

Philippines GMO-Free Zones: Successful Roots in Organic Policy and Law

by Lee Arueloⁱ

Introduction

The Philippines is an archipelagic country. It is composed of more or less 7,101 islands. Presently, it has a population of more or less 100 million and with a total land area of 30 million ha and 47% or about 13 million ha are devoted to agriculture. The country is divided into three major regions, namely: Luzon, Visayas and Mindanao.

The Philippines has been a Party to the Cartagena Protocol on Biosafety since 2006. To date, the Philippines has no biosafety law, only biosafety regulations, i.e., Department of Science and Technology, Department of Agriculture, Department of Environment and Natural Resources, Department of Health and Department of Interior and Local Government (DOST-DA-DENR-DOH-DILG) Joint Department Circular No.1, series of 2016 (JDC 01-2016); and the National Biosafety Framework (NBF).



The Philippines imports GMOs mainly from the United States which is a non-Party to the Protocol. Since December 2002, there have been 70 GMO applications approved by the Bureau of Plant Industry-Department of Agriculture (BPI-DA) for release to the environment. Among which 62 GMOs were approved for food feed and processing (FFP) and 8 GMOs were approved for propagation.

On the other hand, the Philippine Government recognizes the importance of Organic Agriculture by having an Organic Agriculture Act of 2010; a road map towards organic Philippines; Philippine National Standards of Organic Agriculture; and several accredited Third Party Certifying bodies which include among others the Organic Certification Center of the Philippines, Inc. (OCCP), and the Negros Island Certification Services (NICERT).

Philippines GMO-Free Zones

GMO-Free Zones in the Philippines have been enacted and implemented via GMO Ban Ordinancesⁱⁱ, which are the legal bases for such zones at the local level. The Philippine experience on GMO-Free Zones shows that the GMO Ban Ordinances are most effective when there are concrete links to organic policy and law. In this regard, NGOs and peoples' organizations (POs) have advocated first for the passage of an Organic Agriculture Ordinance before advocating for a GMO Ban Ordinance.

Some examples of GMO-Free zones in the country and how they were declared are as follows: The first one was the case of Negros Islandⁱⁱⁱ. On 24th August, 2005, the Provincial Governors of Negros Occidental and Negros Oriental signed the Memorandum of Agreement (MOA) on the establishment of the "Negros Organic Island". The two provinces bound themselves and mutually agreed to achieve a unified sustainable agricultural rural development for the entire

island. It led to the establishment of Provincial Sustainable Agriculture and Rural Development Boards in each province which are responsible for formulating policies on food security through sustainable agriculture centered on organic production, biosecurity in the island, rural development through such agriculture, and biodiversity conservation. It also created the Negros Island Sustainable Agriculture and Rural Development Foundation (NISARD) which was tasked to implement programs towards achieving the goals set forth in the MOA.

The two provinces decided, through an ordinance, to ban the entry, introduction and importation of genetically modified plants or animals in the entire island. This was to be done within six months from execution of the MOA. Thus, in the performance of its responsibility stated in the MOA, the Negros Occidental Provincial Board passed Provincial Ordinance No. 007 Series of 2007 on April 25, 2007, declaring a ban on living GMOs from entering the Province. Moreover, in the performance of its responsibility stated in the MOA, the Negros Oriental Provincial Board passed Provincial Ordinance No. 7 Series of 2010 on June 17, 2010, declaring a ban on GMOs from entering the Province.

Consequently, in 2008, when the industry tried to ship in 70 metric tons of Bt corn into the Province of Negros Occidental, the shipment was put on hold at the port of entry; and the Provincial Governor gave the concessionaire two options to solve the problem, i.e., either (1) voluntarily ship out the Bt corn from the Province; or (2) the Provincial Government would totally destroy the shipment of Bt corn.

The second was the case of Davao City^{iv}. The area has the presence of a strong network of NGOs and peoples' organisations (Pos) who had come together as Go Organic Davao City or GODC (cluster organization of Go Organic Mindanao^v). The member organizations of GODC are all practitioners of organic farming. GODC crafted the proposed Organic Agriculture Ordinance of Davao City and actively lobbied for its enactment. The Davao City Legislative Body on 28th April 2010 passed the City Ordinance No. 0384-10 Series of 2010 or the Organic Agriculture Ordinance of Davao City 2009. It has a very important provision, i.e., "Organic Agriculture cannot co-exist with genetically-modified crops, chemically produced crops and related organisms, both living and non-living".

Thus, when UP Mindanao tried to conduct field testing of Bt eggplant in its experimental farm within the campus, the Davao City Mayor sent a letter to the Director of the Bureau of Plant Industry (BPI) informing BPI that the City Government of Davao is opposing the field testing of Bt eggplant in UP Mindanao and the issuance of a permit for the said testing. Further, the City Mayor pointed out that the city government has an ordinance "institutionalizing, promoting and developing organic agriculture".

The last case was the campaign against GMOs at the national level by the Network Opposed to Genetically Modified Organisms or NO2GMOs. NO2GMOs is a loose national network of international NGOs, church-based NGOs, academe, farmers' federations, environment and developmental NGOs doing advocacy work against GMOs in the Philippines. It aims to attain coordinated action on and strengthen current activities related to the campaign against genetic engineering in food and agriculture.

On April 26, 2012, some member organizations of NO2GMOs, i.e., Greenpeace^{vi} and MASIPAG^{vii}, along with other pro-environment personalities in the Philippines, filed a petition to the Philippine Supreme Court for a Writ of *Kalikasan*^{viii} (or Nature) and a Writ of Continuing Mandamus for the issuance of a temporary environmental protection order against Bt eggplant.

The primary causes of action were the constitutional right to a balanced and healthful environment; and that the Bt eggplant field testing did not comply with the required public consultation under Sections 26 & 27 of the Local Government Code. The Philippine Supreme Court (SC) in its *En Banc* Decision^{ix} on December 8, 2015, permanently stopped the field testing of Bt eggplant. Furthermore, the SC also declared null and void the Department of Agriculture's Administrative Order No. 8, Series of 2002 (DAO 08-2002), which sets out the rules and regulations for the importation and release into the environment of plants and plant products derived from the use of modern biotechnology. Consequently, any application for contained use, field testing, propagation and commercialization, and importation of genetically modified organisms (GMOs) is temporarily stopped until a new administrative order is promulgated in accordance with the law.

On March 7, 2016, however, the Department of Science and Technology (DOST), Department of Agriculture (DA), Department of Environment and Natural Resources (DENR), Department of Health (DOH) and Department of Interior and Local Government (DILG) approved the new Joint Department Circular No. 1, Series of 2016 on Rules and Regulations for the Research and Development, Handling and Use, Transboundary Movement, Release into the Environment, and Management of Genetically-Modified Plant and Plant Products Derived from the Use of Modern Biotechnology. This new Joint Department Circular will allow the issuance of fresh permits for the planting in or importing of genetically modified crops into the Philippines. (For the complete article on the Philippine Supreme Court Decision on Bt eggplant, please see <http://www.biosafety-info.net/article.php?aid=1229>)

In addition to the above, there are several provinces and municipalities in the country which have Organic Agriculture Ordinances containing the provision that "Organic Agriculture cannot co-exist with genetically-modified crops, chemically produced crops and related organisms, both living and non-living", namely:

Luzon Region: Province of Mindoro Oriental; Province of Quezon; and Municipality of Teresa.

Visayas Region: Province of Negros Occidental; Province of Negros Oriental; Municipality of Cabangcalan; City of Bais; and City of Bayawan.

Mindanao Region: Province of Bukidnon; Province of Davao del Norte; Province of North Cotabato; Province of South Cotabato; Municipality of Dumingag; and Municipality of Sto. Niño.

Further, in addition to the above, there are several provinces and municipalities in the country which have GMO Ban Ordinances, namely:

Luzon Region: Province of Mindoro Oriental; and Municipality of Teresa.

Visayas Region: Province of Bohol; Municipality of Cabangcalan.

Mindanao Region: Province of North Cotabato (i.e., Anti-GE Rice Ordinance); Municipality of Dumingag; and Municipality of Sto. Niño.

Factors that have contributed to the declaration of these GMO-free zones

One of the major factors for the possibility of declaring GMO-free zones in the Philippines is the Constitutional Provision on local autonomy which says that, "The territorial and political subdivisions shall enjoy local autonomy" in the Philippines. Thus, each local government unit

has the authority to enact its own local laws, which include among others the enactment of an Organic Agriculture Ordinance and/or a GMO Ban Ordinance.

As a matter of strategy, it has also been helpful to have a clear advocacy agenda, i.e., to promote an alternative to conventional, hybrid and/or GMO which is Organic Agriculture. And this alternative should be institutionalized in specific political and territorial jurisdictions through a local law, i.e., an Organic Agriculture Ordinance. Once the Organic Agriculture Ordinance is in place, the next advocacy agenda is to protect the integrity of organic agriculture; thus, the need for an ordinance to ban GMOs. This is due to the fact that unless the whole province or city is declared GM agriculture-free, the development of distinct systems of agriculture (GM and non-GM) will be impossible as GM agriculture emerges at the expense of all other forms of production. In this light, it is stressed that co-existence of both forms of agriculture together is a myth.

Advocating for a GMO Ban Ordinance is difficult to achieve if one only focuses the argument on banning GMOs because of their negative effects on human health and the environment. This is because there is no consensus among the scientific community as to their real effects. Thus, the debate would be never-ending, causing delay in the passage of the proposed GMO Ban Ordinance. On the other hand, it is much easier to advocate for a GMO Ban Ordinance using arguments based on achieving organic agriculture in the province or city or municipality. Considering that there are several international and national legal documents that can be used to argue in favor of the need to ban GMOs in order to achieve the status of organic province/territory, this has proven successful in the Philippines.

The experience from the Philippines also shows the importance of direct lobbying work and partnership with local government units. For example, cooperation at the provincial government level resulted in the enactment and implementation of the GMO Ban Ordinance in the Province of Negros Occidental, and the enactment of the Organic Agriculture Ordinance and GMO-Free Province Ordinance in Negros Oriental. Further, it is crucial for the advocacy work to have a contact within the legislative body that is committed to the cause, in order to push the approval of the proposed ordinance.

Finally, the need for a strong and concerted movement of NGOs and POs with sufficient knowledge and skills on the issue (e.g. organic agriculture vis-à-vis GMOs) is necessary to ensure the effective and efficient implementation of the Organic Agriculture Ordinance and GMO Ban Ordinance.

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ii In the Philippine legal system, "ordinance" is a local law which is enforceable in a specific political and territorial jurisdiction of a specific local government unit.

iii Negros Island is located in the central part of the Philippines, specifically in Visayas region and it is composed of two provinces, i.e., Negros Occidental and Negros Oriental.

iv Davao City is located in the Southern part of the Philippines, specifically in Mindanao region; and it is the biggest highly urbanized city in the Philippines in terms of its land area.

v Go Organic Mindanao or GOM is an informal network of NGOs, Church-based organizations and farmers' organizations working towards the promotion of sustainable, organic and ecological agriculture, and campaigning against genetic engineering in food and agriculture.

vi Greenpeace website: <http://www.greenpeace.org/seasia/>

vii MASIPAG website: <http://masipag.org/>

viii A Writ of *Kalikasan* is a legal remedy under Philippine law that provides protection of one's constitutional right to a healthy environment, as outlined in Section 16, Article II of the 1987 Philippine Constitution, which stipulates 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". The Writ of *Kalikasan* may be sought to deal with environmental damage of such magnitude that it threatens life, health, or property of inhabitants in two or more cities or provinces.

ix International Service for the Acquisition of Agri-Biotech Applications, Inc. Vs. Greenpeace Southeast Asia (Philippines), et al./Environmental Management Bureau of the Department of the Environment and Natural Resources Vs. Court of Appeals, et al./University of the Philippines Los Baños Foundation, Inc. Vs. Greenpeace Southeast Asia (Philippines), et al./University of the Philippines Vs. Greenpeace Southeast Asia (Philippines), et al. G.R. Nos. 209271, 209276, 209301, & 209430, En Banc Decision penned by Associate Justice Martin S. Villarama, Jr., December 8, 2015.