farmers? At the very least, there needs to be an audit and a report of how funds earmarked for farmers were spent and if these actually benefitted small farmers, especially the poorest of the poor among them.

Similarly, the plant genetic resources of the nation also consists of crop wild relatives (CWR) or the cousins of food crops that still

31 Philippine Statistics Authority Special Report - Highlights of the 2012 Census of Agriculture (2012 CA) Reference Number: 2015-71 Release Date: Monday, December 21, 2015 <https://psa.gov.ph/content/special-report-highlights-2012-census-agriculture-2012-ca>



grow in nature. There appears to be no law that specifically addresses the conservation, development, and utilization of the country's CWR. Republic Act (R.A.) 9147 or the "Wildlife Resources Conservation and Protection Act," does not specifically mention CWR although it identifies wildlife as "wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated." Based on this definition, CWRs are covered in R.A. 9147. However, neither the Department of Environment and Natural Resources (DENR) nor the DA has come up with a plan to specifically address the conservation and preservation of CWRs.

However, efforts have been made to support the export of indigenous rice seeds in the Cordillera, called heritage rice. The DA, in cooperation with the Intellectual Property Office and Local Government Units of the Cordillera, has utilized the Geographical Indicator System to map and register these

heritage rice varieties. In addition, the Indigenous People's Rights Act of 1997 (R.A. 8371) provides clear policy for farmers' rights among indigenous peoples with respect to natural resources, including PGRFA.

Moreover, one of the twin policies of the Seed Industry Act is to conserve, preserve and develop the plant genetic resources of the nation. Articles 5 and 6 of the ITPGRFA, which pertain to the conservation, development, and use of PGRFA fill the gap in the Seed Industry Act.

Article 5 of the ITPGRFA deals with the Conservation, Exploration, Collection, Characterization, Evaluation and Documentation of Plant Genetic Resources for Food and Agriculture. This provision, when read together with the Magna Carta, the Seed Industry Development Act, and the PVP Law and CBD provisions on agricultural biodiversity, mandates the Philippine government to promote an integrated approach to the exploration, conservation and sustainable use of PGRFA. Along this line, it is the obligation of the Philippines to:

- Survey and inventory PGRFA, taking into account the status and degree of variation in existing populations, including those that are of potential use and, as feasible, assess any threats to them;
- Promote the collection of PGRFA and relevant associated information on those plant genetic resources that are under threat or are of potential use;
- Promote or support, as appropriate, farmers and local communities' efforts to manage and conserve on-farm their PGRFA;

- Promote in situ conservation of wild crop relatives and wild plants for food production, including in protected areas, by supporting, inter alia, the efforts of indigenous and local communities;
 - Cooperate to promote the development of an efficient and sustainable system of ex situ conservation, giving due attention to the need for adequate documentation, characterization, regeneration and evaluation, and promote the development and transfer of appropriate technologies for this purpose with a view to improving the sustainable use of PGRFA;
 - Monitor the maintenance of the viability, degree of variation, and the genetic integrity of collections of PGRFA.
- 5.2 The Contracting Parties shall, as appropriate, take steps to minimize or, if possible, eliminate threats to PGRFA.

Article 5.2 also directs the Philippine government to take steps to minimize or, if possible, eliminate threats to PGRFA.

On the other hand, Article 6 of the ITPGRFA directs parties to develop and maintain appropriate policy and legal measures that promote the sustainable use of PGRFA. These measures may include:

- pursuing fair agricultural policies that promote, as appropriate, the development and maintenance of diverse farming systems that enhance the sustainable use of agricultural biological diversity and other natural resources;
- strengthening research which enhances and conserves biological diversity by maximizing intra- and inter-specific variation for the benefit of farmers, especially those who generate and use their own varieties and apply ecological

- principles in maintaining soil fertility and in combating diseases, weeds and pests;
- promoting, as appropriate, plant breeding efforts which, with the participation of farmers, particularly in developing countries, strengthen the capacity to develop varieties particularly adapted to social, economic and ecological conditions, including in marginal areas;
- broadening the genetic base of crops and increasing the range of genetic diversity available to farmers;
- promoting, as appropriate, the expanded use of local and locally adapted crops, varieties and underutilized species;
- supporting, as appropriate, the wider use of diversity of varieties and species in on-farm management, conservation and sustainable use of crops and creating strong links to plant breeding and agricultural development in order to reduce crop vulnerability and genetic erosion, and promote increased world food production compatible with sustainable development; and
- reviewing, and, as appropriate, adjusting breeding strategies and regulations concerning variety release and seed distribution.

In the past 10 years, bills to amend the Seed Industry Act and to enact legislation to implement the ITPGRFA have remained pending in the Philippine Congress.

An executive order to implement the provisions of the ITPGRFA had been drafted for the signature of then President Rodrigo Duterte. But the Policy Division of the DA under the Duterte administration insisted that instead of an executive order, a congressional law was necessary.

However, through the doctrine of transformation, the CBD and ITPGRFA already hold the status of a Philippine law passed by Congress and thus, should be implemented to benefit the right of farmers to seeds/planting materials. Laws should be enacted to compile the rights of farmers into one document. The Magna Carta as well as the Seed Industry Development Act need to be refined. However, it is not necessary to wait for these laws to be passed; the executive department can undertake to implement existing laws.

For instance, Section 5(d) of the Seed Industry Development Act requires the National Seed Industry Council of the Bureau of Plant Industry:

(d) to formulate a comprehensive medium and long-term national seed industry development program in order to achieve self-sufficiency in the supply of high quality seeds.

Thirty years after the Magna Carta was passed into law, no comprehensive medium and long-term national seed industry development program has been formulated. But on July 29, 2022, the Southeast Asian Regional Center for Graduate Study and Research in Agriculture (SEARCA) reported in its webpage that it was partnering with the National Seed Industry Council (NSIC) “to formulate the Seed Industry Development Program (SIDP) of the Philippines. The project aims to create a framework for the country’s seed industry that is responsive to agricultural needs in the next five years”³².



The plan should not only involve SEARCA and NSIC but small farmers as it is their right to participate in all matters affecting them. The plan should also include the provisions of the ITPGRFA, specially farmers’ rights to seeds and planting materials; the conservation, exploration, collection, characterization, evaluation and documentation of PGRFA; and the sustainable use of plant genetic resources (Articles 9, 5 and 6 respectively).

32 <https://www.searca.org/news/searca-da-bpi-formulate-five-year-seed-industry-development-program-philippines?fbclid=IwAR1Hd8dKciHNINCS7fGWbvzWVYEtvZ9CDbIZX1HBKY2Cmlls4bV31gAM5k>

Support Farmers' Seed System

The 1992 Magna Carta of Small Farmers along with most Philippine agricultural laws provide for economic rights of farmers, consistent with government's policy to increase productivity and income. However, the country's regulatory framework on seeds, namely, continues to ignore the farmers' seed system and relegates the farmer as a mere end user of seeds.

Because of the invisibility of the farmers' seed system, policies aimed at improving the agricultural sector have focused on the provision of "better" seeds, increasing the use of farm inputs like fertilizers and pesticides, and restructuring and reorganization of research centers involved in crop variety improvement. Current policies have also largely supported the formal seed system, pertaining to how food is produced, distributed or circulated and sold by government institutions and the private industrial sector. The title of the Seed Industry Development Act is a stark example of the invisibility of the farmers' seed system and the primacy of government support for the formal seed system.

According to this law, a "seed industry" comprises the "different components of the chain of activities undertaken by an individual, association, cooperative, corporation, or firm, academic institutions, public agricultural research institutes in the production, processing, testing, handling, grading, storage, distribution, and marketing of seeds for agricultural production with economic benefits".

As discussed earlier, the definition of the seed industry does not exclude a farmer since

a farmer is an "individual" who is involved in the industry. However, in such a capacity the farmer should be involved in the production, processing, testing, handling, grading, storage, distribution, and marketing of seeds. The farmer must also undertake all these activities for "agricultural production with economic benefits".

However, the farmers' seed system encompasses more than "agricultural production with economic benefits". The farmers' seed system has sustainably developed and conserved PGRFA for more than 10,000 years. The unhampered practice of small farmers of saving, using, re-using, exchanging, sharing and selling seeds has ensured the availability and viability of today's PGRFA. The farmers' seed system is the best example of in situ conservation since the farmers, consciously or unconsciously, ensured that excellent seeds would be available for the next cropping season. Small farmers maintained a process of selection and storage so that seeds would be available, or else entire villages would go hungry. During times of calamity, such as typhoons and floods, farmers helped each other by distributing seeds to affected communities.

Small farmers' seed systems ensured the availability of PGRFA even before governments or private corporations were born to provide them seeds. Even today, it is the small farmers' seed systems that provide at least 70 percent of seeds in communities. Farmers' seed systems also produce seeds that can withstand climatic challenges on account of their adaptability to local conditions and their diverse genetic make-up.

It is unfortunate that, while farmers' seed systems are the predominant seed system in



the Philippines, there are no specific policies that explicitly support their development. Even as the Seed Industry Development Act provides for the conservation, preservation, and development of plant genetic resources of the country, there is nothing in this law that specifically mentions farmers' seed systems in relation to the conservation, development and sustainable use of PGRFA.

The potential of the farmers' seed system needs to be supported by government. Excellent farmers' seed varieties, such as the "Sinandomeng" variety, are already widely available in the market despite the lack of government certification processes. More farmers' varieties have demonstrated the potential to attain rice self-sufficiency in a region. However, owing to the lack of policies for certifying farmer varieties, these can not be certified by government authorities for marketing. In Calasiao, Pangasinan, a farmers' group has developed a

rice variety to produce the famous "Calasiao puto," or rice cake, but while this has become popular among farmers through the farmers' seed system, this variety could not be formally distributed by local government units and thereafter sold because of the lack of government certification.

Another example of seed varieties maintained by farmers are the heritage rice varieties in the Cordillera which have been exported as heirloom rice. There are more than 600 heirloom rice varieties and these are all maintained by indigenous farmer seed systems.

Policies to recognize the farmers' seed system and the seeds produced from this system should be promoted and supported by government. Superior farmers' varieties should be recognized by law and policies put in place so that farmers' varieties could gain the same stature as seeds produced by the formal seed system. Policies should also be put in place to provide a process of certification that would allow seeds from the farmers' seed systems to be distributed and marketed.

Policies that allow small farmers to collaborate with scientists and researchers, most especially in the academe, should be adopted to further strengthen the conservation and sustainable use of PGRFA. Public colleges and universities need to be funded to conduct such collaboration, in place of collaboration with agrochemical corporations to produce genetically modified organisms such as golden rice and Bt talong, or Bt eggplant, which not only expose farmers and consumers to health risks, but also have the capacity to contaminate valuable PGRFA, such as the heirloom rice varieties and other crops.

Gene Banks Should Be Accessible to Small Farmers

The Philippines is home to the IRRI, which maintains a gene bank for rice. Presidential Decree 1046-A, enacted on November 12, 1976, established the National Plant Genetic Resources Laboratory (NPGRL). The NPGRL of the Institute of Plant Breeding (IPB), College of Agriculture and Food Science (CAFS), UPLB serves as the national repository of important and potentially useful agricultural crops, including the wild and weedy relatives. The NPGRL holds approximately 18,000 seed samples of different types of cereals, legumes, vegetables, and more. As a national repository of these crops—and their wild and weedy relatives—the NPGRL is of great importance to the agricultural and food sector in the Philippines, which accounts for as much as 20 percent of the country's gross national income and employs around 32 percent of its workforce. Through the years, the NPGRL has acquired and is maintaining over 30,000 accessions of 300 species. Also known as the Genebank, the NPGRL continuously undertakes acquisition, characterization, conservation and management, regeneration and documentation of plant genetic resources that are kept as seeds, and live plants in the field, in the greenhouse, nursery and *in vitro*. The NPGRL actively participates in activities to increase the utilization and exchange of plant genetic resources and thus to deliver on its commitment to providing plant germplasm materials as sources of genetic variability to IPB as well as to national and international crop improvement programs.³³

The NPGRL should expand from the UPLB to establish community seed banks in all the agricultural universities in the country. These should be made accessible to all farmers, inasmuch as one of the obligations of farmers as stated in Section 9(6) of the Magna Carta of Small Farmers is to establish plant nurseries and gene banks.

In accordance with its obligations under the CBD and ITPGRFA, the Philippine government should also provide sufficient and regular funding to the NPGRL. The agency should have sufficient funds to cover repairs to its laboratories and seed supply. Outside funds such as the USD15,000.00 donated by Crop Trust in 2021³⁴ should be used to improve its facilities, and perhaps increase its collection of seeds rather than restoring its seed-drying facility, which has not been used for two years because of storm-related flooding, obsolete equipment and leaks in its wooden structure.



³³ <https://www.genesys-pgr.org/partners/aaa02346-762a-4798-a306-f77553479df1>.

³⁴ <https://www.croptrust.org/news-events/news/a-helping-hand-to-reboot-seed-conservation-in-the-philippines/>

Epilogue

Farmers' rights seek to empower farmers so that they have perpetual access to PGRFA and so that they can continuously benefit from plant genetic resources.



The continuation and proliferation of farmers' seed systems in a manner that follows their traditional practice of saving, using, re-using, breeding, sharing, or selling ensures the genetic diversity of PGRFA.

While the Philippines already has policies in place that have the potential of fulfilling farmers' rights, laws need to be tailored to support farmers' seed systems. Plans and programs and activities need to be identified and most importantly, implemented to fulfill the goal of empowerment of small farmers as per Section 7 of the Magna Carta of Farmers. This section reads:

Section 7. General Provisions.

Empowerment of small farmers refers to provision of opportunities whereby farmers can have access to ownership or management of production resources.

To achieve this, small farmers' rights and obligations that specifically promote such empowerment are hereby given a legislative mantle.

Production resources refer to PGRFA, including the knowledge that goes with it, such as those that have been sequenced under a digital sequencing information system (DSI). The DSI of PGRFA is part and parcel of the PGRFA maintained by small farmers and it is only fair that access to and ownership of such a resource be made available to small farmers on the elementary principle that DSI cannot exist without the actual PGRFA.

Fulfilling farmers' rights is not a one-off solution that can only benefit small farmers. It is with the fulfillment of farmers' rights that the food rights of all of the world's seven billion people could be assured.

Laws on farmers' rights in the Philippines need to be refined. The Magna Carta of Small Farmers, the Seed Industry Development Act and the PVP Law should be analyzed in relation to their provisions involving farmers' rights.





Southeast Asia Regional Initiatives for Community Empowerment (SEARICE) is a regional non-government organization that promotes sustainable and resilient food systems through ecological agriculture with emphasis on the conservation and development of agricultural biodiversity; and advocates for policies that support, strengthen, and institutionalize community initiatives on sustainable and resilient food systems. It works in partnership with farming communities, local and national government units, civil society organizations, and academic and research institutions in Southeast Asia.

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