

Human Rights-based Approach & Rural Advisory Services

Rahel Hürzeler, Conflict Transformation & Gender Advisor

Marc Zoss, Rural Development Advisor & Desk Officer Philippines

Martin Schmid, Head of Thematic Advisory Team & Rural Development Advisor

Content

- Introduction to the Human Rights-based approach
- Link between HRBA and RAS
- HEKS case studies / experiences
- Group work and discussion



Human Rights Based Approach (HRBA)



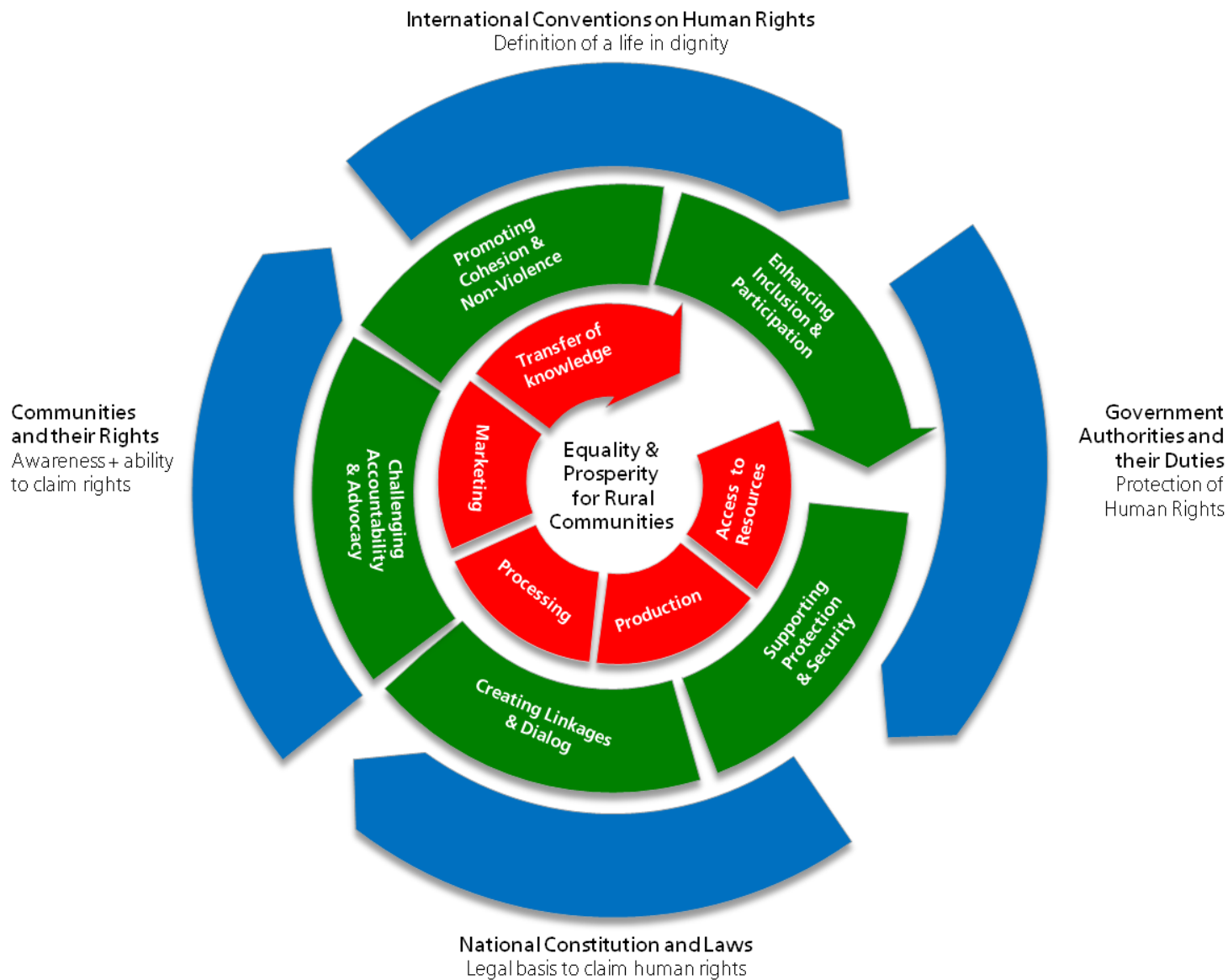


Figure 1: The HEKS impact circles "Development of Rural Communities" (red), "Conflict Transformation" (green) and "Rights-based approach" (blue).



From a needs based to a rights based approach

Shift in development cooperation from a “needs based approach” to a “rights based approach”:

- Development cooperation not out of gracious benevolence, but responsibility to work towards realization of equal human rights
- Shift from passive aid recipients to active agents of change



Working with HRBA

- Base our work on **rights based analysis** (legal frameworks, violation of human rights, working on the root causes)
- Focus on the **most vulnerable** population groups (ensure non-discrimination and equality, e.g. ethnic minorities, gender)
- Working with both **rights holders and duty bearers** (e.g. state authorities)
- Ensure self-determination, **participation** and inclusion
- Focus on **empowerment** and strengthening capacities



Rights Holders

All men and women without discrimination are:

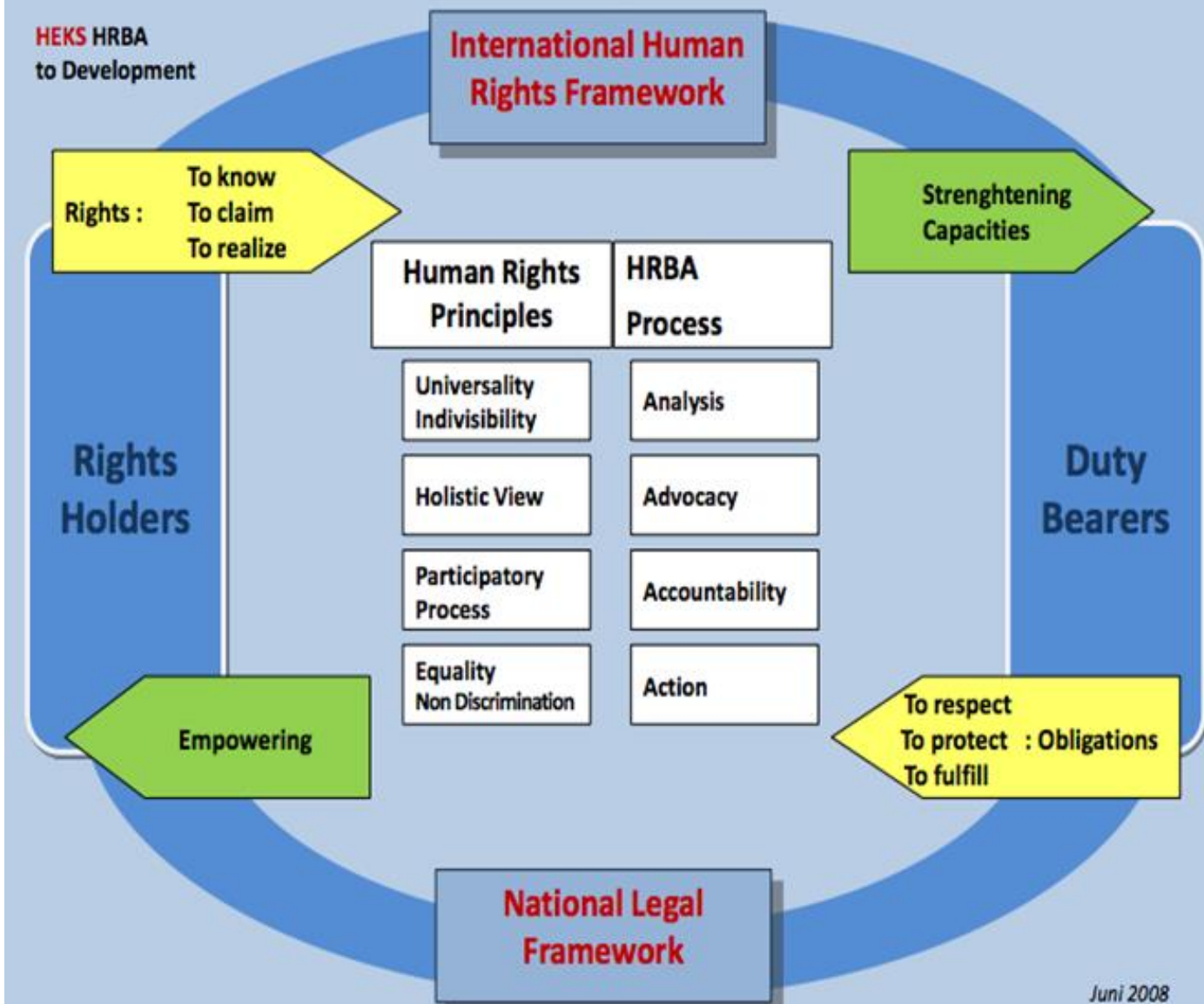
- Entitled to enjoy equal rights
- Entitled to claim rights (and be protected if they do so peacefully) from those with corresponding obligations
- Entitled to remedies when rights are violated
- Obligated to respect the rights of others

Duty Bearers

- Primarily the state (government, parliament, local and national authorities, ministry of agriculture, ministry of gender, police etc.)
- Other actors with the power and influence to change the situation
- Duty Bearers have the obligation to respect, protect and fulfil human rights



HEKS HRBA
to Development



Juni 2008



States have the obligation to..

... **respect**
protect and
fulfill human rights.



Example of obligation: Right to food

RESPECT

Neither harm nor interfere with existing access to adequate food or productive resources, for example by diverting water that is needed for crops into other projects

PROTECT

Adopt measures to ensure that third parties (such as private companies or individuals) do not deprive people of their access to adequate food

FULFILL

Facilitate access to food and resources to produce food (e.g. including more information on own obligations, ensuring appropriate laws and policies)

Provide food for those who cannot feed themselves e.g. due to drought; provide or facilitate necessary emergency assistance



HRBA process

ANALYSIS

Solid analysis for identifying those who are excluded and discriminated, the causes for exclusion and discrimination and the obligation of actors.

ADVOCACY

Challenge and/or strengthen the state, private companies, multilateral institutions, etc. to fulfill their obligations.

ACCOUNTABILITY

Duty bearers (and development actors) are responsible for the adherence of human rights. They must show accountability, upwards and downwards, in all taken actions.

ACTION

Rights-based strategies require activities to address and work with both the duty bearers and rights holders. HRBA is clearly not only a change of perspective but must absolutely lead to actions taken towards the realization of the rights of the people of our concern.



Added value of a rights based approach

- Helps us identify who has responsibilities and obligations and what these are (minimum standards)
- Promotes equality and dignity for all (ethnic groups, male/female)
- Address root causes
- Internalising that we have human rights can increase self-esteem and self-efficacy
- Legal standards - in charitable projects, more difficult to complain when standards are low
- Helps us to include different actors and to demand what we are due without relying on charity or good will
- Focus on results but also on process (participatory, non-discriminatory, accountable)



Link between HRBA & RAS



What are rural advisory services?

« Rural advisory services consist of all the different activities that provide the **information and services** needed by farmers and other actors in rural settings, **to assist them in developing their own technical, organisational, and management skills and practices** so as to improve their livelihoods and well-being. »

GFRAS 2012: The "New Extensionist"



RAS from a rights-based perspective

“Provide information and services needed”

- *Farmers' side:* be aware on the rights with regards to access to resources (incl. land, water, seeds, etc.), national laws and regulations linked to agricultural production, markets etc., state agricultural and rural support schemes and the possibilities to claim these rights
- *Authorities' side:* be aware on the duties to fulfil national and international laws and regulations



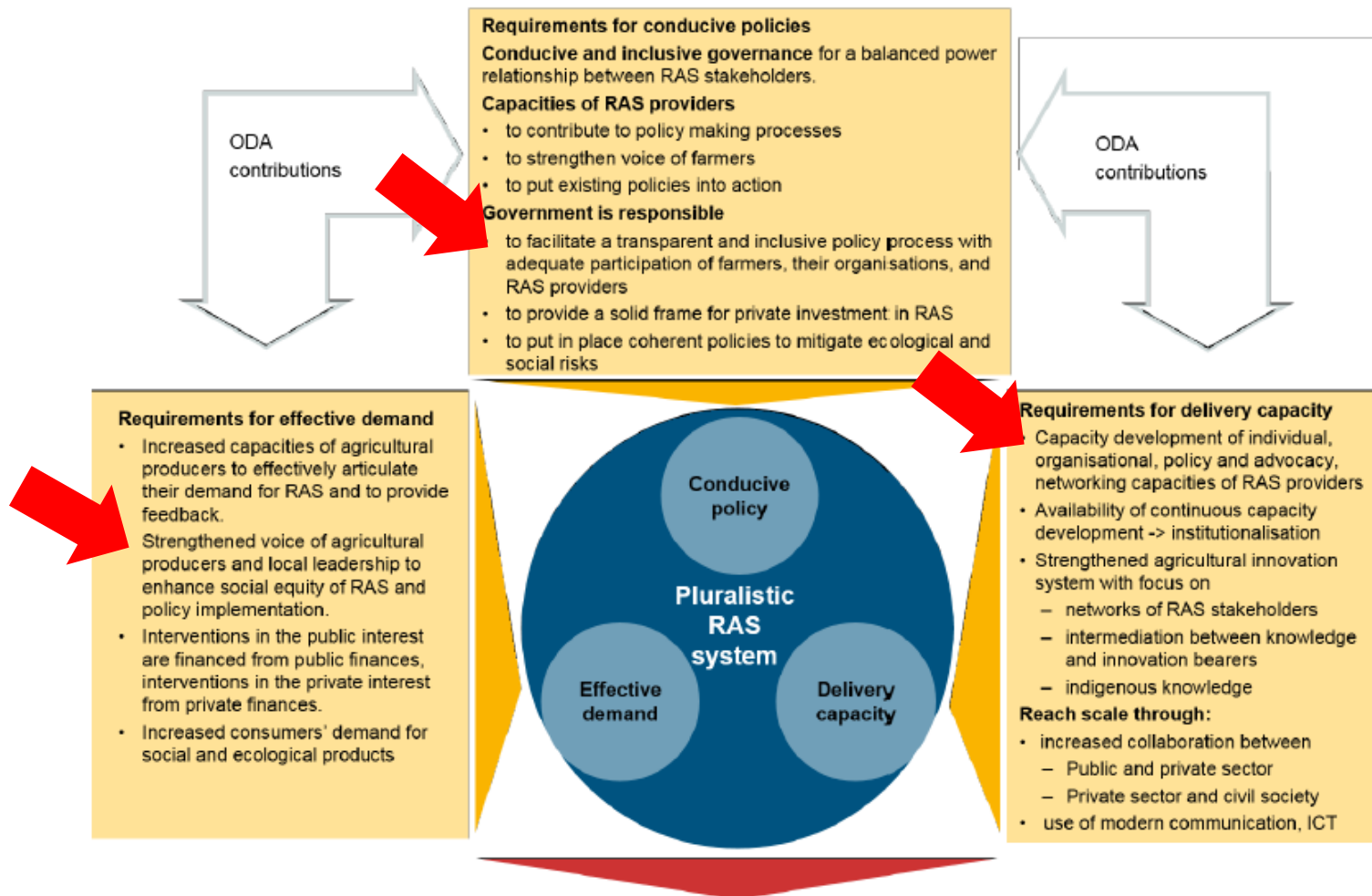
RAS from a rights-based perspective

“To assist them in developing their own technical, organisational, and management skills and practices”

- Provide capacity building with regards to more awareness on rights (farmers’ side) and duties (authorities’ side)
- Strengthening civil society structures and local leadership in claiming rights
- Legal assistance in claiming rights
- Strengthening government structures and organisations to better fulfil the duties



Link of HRBA and the Hanoi Statement



Reaching large populations with RAS in a poverty oriented, ecological and sustainable way

HEKS case studies

- Claiming access to land in Brazil
- Access to land in the Philippines
- Andhra Pradesh Land Right Forum (India)



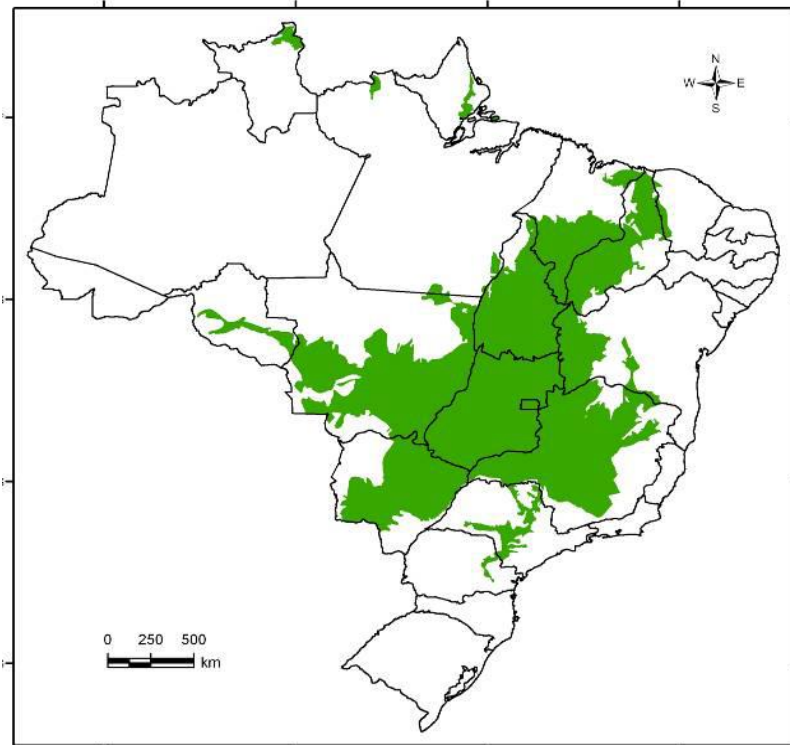
Claiming access to land in Brazil

Background

- *Partner:* Centro de Agricultura Alternativa (CAA)
- *Region:* Brazil, Cerrado (tropical savannah, ~20% of Brazilian territory)
- *Problems:*
 - Progressive large-scale soya and eucalyptus cultivation and cattle ranching causing environmental problems
 - Land conflicts: Land evictions of local communities by large landowners and (agro-)industrial projects
 - No recognition of the right to access to land for these communities
- *Beneficiaries:* Different traditional and indigenous communities; direct ~5'000, indirect: 40'000
- *Project duration:* since 2009, current phase 2012-2015







Claiming access to land in Brazil

Project goals related to access to land

- Strengthening of the territorial and socio-cultural rights of traditional communities in the Cerrado region
- Acquiring land titles and autonomous management of territories by traditional and indigenous communities in the Cerrado region of Brazil
- Creation of so-called “extractive reserves”
- Strengthening the negotiation power of traditional and indigenous communities vis-à-vis government institutions



Claiming access to land in Brazil

Link of measures to the HRBA

- Training in human rights and the enforcement of economic, social, cultural and environmental rights
- Preparation of anthropological studies leading to the reinforcement of territorial rights of the traditional and indigenous communities → Formalisation of rights claim processes
- Self-demarcation of territories by the local communities
- Supporting and advising communities in the management of their territories
- Strengthening of networks to fulfil land rights incl. links to research institutes



Claiming access to land in Brazil

What are the rural advisory services and who provides them?

- Legal aid
 - Clarifications on procedures to claim rights,
 - Advising on the formalisation of representative organisations,
 - Preparation of processes to claim rights,
 - Challenging of legal decisions in disfavour of local communities
- Training for community empowerment
- Facilitation to bring different actors together: communities, universities, government institutions, etc. (local, national and international level)

→ **All these services are provided by CAA**



Claiming access to land in Brazil

Results and achievements

- Recognition and demarcation of territories:
 - Approval of Sustainable Development Reserves: ~161'000 ha
 - Recognition of traditional territories: ~38'000 ha
- Recognition of traditional communities; e.g. Geraizeiro community of Sobrado → first municipal law in Brazil to address this issue.
- Development of management plans for the reclaimed territories.
- Building a culture of community organisation and citizen participation and formation of a growing role of local actors in the struggle to defend rights.





Access to land in the Philippines

Background

- *Partner:* Task Force Mapalad, Inc. (TFM)
- *Region:* Mindanao Region, Philippines (Provinces of Bukidnon, Davao Oriental, Agusan Sur)
- *Beneficiaries:* Smallholder farmers (5'000 individuals, 2'500ha) and indigenous communities (10'000 individuals, 20'000ha)
- *Project duration:* since 2007, current phase 2013-2015
- *Problems:*
 - Poor and sluggish implementation of the agrarian reform law (CARP) and ancestral domain law (IPRA)
 - Insufficient recognition of the right to access to land for the smallholder farmers and indigenous communities
 - Persistent resistance of owners of large agricultural lands
 - Exploitation of big mining and timber corporations



Access to land in the Philippines

Land tenure laws in the Philippines

- *Comprehensive Agrarian Reform Law (RA 6657 of 1988)*
 - Is the basis for the implementation of **Comprehensive Agrarian Reform Program** (CARP) of the government
 - **CARP** is a social justice and poverty alleviation program
 - Tenurial instrument: Certificate of Land Acquisition (**CLOA**)
- The Indigenous Peoples Rights Act of 1997 (**IPRA**)
 - The State recognizes and promotes certain rights of indigenous cultural communities/indigenous peoples (**ICCs/IPs**) within the framework of the Constitution
 - The state recognizes the “**Ancestral Domain**”
 - Tenurial instrument: Certificate of Ancestral Domain Title (**CADT**)



Access to land in the Philippines

Project goals related to access to land

- To sustain and strengthen the **community capacity in land tenure and resource tenure improvement** for smallholder farmers and indigenous communities
- To **secure tenurial instruments** and **sustainable management** of acquired land
- To strengthen the smallholder farmer organisations and indigenous communities vis-à-vis **negotiations with government** institutions and **negotiations with private sector**



Access to land in the Philippines

Link of measures to the HRBA

- Training of farmers, farmer leaders, tribal leaders on legal framework and specific processes and procedures pertaining to their land claim (CLOA or CADT)
- Facilitate dialogues with relevant stakeholders (land owners, local and national government agencies) on land claims
- Networking and linkaging of farmer and tribal organisations to pertinent support services providers
- Media campaigns and issue awareness initiatives
- Mobilisations of farmer and/or tribal organisations at local and national arenas



Access to land in the Philippines



Access to land in the Philippines

What are the rural advisory services and who provides them?

- Legal aid
 - Clarifications on procedures to claim rights
 - Advising on the formalisation of representative organisations
 - Preparation of processes to claim rights
 - Challenging of legal decisions in disfavour of local communities
 - Training for community empowerment
 - Facilitation to bring different stakeholders together (local, national and international level)
- All services provided by the partner organisation



Access to land in the Philippines

Results and achievements

- Recognition and demarcation of land claim:
 - Secured CLOA: ~1'500 ha (near approval: ~1'500)
 - Secured CADT: ~20'000 ha
- Allocation of national government of PHP 300 million (CHF 7 mio) loan fund for project agrarian reform areas
- Positive indication of lobby initiatives for the extension of CARP
- Secured support of other non-state actors like the Catholic Bishop Conference
- Support of progressive businesses and investors in productive indigenous areas for agriculture



Access to land in the Philippines



Andhra Pradesh Land Right Forum

Background

- *Partners:* 3 land right forums with 5 partners
- *Region:* Andhra Pradesh, India
- *Problems:*
 - Unequal distribution of natural resources, especially land, but also water
 - Caste discrimination and endemic poverty
 - Inefficient use of the resources available
 - Limited capacity of minorities to claim for their constitutional rights
- *Beneficiaries:* Dalits, Adivasis, and other disadvantaged communities; ~100'000 beneficiaries
- *Project duration:* since 2003, next phase 2016-2018



Andhra Pradesh Land Right Forum

Project goals related to access to land

- 56'000 families have secured access to land by 2018 in all 62 project targeted mandals (16 districts) in Andhra Pradesh and Telangana
 - Land titles
 - Enhanced capacities of the beneficiaries and CBOs on existing acts and constitutional provision and land claim processes
 - Increased negotiation skills and power among CBOs and PooCs pertaining to land mobilization
- The land acquired by the beneficiaries is developed and increases their livelihood sustainably.
 - Using government schemes for land development
 - Promotion of agro-ecological production for sustainable use
 - Applying disaster risk reduction measures



Andhra Pradesh Land Right Forum

Link of measures to the HRBA

- Creating awareness among the beneficiaries for their constitutional rights in favour of minorities
- Establishing and supporting organisations for claiming the beneficiaries rights
- Guiding and supporting the organisations in obtaining their land rights
- Resource mobilisation from existing government (duty bearer) schemes (MGNREGA and others)
- Advocacy campaigns for rights of indigenous with duty bearer



Andhra Pradesh Land Right Forum

What are the rural advisory services and who provides them?

- Legal advice on how to claim individual and collective land-related rights (preparation, move the process)
 - Land mobilisation
 - Land development
 - Sustainable use
 - Advice on lobbying for the enforcement of existing laws pertaining to minorities
 - Organisational development of right holders' organisations
 - Agro-ecological production (good agricultural practices, seed wealth centres)
- **All these services are provided by CBOs & partner NGOs**



Andhra Pradesh Land Right Forum



Andhra Pradesh Land Right Forum

Results and achievements (i)

- Mobilizing the land and developing it is feasible through CBO by:
 - Preparing the community through CBO involvement
 - Strengthening the existing ground level structures
 - Advocacy with the forest, revenue, horticulture and allied departments
 - Advocating with higher political sector and bureaucrats
 - Linking the community with MGNREGA and SC and ST sub-plans
 - → over 100'000 ha raised since 2003



Andhra Pradesh Land Right Forum

Results and achievements (ii)

- Putting the newly acquired land into sustainable use is challenging:
 - Schemes for land development are abundant but difficult for minorities to tap
 - Introduction of sustainable or agro-ecological practices requires time and trust by the beneficiaries
 - Preference for high-input and high-capital agriculture by beneficiaries – with the well known incurred high risks
 - Challenging climatic conditions such as increased drought require adaptation of practices and change of crops



Group Work (20')

Two questions:

- What is your experience in linking RAS and HRBA?
- How to better integrate rights-based advices in existing rural advisory services?



Additional Information



Added value of a rights based approach

NEEDS-BASED APPROACH	RIGHTS-BASED APPROACH
Based on donor/organisational preferences and priorities	Offers legal frameworks and standards to guide development analysis, goals and processes
Focuses on meeting need of beneficiaries	Focuses on ensuring that men and women can equally access their rights and duty-bearers effectively respond to their obligations
Focuses on symptoms of poverty	Focuses also on the underlying causes of poverty
Meets needs of groups discriminated against	Addresses also discriminatory laws, social norms etc. and the actors/institutions that discriminate
Focuses primarily on outputs/outcomes of development	Must focus also on the process of development /humanitarian actors (participatory, non-discriminatory and eliminating inequalities, accountable)





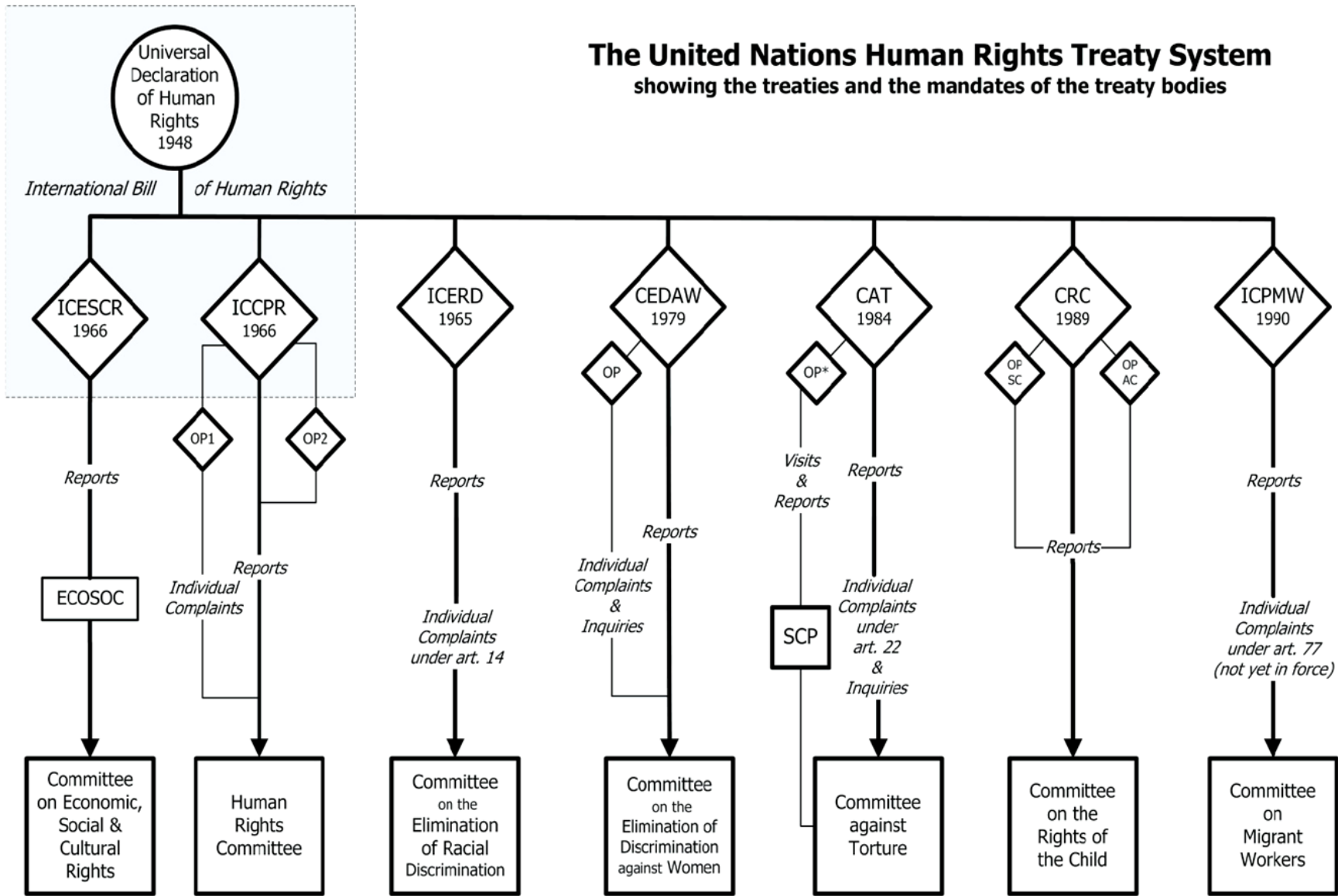
The United Nations Human Rights Treaty System

showing the treaties and the mandates of the treaty bodies

Instruments

Optional Protocols

Treaty Bodies



SCP = Sub-Committee on Prevention
 * OPCAT not yet in force

National protection of human rights

