Human Rights Based Approach to Assessment

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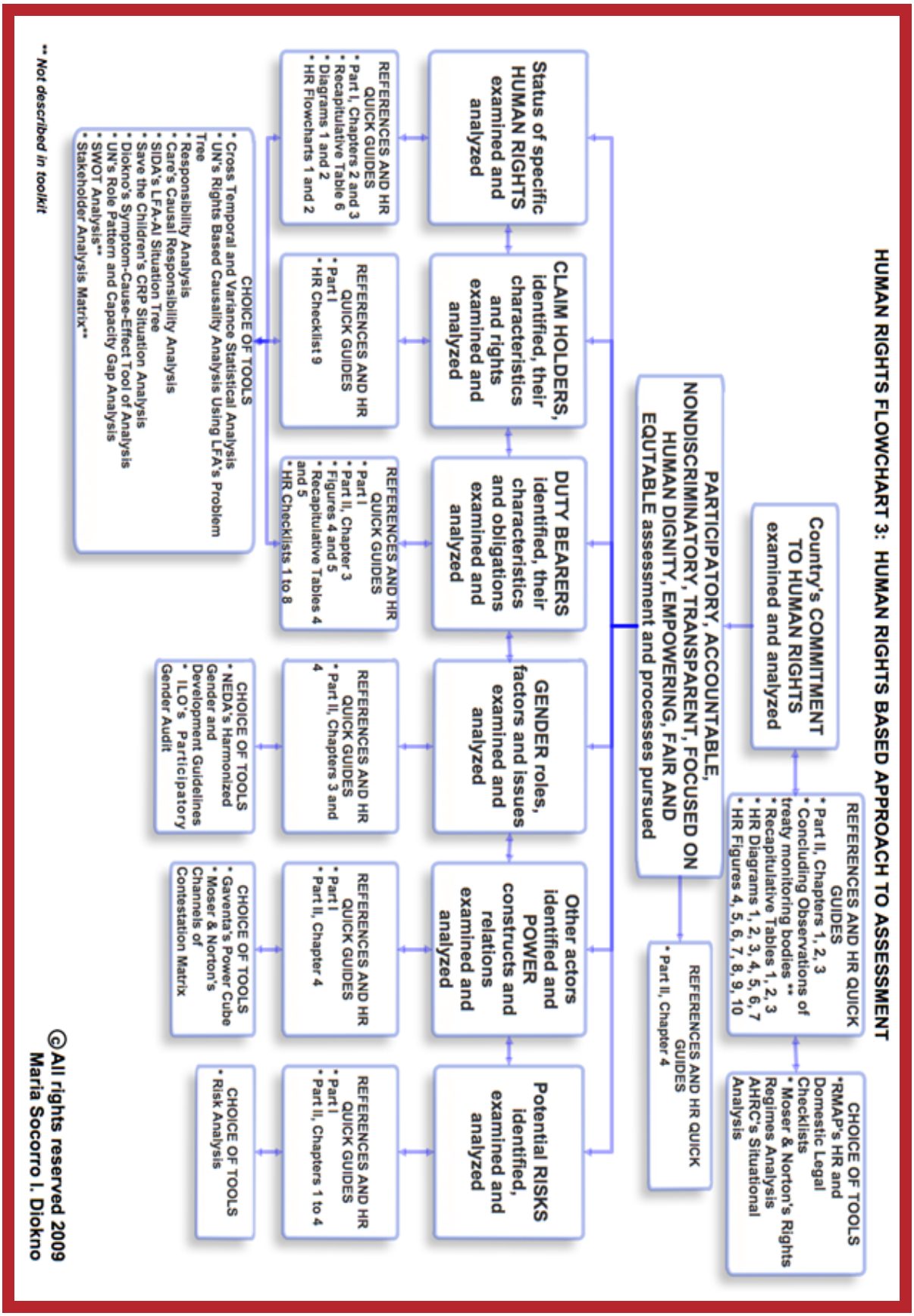
Human Rights Based Approach to Assessment

The human rights based approach to assessment examines the dignity of human life in society by applying human rights standards and norms to the process of assessment through a variety and/or combination of tools and processes, some of which are described below. It links development problems and challenges to specific human rights, and explores the extent to which rights are realized and obligations are complied with. It is *participatory* (pursued with the free and active involvement of claimholders, duty bearers and other actors), *accountable* (examines the extent to which human rights are responsibly exercised and enjoyed by claimholders, human rights obligations are complied with by duty bearers, and human rights responsibilities are observed by other actors), *nondiscriminatory* (scrutinizes the impact of the situation or problem on individuals and groups distinguished by the prohibited grounds of discrimination), *transparent* (based on comprehensive and factual data and information available and accessible to all involved in a timely manner), *focused on human dignity* (pays close attention to the problems or situation of those who least enjoy human rights or whose human rights are most at risk), *empowering* (delves into the relations and dynamics of power operating at different levels and appraises the effects of power on the problem or situation), and *equitable* (fair and balanced and presents both the positive and negative dimensions of the problem or situation).

The human rights based approach to assessment begins with the identification of the national and international human rights framework as a preliminary step towards the conduct of human rights based assessments. The national and international human rights framework of a country indicates the country's level of commitment to human rights and provides the standards against which assessment is to be gauged. The step may be accomplished through the adaptation of RMAP's *Human Rights Checklists*, the application of Moser and Norton's *Rights Regime Analysis* and/or AHRC's *Situational Analysis*. This step has implications for the Philippines, despite the discussion of the Philippine human rights framework in Part I, Chapter 1.

Human rights and development practitioners have devised and used a variety of tools and methodologies to conduct assessment from the perspective of human rights. These include: *Cross-temporal and Variance Statistical Analysis*, UN's *Rights Based Causality Analysis using LFA's Problem Tree, Responsibility Analysis,* Care's *Causal Responsibility Matrix,* SIDA's *LFA-AI Situation Tree,* Save the Children's *Situation Analysis in Child Rights Programming,* Diokno's *Symptom-Cause-Effect Tool of Analysis, Human Rights Based Actor Analysis,* UN's *Role Pattern and Capacity Gap Analysis,* NEDA's *Harmonized Gender and Development Guidelines*, ILO's *12 Key Areas of Participatory Gender Audit,* Gaventa's *Power Cube,* Moser and Norton's *Channels of Contestation Matrix* and *Human Rights Based Risk Analysis*. Development planners are free to use any of these tools and processes.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Maria Socorro I. Diokno

RMAP's Human Rights and Domestic Legal Framework Checklists[1]

The Rights-based Municipal Assessment and Planning Project (RMAP) is a pilot project that carried out human rights-based assessments and development planning of selected municipalities in Bosnia and Herzegovina (BiH). The project also tested and piloted a methodology for human rights-based development. The project was a joint project of the Ministry for Human Rights and Refugees, UNDP and the OHCHR. The Project originated from a concern that grassroots human rights information was either undocumented or not made public, thereby inhibiting action to effectively overcome problems facing vulnerable groups.[2]

RMAP developed a series of 15 human rights checklists, which served as comprehensive reference guides to international human rights standards and as resource and quick reference guides to relevant rights. These checklists cover: cross cutting rights; freedom of movement, residence-displacement; public administration; civil society; administration of justice; trafficking and migration; the right to work; the right to education; social protection; the right to health; the right to housing; freedom of religion; culture; the right to environment; and enforced disappearances and missing persons.

Each human rights checklist divides sources of human rights into two columns: in the first column are outlined "binding standards" to which BiH is legally bound and the main provisions under international human rights law that guarantee a specific right. The second column interprets the treaty standards in more detail than the treaty text provides and gives the interpretation as well as the minimum content of the right (when available). A hierarchy of sources is used for the entries in this column: authoritative interpretations of what BiH must do to comply with its legal obligations (such as decisions of European Court of Human Rights; recommendations, conclusions and general comments of treaty bodies; and the UDHR), and other sources that may persuade BiH on how its treaty commitments should be interpreted (such as UN resolutions or declarations, principles and guidelines, international conferences and commitments). Note that the authoritative and persuasive sources are not legally binding.

RMAP also developed 11 Domestic Legal Framework Checklists, which represent a compilation of the pertinent provisions of domestic laws and regulations relevant to major human rights and issues identified by the assessment teams. The checklists provide an overview of the main provisions relating to the sector or right in question, and link domestic regulations with international standards. The checklists cover: freedom of movement, public administration, civil society, administration of justice, right to work, right to education, social protection, right to health, right to property, culture, and right to environment. The checklists display whether human rights obligations are or are not incorporated in domestic law, and help identify gaps and indicate which bodies are responsible and the relevant procedures. The checklists also help determine what kind of information to collect, how to use this information for human rights

[1] Rights-Based Municipal Assessment and Planning Project (RMAP), *Methodology and Tools for Human Rights-Based Assessment and Analysis,* 2004.

[2] Rights-Based Municipal Assessment and Planning Project (RMAP), *Consolidated Report on Municipality Assessments in Bosnia and Herzegovina,* 2004.

based analysis and how to make the link between national and international human rights standards during the assessment process.

Moser and Norton's Rights Regimes Analysis[3]

Moser and Norton apply human rights to the sustainable livelihood approach to development. The authors stress that a thorough analysis of the operation of the system of rights can strengthen the understanding of the conditions under which those living in poverty can effectively access the means to achieve secure and sustainable livelihood.

Rights regime analysis includes an analysis of vertical power relations and institutions that shape people's livelihood capabilities and an analysis of the operation of structures of power and authority and the influence these have on the livelihood capabilities of persons living in poverty.

The authors proffered reclassified conceptual definitions of law based on social theory (law as a social process rather than solely as text or formal legal structure; law intrinsically about operation of power and authority); they posit that within the context of sustainable livelihood, law encompasses informal and formal codes, informal and formal mechanisms of dispute resolution, and plurality of different structures of authority. Thus the legal realm covers not only rights but also norms (explicit or implicit societal rules governing behavior).

The authors state that rights regimes operate at different levels but the levels may interact in two significant ways: the content of rights may pass from one level to another and the different levels of authority may confer power on other levels. This suggests that rights defined at one level may be denied because of rules and norms operating at another level.

The authors classify rights regimes into:

- International human rights law, which confers civil, cultural, economic, political and social human rights universally applied, and which operate at the international and global level and are implemented through UN inter-governmental processes;

- Regional law, which confers civil, cultural, economic, political and social human rights applied to regional populations, and which operate at the international or regional level, and with increasingly statutory powers of enforcement (e.g. European Court of Human Rights);

- Constitutional law, which confers constitutional rights that are mainly civil and political although some include economic, social and cultural rights, and which operate at the national level and are enforced through national legal mechanisms and constitutional courts;

[3] Caroline Moser and Andy Norton, *To Claim Our Rights: Livelihood Security, Human Rights and Sustainable Development*, 2001.

- Statutory law, which confers statutory rights through the national framework of criminal, commercial and other laws, and which operate at the national or local level through devolved governments enacting laws or ordinances and are enforced through the formal legal system;

- Customary law, which confers customary rights mostly referring to kinship and resource rights and are specific to localities and social or ethic groups, and which are operational at the local level and enforced through structures of customary authorities (chiefs); and

- Living law, which confers informal rights relating mostly to kinship and resource rights and norms of behavior and applies to localities through varying cultures including institutional cultures, and which operate at the micro level; living law is not formally incorporated in the national legal system, but "local elites may be able to co-opt elements of the state to help enforce elements of living law;" living law can also be taken as describing the norms of behavior operating within bureaucracies.

To undertake rights regime analysis, one needs to (a) particularize the different regimes, institutional structures and bureaucratic actors that participate in constructing systems of rights and entitlements and which determine the definition and implementation of rights; (b) assess how these regimes operate and interact with each to deliver or withhold entitlements.

AHRC's Situational Analysis[4]

The Australian Human Rights Council (AHRC), a pioneer in the articulation and promotion of the human rights approach to development assistance, suggested a participatory process for analysis that includes the following considerations: the level of commitment to international human rights standards; the local legislative framework; and the administrative framework.

The level of commitment to international human rights standards may be seen by the ratification of and reservations to international instruments; conformity with monitoring and reporting obligations; restrictions on the impact of international instruments on domestic legal practice through reservations, interpretations or declarations or lack of domestic legislation; derogation in public emergencies from obligations to maintain human rights standards; cooperation with international monitoring; national planning; and national human rights institutions. The local legislative framework consists of the country's Constitution, laws and interpretative jurisprudence, while the administrative framework covers administrative regulations, systems, procedures and services provided by the bureaucracy.

[4] Human Rights Council of Australia, Inc., The Rights Way to Development: A Human Rights Approach to Development Assistance Policy and Practice, 2001.

AHRC developed a series of matrices for the conduct of human rights analysis for each right in the covenant. One matrix, adapted to the Philippine context, is reproduced below.

AHRC's Sample Situational Analysis Matrix adapted to Philippine Context					
FOR EACH HUMAN RIGHT					
Human Rights Analysis					
	National level	**Regional level**	**Provincial level**	**Community level**	**Family level**
Legislative regime					
Administrative regime					
Enforcement					
Resources available (policy priorities)					
Participation					

Implications for the Philippine context

While a description of the Philippine human rights framework forms part of this toolkit (*see* Part II, Chapter 1), that description needs to be augmented by:

1. Incorporating and assessing the Philippine legal and policy framework governing specific human rights. For example, De los Reyes and Diokno (2009) assessed 48 Philippine laws and related jurisprudence that focus on the normative elements of the right to adequate food to determine the extent to which the Philippine legal framework influences the hunger situation in the country and contributes to the progressive realization of the right to food. The authors found that the framework falls short of the requirements for realizing the right to food; they found that laws had contradictory implications on food availability and food accessibility, were not coherent or complementary, largely for lack of a national food policy.[5] A contradictory legal and policy framework may need to be rationalized through the national development plan.

2. Incorporating the pledges and commitments made by the Philippines before the international community as conditions for its membership in the United Nations Human Rights Council.

3. Reviewing the *Concluding Observations* of the different treaty monitoring bodies, to identify those areas where the Philippines needs to improve its compliance with human rights obligations. To date, the following treaty bodies have rendered *Concluding Observations*:

   a. Committee Against Torture, 14 May 2009, UN Doc. CAT/C/PHL/CO/2;
   b. Committee on the Elimination of Discrimination against Women, 25 August 2006, UN Doc. CEDAW/C/PHI/CO/6;

[5] Virgilio R. De los Reyes and Maria Socorro I. Diokno, *An Assessment of the Philippine Legal Framework Governing the Right to Food*, 2009.

c. Committee on the elimination of Racial Discrimination, 28 August 2009, UN Doc. CERD/C/PHL/CO/20;

d. Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 22 May 2009, UN Doc. CMW/C/PHL/CO/1;

e. Committee on the Rights of the Child, 2 October 2009, UN Doc. CRC/C/PHL/CO/3-4;

f. Committee on the Rights of the Child on Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 15 July 2008**,** UN Doc. CRC/C/OPAC/PHL/CO/1; and

g. Committee on Economic, Social and Cultural Rights, 24 November 2008, UN Doc. E/C.12/PHL/CO/4.

Cross Temporal and Statistical Analysis Using Measures of Variability

AHRC (2001) stresses "no situational analysis can be complete without statistical information. This must be incorporated in the baseline data as complementary indicators for the realization of rights. As in any statistical analysis, every effort must be made to generate comparative data over time to monitor change, both positive and negative. Data should also enable comparisons between different parts of the population based on gender, ethnicity, age, socio-economic situation and any other relevant status."[6]

Statistical information forms the basis for conducting assessments for national development planning. Human rights require that statistical information is disaggregated by the prohibited grounds of discrimination, to enable both *cross-temporal* and analysis of *variability* (*see* Chapter 7 for a fuller discussion on statistical data and information and on the human rights based approach to targets and indicators).

Cross-temporal analysis is a method of statistical analysis to determine progress (or retrogress) in realizing human rights. Statistics are compared over time to determine what changes, if any, have taken place. Trends are plotted and analyzed to identify differences across time periods and look into reasons why such differences occur. Cross-temporal analysis may also be used to determine whether targets set by previous development plans were indeed met. When undertaking cross-temporal statistical analysis, development planners must be certain that the methodology or formulae or definition used to compute statistics are the same over the period under review.

[6] Human Rights Council of Australia, Inc., The Rights Way to Development: A Human Rights Approach to Development Assistance Policy and Practice, 2001.

In 2005, the Asian Development Bank conducted a country poverty analysis of the Philippines. It noted the two major methodology changes to measure poverty, resulting in three different poverty series existing in the country. The Bank further noted: "even within the same methodology series there are four different headcounts for any given year. Great care must be taken not to confuse them with one another. Poverty headcounts are reported for both the population and for families using two different poverty lines: the food threshold (a measure of food needs only) and the poverty threshold (food plus nonfood needs). In other words, what is meant by a figure described as 'the poverty incidence' might be anything from the subsistence incidence of families to the poverty incidence of the population. Not only the levels but also the trends over time for each of these headcounts might vary, and the differences can be significant." Finally the Bank identified "two final issues to bear in mind when discussing poverty in the Philippines …: (i) that urban poverty may be underestimated owing to survey methods, and (ii) that poverty lines have not kept pace with inflation over time, and are worth less in real terms than they were in the past."[7]

This situation, the Bank called a "recipe for confusion if data users are not aware that changes were made to the official poverty measurement procedures. Comparisons now cannot be made without first ensuring that poverty figures are based on the same methodology."[8]

The Philippines also revised the definition of unemployment beginning with the April 2005 round of the Labor Force Survey. The National Statistical Coordination Board notes: "As such, LFPRs (Labor Force Participation Rates), employment rates and unemployment rates are not comparable with those of previous survey rounds. Also, starting with January 2007, estimates were based on 2000 Census-based projections."[9]

Revisions in the methodology for measuring poverty as well as in the definition of unemployment pose serious challenges to the conduct of cross-temporal analysis of poverty and the status of labor in the Philippines, rendering it difficult to determine the extent to which the rights of the Philippine population in general, as well as of the groups distinguished by the prohibited grounds of discrimination associated with poverty and employment are being progressively realized and the extent to which the Philippine government is adhering to its obligation of progressive realization.

In undertaking statistical analysis, most development planners rely on measures of central tendency, such as the mean or median. Rather than look at central tendency, which looks at *commonalities*, human rights also look at *differences* or *variances to locate those excluded or disadvantaged by development planning*. NEDA's National Planning and Policy Staff comment below is illustrative:

> "We observed that in most sectors, mean is being used as targets for the Plan. For instance, in the area of education, student performance in a province is measured by the weighted average of all students in this particular province. Having a mean grade of 85 may show an excellent education program but having a high variance will show

[7] Asian Development Bank, Poverty in the Philippines: Income, Assets and Access, 2005.
[8] Asian Development Bank, Poverty in the Philippines: Income, Assets and Access, 2005.
[9] National Statistical Coordination Board, http://www.nscb.gov.ph/secstat/d_labor.asp.

that there are students who are being left behind. High grades from outstanding students distort the real picture by pulling the grades of those who are failing."[10]

Measures of central tendency may be good representations of a certain situation; however, these measures may not highlight exclusion or distinction, and may therefore hide discrimination. This is one of the reasons why human rights require the use of *disaggregated data* in assessing a situation. In development planning, human rights recommend that measures of central tendency be complemented by measures of variability.

In statistics, measures of variability describe the spread or dispersion of data. Data spread (or dispersion) can be measured or described in several ways, such as *range,*[11] *inter-quartile range,*[12] and *standard deviation*.[13] Human rights urge development planners to apply these measures of variability to assessment and target setting, to measure compliance with obligations of equality and nondiscrimination, and to look at the differentiated situations of women and men, children, adults and the elderly, persons with disabilities, indigenous peoples, persons belonging to different social classes, persons residing in different geographic areas, etc., in order to determine whether rights are *equally* enjoyed by all, without discrimination. Measures of variability may be applied when conducting:

- *Spatial analysis* to identify *geographic variations in performance,* applicable when measuring compliance with the obligation of nondiscrimination;

- *Group variance analysis* to identify *variance in outcomes between different social groups* (e.g., indigenous peoples, persons with disabilities, persons with HIV/AIDS, children, elderly, persons living in poverty), applicable when measuring compliance with the obligation of nondiscrimination, and to ensure *inclusion*; and

- *Gender analysis* to identify *variance in outcomes or situations between women and men*, applicable when measuring compliance with the obligation of equality.

[10] National Planning and Policy Staff, National Economic and Development Authority, Comments on HRBA Toolkit for Planning, email received by Ms. Maria Socorro I. Diokno on 8 July 2010.

[11] Range is the difference between the lowest and highest values in a dataset.

[12] Inter-quartile range is a measure indicating the extent to which the median (or central half) of values within a dataset is dispersed. It is computed following a set mathematical formula: IQR=75th percentile"25th percentile.

[13] Standard deviation summarizes the amount by which every value within a dataset varies from the mean and is computed by determining the positive square root of the variance.

UN's Rights Based Causality Analysis using LFA's Problem Tree[14]

The UN Action 2 Inter Agency Task Force and the UN Systems Staff College developed a Common Learning Package on the human rights based approach, based on the Common Understanding among UN Agencies of the human rights based approach to development cooperation.[15] The Common Understanding consists of three principles:

1. All programs of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.

3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

The UN stresses that an assessment is helpful for it determines "whether and where a development challenge exists, its intensity and who is affected. The Millennium Declaration, the MDGs, and the commitments, goals and targets of international conferences, summits, conventions and human rights instruments of the UN system are the benchmarks against which it can be determined whether and where major challenges exist in a country and their severity."

The UN proposes the following guide questions to facilitate human rights based assessment: Which development challenges exist? Who are most affected by them? Where are they occurring? How widespread are they? What actions have been taken to address them? What progress has been achieved and what obstacles remain?

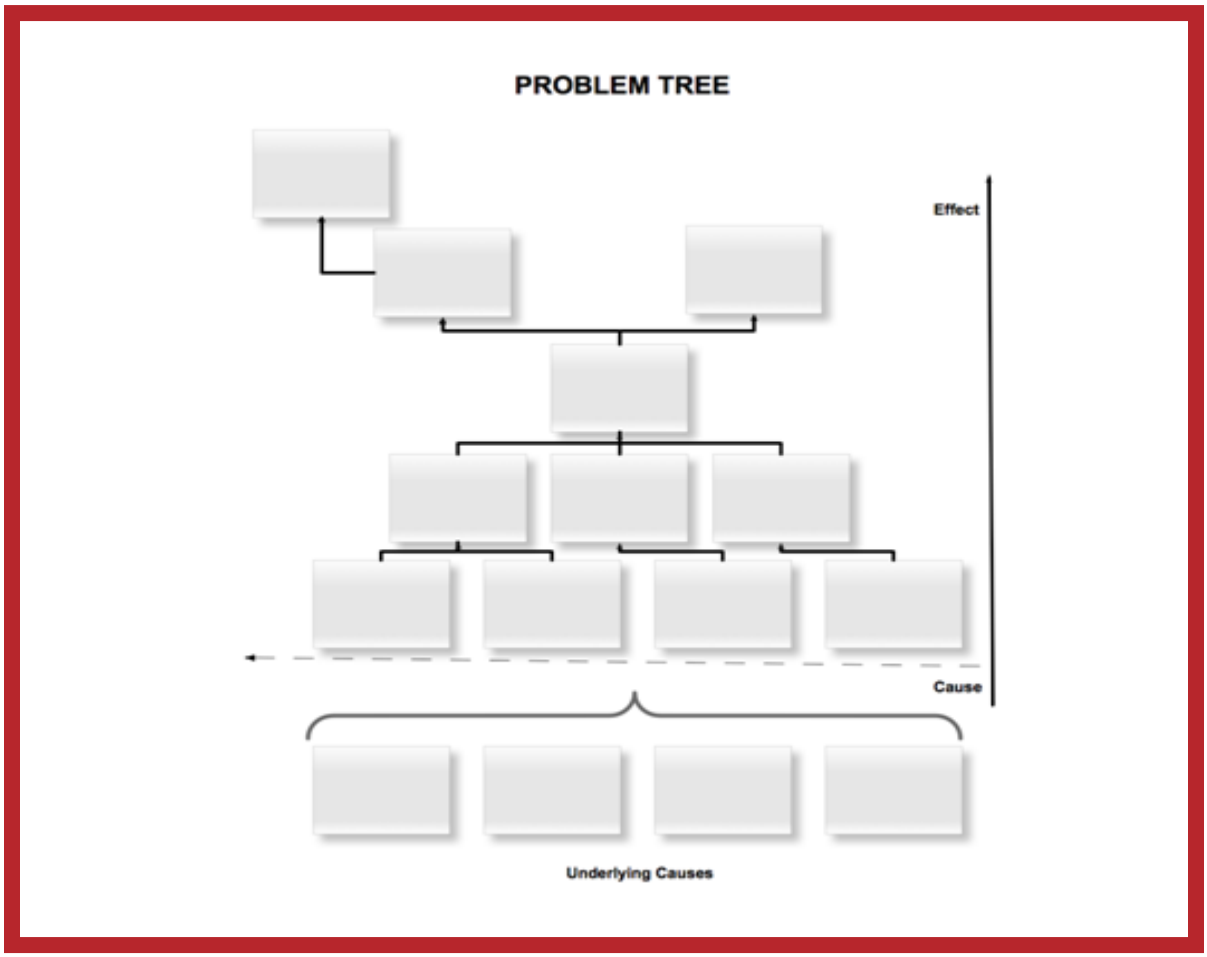
To undertake human rights based causality analysis using LFA's problem tree, the UN recommends the following steps:

Step One: Select the Development Challenge/Human Right Unfulfilled. The UN emphasizes the importance of recognizing development challenges as unfulfilled or violated human rights, formulating development challenges in ways that focus on those whose rights are unfulfilled or violated, and distinguishing development challenges from any of their possible causes. The UN warns against defining development challenges as "*lack of* something" because this may "prompt overly simplistic solutions and prevent analysis of additional factors affecting the lives and wellbeing of people."

[14] United Nations Action 2 Inter Agency Task Force and United Nations Systems Staff College, Turin, Italy, *Common Learning Package on the Human Rights Based Approach – Facilitation Guide*, 2007.

[15] The *Statement of Common Understanding on the Human Rights Based Approach to Development Cooperation* was adopted at an Interagency Workshop on a Human Rights Approach in the Context of UN Reform, held from 3-5 May 2003.

Step Two. Analyze the immediate, underlying and structural or root causes of the development challenges previously identified and directly link causal chains to unfulfilled or violated rights. The UN defines immediate causes as those that "determine the current status of the problem," underlying causes as those that "are often the consequence of policies, laws and availability of resources … [and] may reveal related complex issues and require interventions that take significant time in obtaining results (at least 5 years)," and root or structural causes as those that "reveal conditions that require long-term interventions in order to change societal attitudes and behavior at different levels, including those at the family, community and higher decision-making level." The UN stresses that the key question in causality analysis is: "why it is happening to a particular sector of the population?" The UN recommends the use of the problem tree, directly linking causal chains to specific human rights that are not fulfilled or are violated.



Responsibility Analysis

Responsibility analysis appears to be closely linked to human rights obligations of duty bearers. Theis (2004) describes responsibility analysis as a way of determining who is responsible for human rights deprivations, holding them accountable, and supporting claimholders to demand their freedoms and entitlements.[16]

Theis outlined the questions that make up responsibility analysis: Which right is violated or unfulfilled? Who is responsible for respecting, protecting and fulfilling the right? What are they responsible for? What are the opportunities for meeting these obligations? What are the obstacles that prevent duty bearers from meeting their obligations? How can these obstacles be overcome?

Theis however cautions against applying responsibility analysis mechanically, because, by doing so, individuals and institutions responsible for bringing about change may not be properly identified, and thus not held to account.

Care's Causal Responsibility Matrix

Causal-responsibility analysis, developed by CARE, represents a combination of causality analysis and responsibility analysis in a single tool.

CARE's Causal Responsibility Matrix			
Problem	**Unrealized Rights**	**Who is responsible?**	**Actions and Solutions**
Immediate Cause			
Intermediate Cause			
Fundamental Cause			

Theis (2004) however criticizes the tool because it lacks clearer guidance or a more detailed framework for specific programmatic issues, and so "risks identifying causes, responsibilities and duty bearers that are not priorities for interventions. …The causal-responsibility analysis often leads to analysis paralysis by producing too many options for actions. An instructive example is the area of child labour, which has many causes and duty bearers. A detailed analysis may help to get a better understanding of the issue, but it does not necessarily lead to clear priorities for action. Rights-based analysis has to go beyond simply combining causal and responsibility analysis."[17]

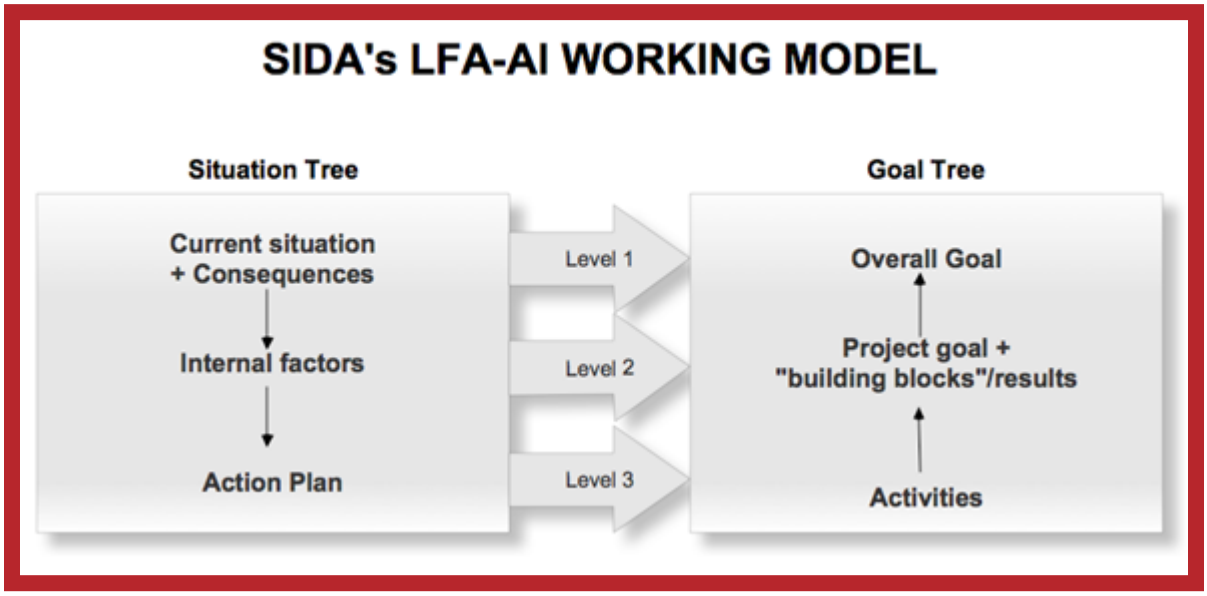
[16] Joachim Theis, *Promoting Rights Based Approaches: Experiences and Ideas from Asia and the Pacific,* 2004.
[17] Joachim Theis, *Promoting Rights Based Approaches: Experiences and Ideas from Asia and the Pacific,* 2004.

CARE and Oxfam America, however, insist that "thorough analysis of underlying causes of poverty gets at *why* rights are not being realized, *who* is responsible for promoting and protecting them, *what* aspects of the governance structure need to be changed in order to make it enabling, and *how* poor people can play central roles in claiming their own rights. .. CARE and Oxfam America recognize that there is future work to be done to develop and recommend protocols and methods for carrying out this analysis."[18]

SIDA's LFA-AI Situation Tree[19]

The Swedish International Development Cooperation Agency developed a new working model that combines the Logical Framework Approach (LFA) with Appreciative Inquiry (AI). The model was tested in Niger, Nicaragua and Tanzania in autumn 2005, and, SIDA maintains, yielded "encouraging experiences."

SIDA defines LFA-AI as a goal-based project-planning method, which aims to "foster involvement, and bolster a sense of self among individuals, groups and organizations to take responsibility for their situation and influence their own development; identify and free up resources to support the project; facilitate the planning of an international development project; [and] create a basis for assessing a project's underlying conditions, assumptions and resource needs."



LFA-AI is based on the traditional and established LFA planning model, and on its essential structure and working method, but modified to incorporate AI. LFA, which is an established planning model in the field of international development, has been criticized for being an "overly problem-oriented model" that may fail to consider existing positive resources. AI, on the other hand, is a working method, which focuses on what is working well, and on finding positive action

[18] Cooperative Assistance and Relief Everywhere, Inc. (Care USA) and Oxfam America, Rights Based Approaches Learning Project, Virginia, USA: Stylus Publishing LLC, 2007.

[19] Swedish International Development Cooperation Agency, *Logical Framework Analysis with an Appreciative Inquiry Approach*, April 2006.

alternatives to resolve a situation. As a working method for developing individuals, groups, organizations and societies, AI involves initiating discussion and processes based on people's own feelings and experiences to identify in narrative form individual, group, organizational and societal capabilities, resources, motivations and driving forces, to arrive at developmental possibilities and action alternatives for the future.

LFA-AI is predicated on first addressing problems based on the current situation and creating what is called a "situation tree." Creating a situation tree entails the active participation of the target group and all other relevant stakeholders in the following steps:

Step 1. Describe the current situation of the target group. Based on participants' own experiences, in narrative form, identify what is working satisfactorily and what is working poorly, or is difficult or problematic.

Step 3. Undertake consequence analysis. Describe the consequences of the situation on the target group by identifying any negative undesired effects, any positive effects, future concerns, and effects in the event no change occurs. Describe also the desirable future situation or what the target group prefers to see instead.

Step 4. Conduct in-depth analysis of underlying factors. Analyze the factors that work in favor of and against the current situation. Identify positive factors such as those that contribute to the things that are working well and those that work against or mitigate the things that are working poorly, or are difficult or problematic. Identify negative factors, or those that contribute to the things that are working poorly, or are difficult or problematic, or those that work against or impede the things that are working well. Analyze how these factors interact. Examine what could bring about a change in the desired direction.

5. **Analyze internal conditions and assumptions and the need for development.** Analyze the project's conditions and assumptions, based on the various actors involved in the change process. Discuss who project proponents are, who should be included to contribute to bringing about change, why those who should be included should work together, what makes those who should work together especially suited to work together, and what resources, strengths and capacities are at the disposal of those who should work together.

Save the Children's Situation Analysis in Child Rights Programming[20]

Save the Children developed methodologies and systems for child rights programming, based on the CRC. Save the Children's approach to situation analysis involves mapping the level of violations of children's rights, analyzing the underlying causes of the violations (including legislation, implementation, cultural practices and attitudes) and identifying duty bearers and

[20] International Save the Children Alliance, *Child Rights Programming: How to Apply Rights Based Approaches in Programming,* 2002.

other main actors, giving due consideration to the views of the child throughout situation analysis. Save the Children identified four major focus areas for situation analysis:

1. **The situation of children's rights**, or an audit of rights violated and the boys and girls especially affected; consequences of violations and the impact on children (differentiated by sex, disability, age, etc. and including trends over time); analysis of government policies and actions on violations; analysis of the general level of awareness of children's rights issues and practice among civil society, organizations and government officials and children themselves.

2. **The immediate as well as the underlying causes of violations and obstacles to fulfillment of children's rights**. Save the Children identified five main variables that may cause violations of children's rights: public attitudes, behavior and practice (both adults and children); customary law; government policy responses and implementation record; law and legal system; civil society and the media; and the private sector. These variables may themselves be contributed by underlying causes, which also need to be analyzed. Save the Children notes that causes are often interlinked thus requiring multi-sector approaches to address violations.

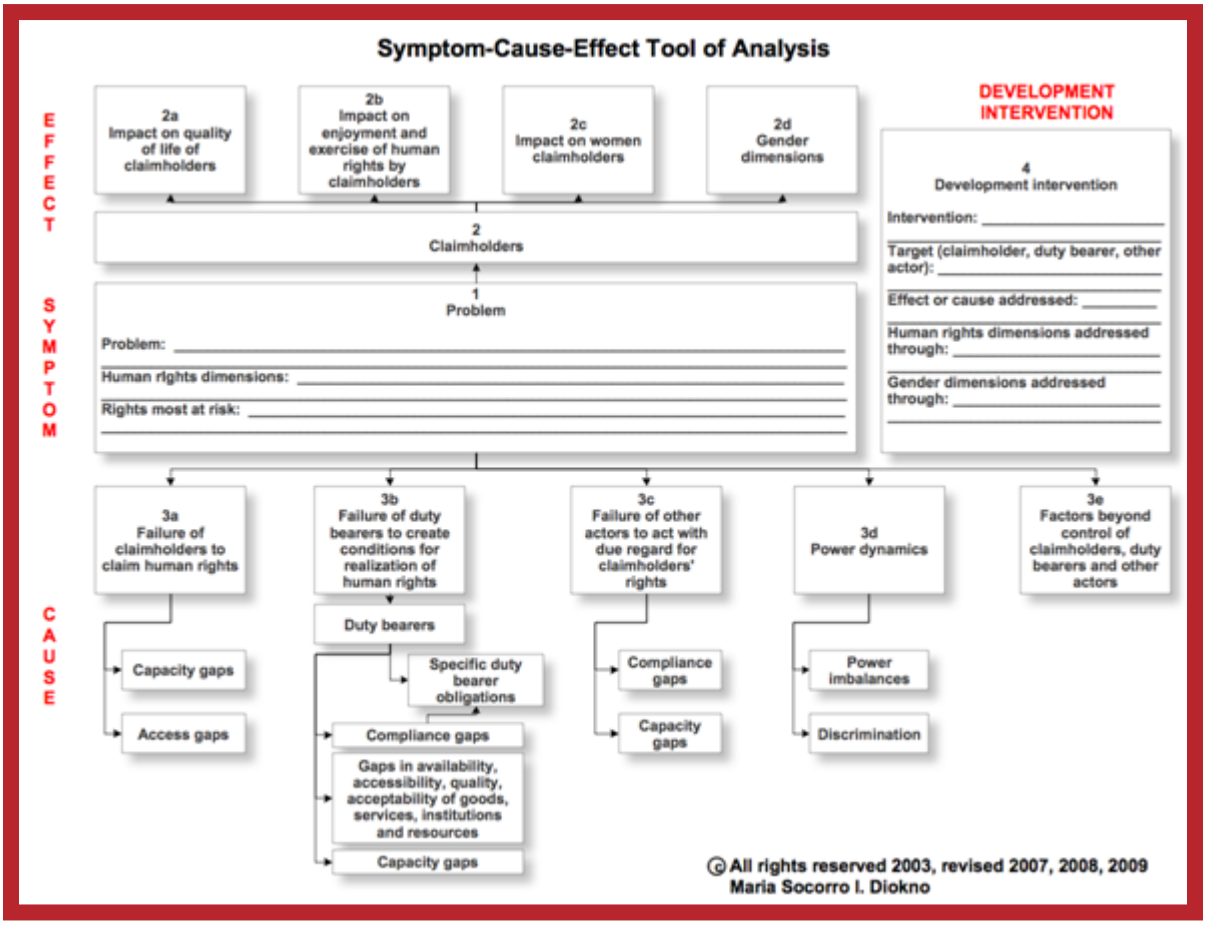
Save the Children emphasizes the need for comprehensive and accurate information on the society and culture of particular boys and girls and recommends the conduct of gender and power analysis to identify the activities, roles and areas of responsibility of boys and girls in society. Among the guide questions used by Save the Children are: Who does what, when and where? Who spends her or his time where and with whom? What are the power relations in the family and overall society (disaggregated by age, sex, disability, etc.)?). Save the Children also encourages an analysis of girls' and boys' access to, use and control of resources, guided by the following questions: What resources (own labor, money, food, time, leisure, schooling, power/ authority, and autonomy) are there? Who has access to which resources? Who can make decisions about available resources (consider both formal and informal channels for decision-making)? Finally Save the Children urges an analysis of the needs of boys and girls, the violations of their rights and gender gaps, facilitated by the following guide questions: Who has what needs and priorities? Which are the gaps in relation to rights? Which groups of children are excluded and discriminated against, why and how?

3. **The views and experiences of children**.

4. **Duty-bearers,** or identifying who is responsible for ensuring that a right is not violated, who is responsible for preventing existing violations, and what can be done to encourage them to fulfill their duties.

Diokno's Symptom-Cause-Effect Tool of Analysis[21]

Diokno (2003 r 2007, 2008, 2009) designed a symptom-cause-effect tool of analysis to facilitate human rights based problem analysis. She stresses that the way a problem is defined influences future choices and determines whether effective, complementary and coherent development interventions to realize human rights will be adopted and pursued.



Diokno's Symptom-Cause-Effect tool of anlysis is applied through four steps:

Step 1: Identify the symptom. In the human rights based approach to development, a problem is treated as *symptomatic* of the true or root causes of human rights deprivations (hence the use of the word *symptom*). Questions to facilitate identification of the symptom or problem include: What is the problem? Why is it a problem? What are the human rights dimensions of the problem? What rights are most at risk?

Step 2: Assess effects. Claimholders are identified and the effects of the problem on the quality of life and the enjoyment (or non-enjoyment) of human rights by claimholders are mapped out. Questions to facilitate accomplishing this step include: Who are most affected by the problem? What is the impact of the problem on the quality of life of

[21] Maria Socorro I. Diokno, *Symptom-Cause-Effect Tool of Analysis with accompanying Guide,* 2003 revised 2007, 2008, 2009.

claimholders? What is the impact of the problem on claimholders' enjoyment and exercise of human rights? Are women affected by the problem in the same way as men? What are the gender dimensions (e.g., *economic marginalization, political subordination, gender stereotyping, multiple burdens, violence against women, etc.*) of the problem?

Step 3: Trace the causes. Diokno posits that problems may be traceable to any, all or a combination of the following: (a) failure on the part of claimholders to claim their rights; (b) failure on the part of duty bearers to create conditions for the realization of human rights; (c) failure on the part of other actors to act with due regard for the rights of claimholders; (d) dynamics of power structures and relations; or (e) factors beyond the control of claimholders, duty bearers or other actors. Diokno suggested a list of facilitative questions to probe each of these causes.

Step 4: Design the best possible intervention. All possible interventions are considered and the *best possible intervention* is chosen to address the problem. Questions that may assist the design of the best possible intervention include: What is the best possible intervention to address the problem? Who does the intervention target (claimholders, duty bearers or other actors)? Does the intervention address the effect of the problem or its cause(s)? How does the intervention address the human rights dimensions of the problem? How does the intervention address the gender dimensions of the problem?

UNFPAS's Human Rights Based Assessment Checklist[22]

UNFPA suggests the following checklist to facilitate the conduct of human rights based assessment of problems, issues and concerns related to reproductive health:

UNFPA's Human Rights Based Assessment Checklist			
AVAILABILITY	**ACCESSIBILITY**	**ACCEPTABILITY**	**QUALITY**
	Non-discrimination What's the coverage of existing SRH services	What are the existing cultural norms and beliefs that facilitate utilization of SRH services?	How many facilities are PhilHealth accredited?
	Which groups are not reached? Why?	What are the existing cultural norms and beliefs that hinder utilization of SRH services?	Are skilled health professionals properly distributed based on population and geographic requirements?
*Are SRH policies and interventions in the country consistent with the national law?	Physical accessibility What are the geographical distribution of SRH facilities, services and What are the existing barriers (transportation, terrain) to physical accessibility?	Are the existing SRH services and goods gender-sensitive?	
Is there a functioning judicial process to handle any claims of violations of SRH laws or policies?	Economic accessibility Are the SRH services and goods affordable for all? Are there mechanisms to ensure equity especially for socially disadvantaged groups?		
Are there sex-, geographical-, ethnicity-disaggregated data?	Information accessibility Are scientifically and medically appropriate SRH information and messages accessible to different audiences? What myths and misconceptions regarding SRH need to be addressed?		

[22] UNFPA Country Office Philippines, *Reproductive Rights and Development Planning*, 2010.

Actor Analysis in the Context of Human Rights[23]

Actor analysis helps development planners clarify how a development intervention will affect people's lives and their environments (social, political, economic, and physical), as well as identify groups which may have been overlooked but who will be affected by the development intervention. UNDP/CSOPP notes the value of actor analysis: "This process broadens the planners' perspectives of the broader impacts of an activity (including the unintended) which may be crucial in ensuring that the target achieves its goal and reaches the intended groups. In addition, by identifying such groups, planners may identify hitherto unforeseen potential conflicts that mat arise to a particular activity, or conversely, certain potential coalitions of support."[24]

Actor analysis in the context of human rights involves applying human rights norms, standards and principles (see Part I and Part II, Chapters 1, 2, 3 and 4) to identifying and understanding:

- Who **claimholders** are, what their situation is, what their aspirations are, what their strengths and weaknesses are, what their vulnerabilities are, whether they experience inherent disadvantages and what these are, what their capacities are both as individual members of society and perhaps as members of organized (formal, informal or both) entities in society, which capacities need strengthening, what value systems govern them, what social, political or economic forces, if any, are behind them, and how they relate to the social or political or economic forces that may be behind them, and which of their rights are enjoyed and which of their rights are most at risk of deprivation *(note that among claimholders, there are those who are most vulnerable, who suffer the most disadvantages, and whose human rights are least enjoyed; development planners are advised to pay special attention to the most vulnerable claimholders)*;

- Who **duty bearers** are, what their strengths and weaknesses are, what their capacities are both as individuals and as members of organized entities (including sub-organizational units); which capacities need strengthening, what value systems govern their actions, the formal and informal structures (laws, policies, rules etc) within which they operate, how they relate with each other on an individual and institutional basis, how they relate to formal and informal structures, what social, political or economic forces if any are behind them, how they relate to the social, political or economic forces that may be behind them, what existing regulatory, protective, service-providing and other frameworks are being used and how effective these are, identifying the aspects that may need to be strengthened or changed, what their obligations are, whether these obligations are immediate or progressive or both, whether these obligations relate to conduct or result, and the different levels of these obligations;

[23] Maria Socorro I. Diokno, Human Rights Centered Development: Theory and Practice, Quezon City: The University of the Philippines Press, 2004.
[24] UNDP/CSOPP, *Empowering People – A Guide to Participation,* 1997.

- Who **other actors** are, what their interests, demands and motives are, whether these interests compete with or complement the rights and interests of claimholders, whether these interests compete with or complement obligations of duty bearers, what their relationships (formal and informal) are to claimholders and duty bearers, which relationships need strengthening or which relationships need to be guarded against, whether they exert influence (positive or negative) over claimholders and duty bearers and the nature and extent of that influence, what level of power (power over, power to, power with, power from within) they exercise in relation to claimholders and duty bearers, and what their human rights responsibilities are.

Checklist 9 below, listing the required minimum composite information, may facilitate actor analysis in the context of human rights:

Human Rights Checklist 9. Minimum Composite Information for Human Rights Based Actor Analysis			
	Claimholders	**Duty bearers**	**Other Actors**
Who?	Most Vulnerable: Inherent Disadvantages/ Vulnerabilities:		
Interests and aspirations	Complementary: Competing:	Complementary: Competing:	Complementary: Competing:
Value Systems			
Formal and Informal Structures			
Capabilities	Existing: Need Strengthening: Gaps:	Existing: Need Strengthening: Gaps:	Existing: Need Strengthening: Gaps:
Power	Power to: Power with: Power from within: Power over:	Power to: Power with: Power from within: Power over:	Power to: Power with: Power from within: Power over:
Rights, Freedoms and Entitlements	Rights: Rights Most Enjoyed: Rights Least or Not Enjoyed:		
Responsibilities/ Obligations	Responsibilities Compliance	Obligations of Conduct Obligations of Result Compliance	Responsibilities Compliance

The information gathered on the different actors is studied and analyzed, with a view to appreciating the dynamics of the interaction within and among actors and their implications on development planning.

UN's Role Pattern and Capacity Gap Analysis[25]

The UN recommends role pattern analysis to identify whose rights are affected; who is responsible for unfulfilled rights; who rights-holders are and whether they have the capacity to claim their rights; what specifically is owed to the rights-holders; whether mechanisms of delivery, accountability, and redress exist, and what mechanisms should be established; who duty-bearers are and their corresponding obligations; which specific actors or institutions are responsible and whether they have the capacity to meet their obligations; whether these duty-bearers are also rights-holders (whether they too rely on others performing their duties in order for them, in turn, to deliver what they owe); the relationship between rights-holders and duty-bearers in the development issue or challenge under examination; and the level where interventions for capacity building are most effective. The UN cautions that role pattern analysis should be guided by rights and obligations established in international human instruments and by the more specific roles and standards defined in national laws, procedures and policies.

The UN also recommends the conduct of capacity gap analysis to determine which capacities are lacking for rights-holders to claim their rights and for duty bearers to carry out their obligations. The UN emphasizes: "In a HRBA, the concept of capacity is not only a technocratic analysis of resources and skills. It also entails political, societal, legal and institutional change."

Capacity gap analysis from the HRBA perspective focuses on: (a) Responsibility/motivation/commitment/leadership, which the UN defines as "characteristics that duty-bearers *should* recognize about their roles in order to carry out their obligations;" (b) Authority, which the UN defines as the "legitimacy of an action, when individuals or groups feel or know that they *can* take action," and which are largely determined by laws, formal and informal norms and rules, tradition and culture; and (c) Access to and control over resources, which the UN defines as the combination of "human resources (skills, knowledge, time, commitment, etc.), economic resources and organizational resources influencing whether a rights-holder or duty-bearer *can* take action."

Gender Analysis[26]

The human rights based approach to assessment demands the conduct of gender analysis, to promote women's equal rights, and to facilitate duty bearers' discharge of their obligations of equality and nondiscrimination.

[25] United Nations Action 2 Inter Agency Task Force and United Nations Systems Staff College, Turin, Italy, *Common Learning Package on the Human Rights Based Approach – Facilitation Guide*, 2007.

[26] Adopted by the National Economic and Development Authority, the National Commission on the Role of Filipino Women and the Official Development Assistance Gender and Development Network, 2nd Edition, November 2007.

Gender analysis aims "to reveal the connections between gender relations and the development problem to be solved;" it may "'surface' the fact that gender relations are likely to have an impact on the solution to the problem … [and] … indicate exactly what that impact is likely to be, and alternative courses of action."[27] Gender analysis looks at gender relations, sexual division of labor, priorities, rights, interests of women and men, barriers faced by women, and opportunities for greater equality and empowerment. Gender analysis is supported by a variety of analytic tools and frameworks.[28]

NEDA's *Harmonized Gender and Development Guidelines for Project Development, Implementation, Monitoring and Evaluation* require the conduct of gender analysis at the project identification stage to identify gender issues that may arise from practical gender needs, strategic gender needs and/or gender gaps.

The *Harmonized Gender and Development Guidelines* provide a list of questions to facilitate gender analysis. The Guidelines, while noting that gender analysis is contextual and so may require adaptation of the list of questions to fit the project situation, emphasizes two basic questions that gender analysis must address: Which gender issues does the project need to address in view of its goals and objectives? Which women's human rights are promoted by the programs and projects?

The ILO developed a tool and methodology for the conduct of participatory gender audits.[29] A gender audit "considers whether internal practices and related support systems for gender mainstreaming are effective and reinforce each other and whether they are being followed; monitors and assesses the relative progress made in gender mainstreaming; establishes a baseline; identifies critical gaps and challenges; recommends ways of addressing them and suggests new and more effective strategies; and documents good practices towards the achievement of gender equality."

ILO's participatory gender audit focuses on twelve key areas of analysis, illustrated in the matrix below:

[27] United Nations Development Programme Gender in Development Programme, "Learning and Information Pack Gender Analysis," January 2001.

[28] Gender analysis frameworks include the Harvard Analytical framework, the DPU Frameworks (triple roles framework and web of institutionalization framework), developed by Carolyn Moser and Caren Levy of the Development Planning Unit of London University, the Gender Analysis Matrix, the Equality and Empowerment Framework of Longwe, the Capacities and Vulnerabilities Framework, the People Oriented Framework, and the Social Relations Framework; see United Nations Development Programme Gender in Development Programme, "Learning and Information Pack Gender Analysis," January 2001.

[29] International Labor Organization, "A Manual for Gender Audit Facilitators: The ILO Participatory Gender Audit Methodology," 2007.

ILO's 12 Key Areas of Participatory Gender Audit		
	Key Areas	**Guiding Questions**
A	Current national/international gender issues and gender debate affecting the audited unit, and unit's interaction with national gender institutions and women's organizations	■ Does the work unit interact actively with national gender institutions and women's organizations working for women's advancement or with international gender networks for gender equality? What is the nature of these relationships? ■ Does the work unit maintain contacts with representatives of non-governmental organizations (NGOs), including women's associations and academic institutions? What is the nature of these contacts? ■ Have discussions been held between the work unit and these representatives to formulate priorities for programming gender equality? ■ Is the work unit aware of the manner in which the Platform for Action of the 1995 Beijing Women's Conference and the recommendations of the 1995 Copenhagen Social Summit as well as those of Beijing +5 and Beijing +10 are being implemented? ■ Have the Beijing Platform for Action and the gender paragraphs of the Copenhagen Commitments and Beijing+5 and Beijing +10 influenced the work unit's programming? ■ Has the work unit identified institutions that pose constraints to its achievement of gender equality?
B	Organization's mainstreamed strategy on gender equality as reflected in audited unit's objectives, programme and budget	■ Is gender equality integrated into the work unit's programme objectives, and, if so, how? ■ Do the policies and strategic objectives show that gender is understood as concerning women only or as concerning both sexes and the relations between them? ■ Are gender equality objectives formulated and translated into performance indicators and targets at the level of the programme and budget? ■ Are financial resources available to carry out activities promoting gender equality issues (gender- specific and mainstreamed)? Are these adequate? ■ Are gender equality objectives incorporated into the work unit's work plans? ■ Are these choices based on gender analyses, stakeholder analyses or market analyses? ■ Has a plan to prioritize gender issues in the sector/region/country been formulated? ■ If so, how have these choices come about: through analysis, strategic alliances, historical links, partner organizations' interests, etc.? ■ Do the gender-related choices influence the general objectives of the programs, or is the reverse true? ■ How are the responsibilities for gender mainstreaming shared at different levels in the work unit?

ILO's 12 Key Areas of Participatory Gender Audit (continued)		
	Key Areas	**Guiding Questions**
C	Mainstreaming of gender equality in the implementation of programs and technical cooperation activities	■ How is attention to gender organized in the work unit? ■ What activities are specifically geared towards gender equality? What proportion of the total activities do they represent? ■ How have these activities come about? Have they been identified by gender analysis, personnel in the unit, partner organizations or by others? ■ Are gender equality objectives reflected in both regular budget allocations and extra-budgetary allocations? ■ Does the implementation report include a budgetary analysis? ■ Is the format for budget reporting transparent and disaggregated according to activities, research, area of work, etc.? ■ What are the modalities for implementing technical cooperation projects: explicit integration of gender equality, separate programs, separate project components, separate budget allocations for women and gender mainstreaming? ■ Are efforts made to ensure that all technical cooperation projects implemented by the work unit include a gender mainstreaming strategy? ■ Is adequate expertise attracted to technical cooperation projects (project coordinators, consultants) to ensure that the gender mainstreaming strategies can be implemented? ■ Are staff members encouraged to earmark funds for gender mainstreaming in technical cooperation projects?

ILO's 12 Key Areas of Participatory Gender Audit (continued)		
	Key Areas	**Guiding Questions**
D	Existing gender expertise and strategy for building gender competence	■ Is there a common understanding among work unit staff of gender and gender mainstreaming on which dialogue and performance indicators can be based? ■ Are there specific posts and resources for gender specialists/advisory staff in the unit? ■ What are the perceived and real levels of expertise regarding gender: knowledge, skills and attitude? ■ How is this expertise dispersed or available in the organization? ■ How is gender competence distributed between male and female staff, gender focal points and others working in the field and at headquarters? ■ How much time do gender focal points spend on gender-related tasks? ■ How much training and follow-up have work unit staff received and at what levels (basic, awareness raising, planning, training-of-trainers, etc.)? ■ What initiatives have been taken by the unit's management to promote capacity building on gender? ■ How is learning in the workplace promoted? ■ Is learning promoted across and within projects/programs/ sectors? ■ Is learning promoted by programme management: backstopping in projects, supervision by programme staff, study tours? ■ How much has been allocated and spent on each staff member's gender expertise, competence and capacity building? ■ What percentage of each staff member's time is spent on gender-related activities?
E	Information and knowledge management	■ Is information collected, adapted, disseminated and used in a structured manner? Is someone assigned to this task? ■ Are sex-disaggregated data used in all areas of work, including staffing and organizational matters? ■ Is there an overview of existing documentation on gender equality, and is this widely accessible? ■ Is there an overview of available gender training modules/tools? ■ Is there a well-stocked, operational documentation centre with a collection of documents and audio/visual materials on gender issues? Are these materials catalogued and easy to find? Are policy documents on gender available and actively disseminated to the work unit's staff and partner organizations? ■ Is access to the Internet available, and if so, to whom? Does the unit have a web page? How is gender represented on the web page? ■ If there is a work unit newsletter, does it pay attention to experiences in ■ projects/programs on gender issues?
F	Systems and instruments in use for monitoring and evaluation	■ What systems, methods and/or programme instructions for planning and reporting does the work unit staff use? ■ Is the quality of integration of gender issues facilitated by these systems? ■ What are the opportunities and limitations of the existing systems and instruments for mainstreaming gender equality? ■ Are sex-disaggregated data collected and used systematically in planning and reporting? ■ Are effective financial and administrative mechanisms in place allowing for the tracking of planned and spent resources and planned and completed activities on gender mainstreaming? ■ How can the systems be improved in order to better incorporate and monitor gender?

ILO's 12 Key Areas of Participatory Gender Audit (continued)		
	Key Areas	**Guiding Questions**
G	Choice of partner organizations	■ Have partner organizations been selected according to their capacity or perspective on gender equality? If not, why have they been selected? ■ Why have other partner organizations not been selected? ■ What is the effect of this choice on mainstreaming gender equality? ■ What contacts does the work unit maintain with feminist, women's, human rights, secular or religious organizations?
H	Products and public image	■ How do partner organizations and other partners perceive gender issues, and specifically the organization's gender policy? ■ What is the image of the work unit among stakeholders regarding gender issues? ■ Does the unit project gender issues only as window-dressing? ■ Is the work unit aware of criticism from insiders and outsiders on its approach to gender? ■ What has the work unit done to inform partner organizations of gender policy developments? ■ Has the work unit supported partner organizations' capacity development on gender equality, and on gender balance? How? If not, why not? ■ What have partner organizations and other partners done to solicit support on gender issues ? How has the unit responded to these demands? ■ Are partner organizations and other partners satisfied with the audited unit's support of gender issues, and with the unit's insistence – or lack of insistence – on gender equality? ■ Do research, advocacy and publicity materials used by the work unit include information from a gender equality perspective?
I	Decision-making on gender mainstreaming	■ How are decisions taken in the work unit: to what degree are people left out or included, partially- or fully-informed, informed in a timely manner or not? ■ Who is always included in decision-making? Is this selection related to functions, hierarchical position or other factors ? What other factors? ■ Do men and women participate equally in decision-making? ■ Do separate groupings of women and men exist in the work unit? ■ How and by whom are decision-makers monitored? Is there any reporting or accountability to other relevant units on gender-related issues? ■ Who is involved in developing the gender policy for the work unit? Where does the impetus come from? ■ What is allocated and spent on mission credits for each official? ■ Who is involved (women and men) in developing the budget for the work unit? ■ Indicate the categories of staff and the percentage of their time they spend on: budget discussion and preparation; and gender equality strategy of the work unit? ■ How much money is spent on promoting women's representation at senior levels of management ?

ILO's 12 Key Areas of Participatory Gender Audit (continued)		
	Key Areas	**Guiding Questions**
J	Staffing and human resources	■ What is the sex balance of staff at all levels of the work unit? ■ How is the sex balance of staff promoted and maintained, if at all: by positive action, additional facilities, targets, and training? ■ Are initiatives taken by managers to facilitate women to break through the glass ceiling? What are they? ■ Are recruitment and selection procedures transparent and gender-sensitive for all types of jobs, including technical cooperation? ■ Does the work unit respect family-friendly policies and work/life balance? ■ What is the staff salary distribution in the work unit (sex-disaggregated according to level)? ■ How are payments to external consultancies distributed in the work unit (sex-disaggregated according to level)? ■ How long have the staff members (men/women) been in the same grade?
K	Organizational culture	■ Is the work unit seriously involved in promoting the empowerment of women and men and in changing cultural norms in society? ■ Who exerts most influence in the work unit when it comes to whether or not gender issues are seriously taken up or neglected? ■ Is attention given to gender-sensitive language and images in all documents ■ How would you characterize the type of jokes that are made in the work unit? Can people be offended or hurt by these jokes? If so, who is hurt by jokes (in ■ Is the work unit on the alert for sexual harassment? Are staff members aware that there are persons appointed to handle confidential issues? Are complaint ■ Do the members of the work unit have a shared favorite activity or meeting place for sports, social events, etc.? ■ What would be the work unit's ideal personnel profile: qualities, capacities, or commitment? Is this profile equally attainable for men and women? ■ How are staff members rewarded for or discouraged from engaging in gender equality issues? ■ How open is the work unit to the public display of its strengths and weaknesses? ■ How does the work unit take personal, family, and social obligations of staff into consideration? ■ Are financial/budget matters discussed openly in the organization/work unit? ■ Are principles of transparency and accountability (overall and budgetary) followed/encouraged within the organization/unit? Is this depicted in words, actions or both?

ILO's 12 Key Areas of Participatory Gender Audit (continued)		
	Key Areas	**Guiding Questions**
L	Perception of achievement on gender equality	■ Do work units have ideas about the relative success and outcomes of their work on gender equality? Qualify these perceptions in terms of: ■ Changes resulting from the work done; ■ Their importance; ■ Their relation to the objectives of the organization's gender equality and mainstreaming policy; ■ Their relation to the performance of the work unit, partner organizations and target groups; ■ The objectives of the programme/project; ■ Specifically formulated performance indicators.

Power Analysis

The human rights based approach to assessment addresses power relations at all levels of society; it tackles power issues that lie at root of poverty and exploitation and identifies the social characteristics that empower or dis-empower people. Care and Oxfam emphasize that human rights require a deeper level of analysis grounded on people's human rights and duty bearer obligations: "Rights based approaches require analysis that pushes people to reflect beyond the commonly stated problems and to get into the uncomfortable, hard-to-discuss but critically important factors about power relations that have to be tackled for the issues to be meaningfully addressed. With this kind of analysis, the intervention is less likely to involve service provision, and more likely to address underlying issues like corruption, lack of transparency or lack of participatory governance."[30]

Power analysis may be undertaken through Gaventa's *Power Cube* or Moser and Norton's *Channels of Contestation Matrix*.

Gaventa's Power Cube[31]

John Gaventa (2005, 2007) of the Institute of Development Studies in the United Kingdom created the *power cube* as an approach to analyze and understand the nature of power. Gaventa warns that the power cube is neither a checklist nor a prescriptive tool, because neither use would allow an in-depth examination of the dynamics, context, interrelationships and forms of visible, hidden and invisible power. Gaventa, instead, describes the power cube as an analytical device, which can be used to map out the types of power and the strategies to challenge or change power relations.

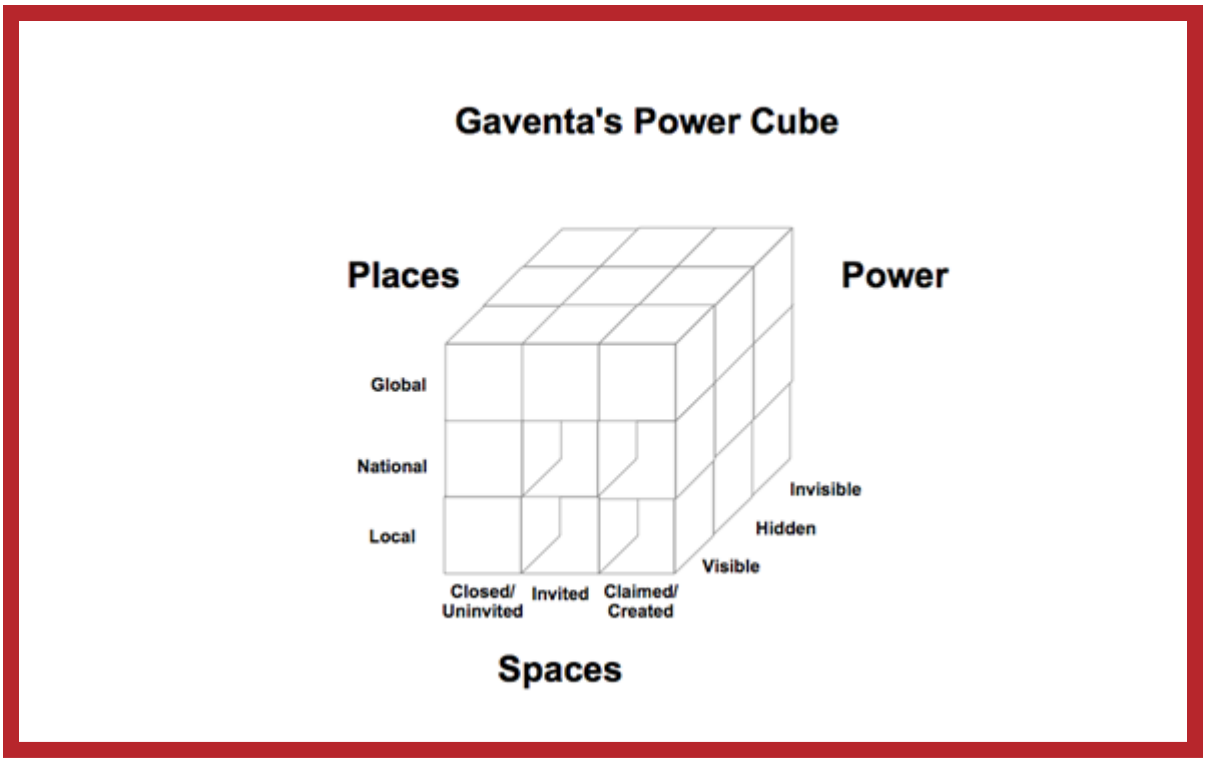
[30] Cooperative Assistance and Relief Everywhere, Inc. (Care USA) and Oxfam America, Rights Based Approaches Learning Project, Virginia, USA: Stylus Publishing LLC, 2007.

[31] John Gaventa, *Finding the Spaces for Change: A Power Analysis*, 2005; *see also* John Gaventa, *Participation and Citizenship: Exploring Power for Change,* 2007.

Gaventa's power cube builds on Steven Lukes' spaces, places and forms of power, but argues that these spaces, places and forms of power must be analyzed as separate yet interrelated dimensions. Gaventa explains: "The power cube is a framework for analyzing the spaces, places and forms of power and their interrelationship. Though visually presented as a cube, it is important to think about each side of the cube as a dimension or set of relationships, not as a fixed or static set of categories. Like a Rubik's cube, the blocks within the cube can be rotated – any of the blocks or sides may be used as the first point of analysis, but each dimension is linked to the other."

Gaventa defines spaces as "opportunities, moments and channels where citizens can act to potentially affect policies, discourses, decisions and relationships that affect their lives and interests." Citing Cornwall (2002), Gaventa emphasizes that these spaces "are not neutral, but are themselves shaped by power relations, which both surround and enter them." Gaventa proposes a continuum of spaces, which include:

- **Closed or "provided" spaces,** or decisions made behind closed doors;
- **Invited spaces**, or activities where people are invited to participate; and
- **Claimed/created spaces**, or spaces autonomously created or claimed by less powerful actors from or against power holders (e.g., spaces created by social movements and community associations, natural places outside institutionalized policy arenas, where people gather to debate, discuss and resist).



Gaventa concedes the possibility that other spaces exist and vary across countries. Nonetheless he emphasizes the dynamic nature of spaces: "spaces exist in dynamic relationship to one another, and are constantly opening and closing through struggles for legitimacy and resistance, co-optation and transformation. … Similarly, power gained in one space, through new skills, capacity and experiences, can be used to enter and affect other spaces."

Gaventa identifies the places where critical social, political and economic power resides: local, national and global. He notes the close relationships between and among these places of power and suggests that these places be seen "as a flexible, adaptable continuum, not as a fixed set of categories."

Gaventa posits that power has three different forms:

- **Visible power**, or observable decision-making, including formal rules, structures, authorities, institutions and procedures of decision-making.

- **Hidden power**, where certain actors and institutions use their influence to control who sets the agenda and what the agenda should contain; in many instances, hidden power results in the exclusion and devaluation of the concerns, interests and representation of less powerful groups.

- **Invisible power**, which Gaventa describes as the most insidious form of power, since it shapes the meaning of what is acceptable in a society. Gaventa describes invisible power thus: "Significant problems and issues are not only kept from the decision-making table, but also from the minds and consciousness of the different players involved, even those directly affected by the problem. By influencing how individuals think about their place in the world, this level of power shapes people's beliefs, sense of self and acceptance of the status quo– even their own superiority or inferiority. Processes of socialization, culture and ideology perpetuate exclusion and inequality by defining what is normal, acceptable and safe."

Moser and Norton's Channels of Contestation Matrix[32]

As part of their human rights approach to sustainable livelihood, Moser and Norton's Channels of Contestation Matrix is a tool which identifies the means by which people contest rights; it presents a typology for examining the politics of the process; it identifies institutional channels (political, legal, policy, administrative, social, and private sector) through which human rights claims can be made, the type of claim which relates to each institutional domain and the methods of citizen action which can be used to make those claims.

Moser and Norton's Channels of Contestation Matrix		
Institutional Channel	**Type of claim**	**Method of citizen action**
Political System	Process of identifying new rights and securing changes to formally recognized freedoms and entitlements e.g. women's movement demand for recognition of reproductive rights Negotiations over how rights and entitlements should be interpreted and recognized Negotiations over how entitlements should be implemented – e.g. through private or public sector provision	■ Voting in formal elections and referenda (national and local) ■ Lobbying for change through representational system ■ Open struggle ■ Media reporting and information provision ■ Public hearings – e.g. South Africa, Poverty Hearings ■ Open advocacy – intermediate groups acting on behalf of people seeking to assert claims – use of media and campaigning ■ Informal and invisible advocacy through contacts e.g. interactions with sympathetic officials

[32] Caroline Moser and Andy Norton, *To Claim Our Rights: Livelihood Security, Human Rights and Sustainable Development*, 2001.

Moser and Norton's Channels of Contestation Matrix (continued)		
Institutional Channel	**Type of claim**	**Method of citizen action**
Legal system	Process of interpretation and implementation of legally recognized rights – often relating to physical, natural and financial assets – e.g. land, but also social assets e.g. discrimination and marital relations and human assets – e.g. education and health related claims	■ Legal action and challenge at local, national and international levels e.g. claims to land rights, disputes over forced eviction, cases around domestic disputes and violence, and bankruptcy ■ Engagement with law enforcement agencies – disputes may be settled through local police rather than the courts ■ Appeal to arbitration and monitoring services – e.g. human rights commissions, ombudspersons, industrial tribunals and arbitration services, which monitor and regulate public services and private sector standards ■ Engagement in formal human rights treaty monitoring processes – i.e. state reports to treaty monitoring bodies
Policy channels	Negotiation over interpretation of public provision of entitlements – often most directly relating to human assets e.g. provision of public services	■ Engagement in international policy processes – e.g. Rio, Beijing conferences ■ Engagement in policy and planning processes at national and local levels such as PRSPs, SWAps and local governance planning often about public service priorities – e.g. levels and quality of health and ■ Engagement in definition and monitoring of budget processes – resource allocation for policy priorities e.g. participatory budgeting
Administrative channels	Negotiation over interpretation and implementation of entitlements – often relating to human and social assets	■ Individual claims on resources and services – e.g. everyday interactions with health workers ■ Collective monitoring of public services and provision – e.g. report cards, citizen service groups, benchmarking, monitoring codes of conduct, social audits

Moser and Norton's Channels of Contestation Matrix (continued)		
Institutional Channel	**Type of claim**	**Method of citizen action**
Social channels	Negotiation over access to natural resources (e.g. land) and social resources (e.g. labor)	■ Informal negotiation over entitlements to resources ■ Informal debates about gender roles and responsibilities, including the evolution of the conditions of the marital contract
Private sector channels	Negotiation over interpretation and implementation of private sector related entitlements – often relating to human assets e.g. labor rights and access to financial assets	■ Union and civil society action over labor standards and collective bargaining for wages and employees
		■ Engagement with banks and other organizations to ensure credit provision ■ Engagement in defining and monitoring voluntary codes of conduct ■ Consumer action – e.g. boycotting products or monitoring quality of services ■ Shareholder action

The following questions facilitate the use of the Channels of Contestation Matrix as a tool:

How is the claim made? Moser and Norton suggest that a claim may be contested by influencing the fulfillment of rights at the definition, interpretation or implementation levels.

Who is making the claim? Moser and Norton suggest the assessment of the strengths of those living in poverty, as well as the different dimensions of social identity (gender, age, citizenship, ethnicity, social status, case, class, etc.).

What is being claimed? Moser and Norton provide a diverse list of claims related to rights associated with livelihood wellbeing (e.g., natural resources [land, common property, forest resources, water, fisheries, etc.], access to credit, better working conditions, and women's control of their own fertility).

On whom is the claim being made and what is the nature of the obligation? Moser and Norton stress that the way by which persons living in poverty can assert their claims depends on the nature of the claim and the type of institution against whom the claim is made; issues of access and power structures are also key elements that need to be considered.

Risk Analysis

Risk analysis allows development planners to examine threats to people's lives and their environments and adapt existing resources accordingly though contingency planning or risk mitigation measures. Risk analysis is based on a structured approach to thinking through threats, followed by an evaluation of the probability that the threats will occur.

Threats may be internal to a country or external to it. Internally, threats may occur in the different realms of societal life:

- Political (e.g., government stability, regulation and de-regulation trends, social and employment legislation, tax policy, trade and tariffs controls, levels of corruption, armed insurgencies or internal conflicts, any other changes in the political landscape, etc.),

- Economic (e.g., investment climate, unemployment and labor supply, levels of disposable income and income distribution, inflation, interest rates, growth levels, any other changes in the country's economy),

- Socio-cultural (population growth, density and ageing, population health, education and social mobility and attitudes to these, population employment patterns, job market freedom and attitudes to work, migration, public opinion, social attitudes and socio-cultural taboos, lifestyle choices and attitudes to these, any other socio-cultural changes, etc.),

- Technological (e.g., emerging technologies, internet, power and energy, research and development activity, technology transfer, etc.), or

- Legal (e.g., freedom of the press, rule of law, predictability of laws and jurisprudence, independence of the judiciary, any other changes in the legal environment, etc.).

External threats may arise from globalization, global trends and markets, donor policy, and natural and physical environment (e.g., climate change, depletion of natural resources, weather patterns and disturbances, movements in the earth or earthquakes, etc.).

Harmful and life-threatening risks may also arise from natural disasters and calamities, as the Philippines' recent experiences with typhoons *Ondoy* and *Pepeng* indicate. While the human rights based approach to disaster management, and its accompanying tools and processes, are not included in this toolkit,[33] it is important to take note of the human rights dimensions of disaster risk management.

[33] The human rights based approach to disaster management is a highly specialized field, and requires in-depth knowledge and understanding of the environment, climate change, and humanitarian and relief assistance combined that is best described in a separate toolkit.

A recent article by Walter Kälin, the Representative of the UN Secretary-General on the Rights of Internally Displaced Persons, and Claudine Haenni Dale, the focal point on natural disasters of the IASC Protection Cluster Working Group discussed human rights obligations in disaster risk management. The authors presented two decisions of the European Court of Human Rights promulgated in 2004 and 2008, which held that whenever states fail to take feasible measures to prevent or mitigate the consequences of foreseeable man-made or natural disasters, and these disasters result in deaths, the state may be said to have violated the survivors' and victims' families' right to life and is thus obliged to provide compensation to survivors and victims' families. In both cases (one involving the consequences of a methane explosion in a public garbage dump in Istanbul, and the other involving a mudslide in Russia triggered by a river compounded by damaged mud retention dams), their governments had prior knowledge of the risks involved, but did nothing to address the risks. The European Court of Human Rights found "that both countries were in violation of their duty to protect life, having failed to take preventive measures, and ordered them to pay substantial compensation. … A state becomes liable for deaths if they have occurred because the authorities neglected their duty to take preventive measures when a natural hazard had been clearly identifiable and effective means to mitigate the risk were available to them."

The authors identified concrete obligations of states with regard to natural disasters, including those caused by climate change; these includethe obligations to: enact and implement laws dealing with all relevant aspects of disaster risk mitigation and set up the necessary mechanisms and procedures; take the necessary administrative measures, including supervising potentially dangerous situations; inform the population about possible dangers and risks; evacuate potentially affected populations; conduct criminal investigations and prosecute those responsible for having neglected their duties in case of deaths caused by a disaster; and compensate surviving relatives of victims killed as a consequence of neglecting these duties.[34]

The consequences of not addressing threats are manifold: lives could be lost; people could be rendered homeless, or starving, or thirsty, or disease-ridden, or jobless, or illiterate, or socially immobile. In addition, governments may be held to account for failing to exercise their human rights obligations.

Risk assessment in the context of human rights may be undertaken through the following steps:

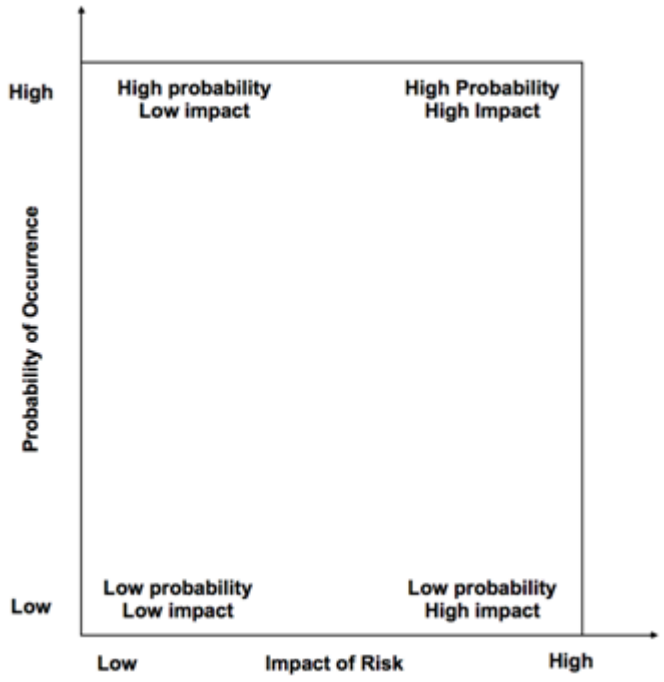
Step 1. Identify threats to people's lives and environment. Threats may involve changes in any or a combination of the fields described above, and result in failure or weakened delivery of entitlements of human rights (e.g., loss of *availability* of essential goods, services, resources and institutions inherent in human rights, loss of *physical, economic and information accessibility*, loss of *quality*, loss of *safety*, and loss of *cultural acceptability*), and failure to achieve equitable outcomes by not adhering to human rights obligations.

[34] Walter Kälin and Claudine Haenni Dale, *Disaster Risk Mitigation -Why Human Rights Matter*, undated.

Step. 2. Determine the likelihood or probability of the threat being realized. Determining probability will likely require accurate factual data for trending purposes, which may then be scientifically measured and projected through the application of methodologies of actuarial science, econometrics, statistical mathematics and allied fields. It may be important to involve experts in these fields to assist the determination of probability.

Step 3. Assess the impact of the threat on people's lives. High impact threats are events that result in violations of human rights (loss of life, pervasive starvation, widespread disease, general homelessness, etc.) or endanger the enjoyment and realization of human rights. Low impact threats are events that cause minor disruptions to human life and do not endanger the realization or enjoyment of human rights and do not constitute human rights violations.

Step 4. Determine the level of risk. High-level risks are risks with high impact accompanied by a high probability of occurrence; moderate-level risks are risks with high impact accompanied by low probability of occurrence; low-level risks are risks with low impact and low probability of occurrence.

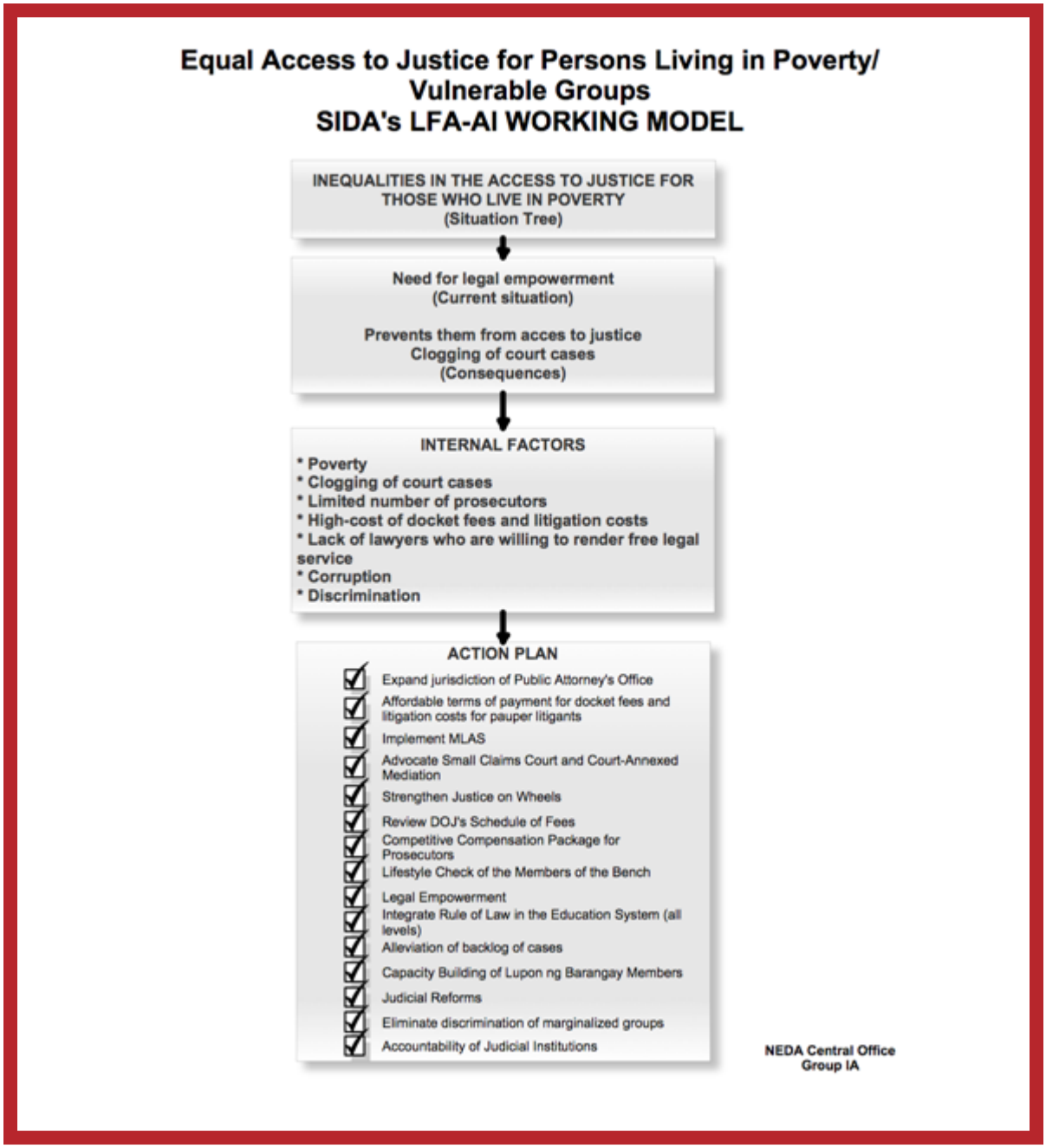


Step 5. Determine if risks can be eliminated, and, if not, which risks require contingency planning or the adoption and implementation of risk mitigation strategies.

A regular or periodic review of risk analysis is recommended.

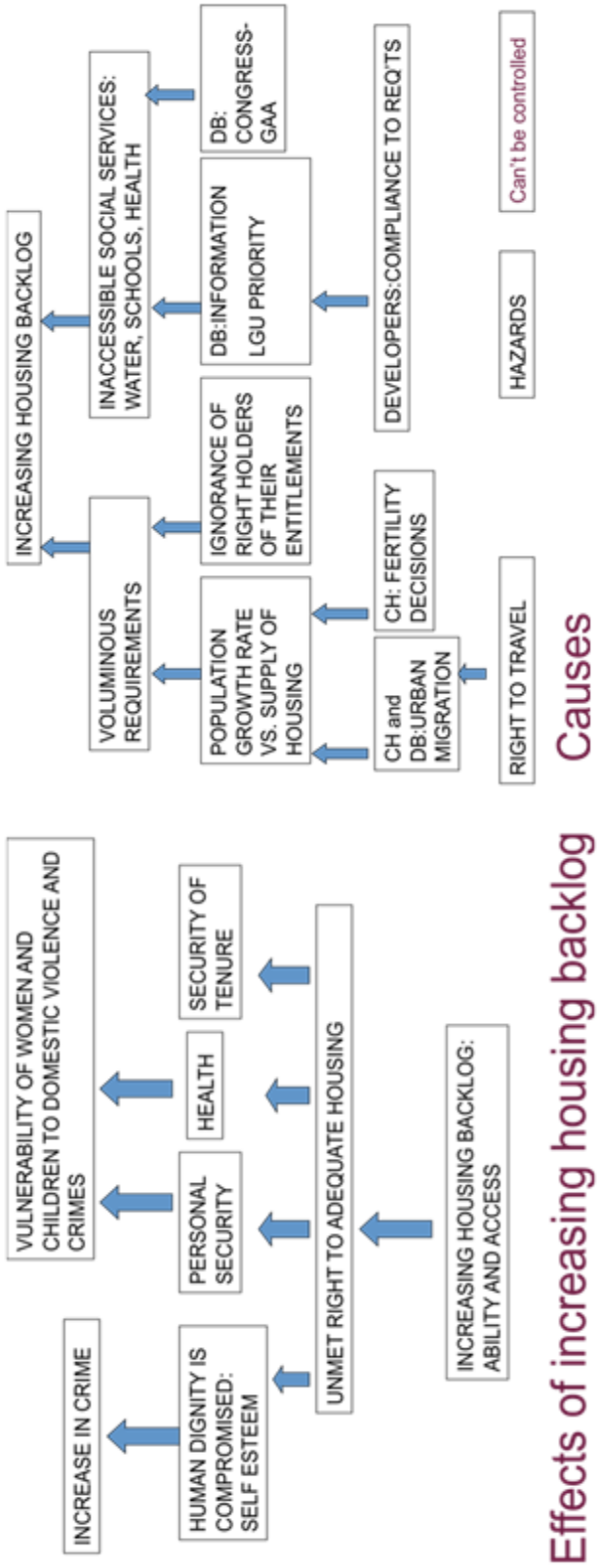
Philippine Examples of Application of Human Rights Tools to Assessment

At the **HRBA Applied Learning Workshops**, held from February through April 2010, NEDA sector and regional staff applied the following human rights tools to conduct assessment: UN's *Rights Based Causality Analysis using LFA's Problem Tree;* CARE's *Causal-Responsibility Matrix;* SIDA's *LFA-AI Working Model;* Diokno's *Symptom-Cause-Effect Tool of Analysis; and Gender Analysis.* Below are some examples.



CARE's Causal Responsibility Matrix: NEDA Central Office Group IC			
Problem	**Unrealized Rights**	**Who is responsible?**	**Actions and Solutions**
a) High unemployment/ underemployment rate b) Prevalence of informal sector employment	a) Right to gainful employment b) Right to safe and decent work	DOLE, NEDA, TESDA, CHED, DEPED, ECON MGRS., DOCC, PRIVATE SECTOR	
Immediate Cause (short term)	i. a) lack of investment/low investment rate b) mis-matching with the employment opportunities c) labor force growth > growth of job creation ii. a) lack of employment opportunities in the formal sector for those who fail to finish school b) lack of necessary skills/ competencies	i. BSP, DTI, NEDA, ECON MGRS. ii. Government, Social responsibility of private corporations, Church	i. a) attract/invite investors b) offer incentive packages c) establish econ zones d) amend restrictive policies on investments ii. a) data collection and monitoring b) improvement of labor policies
Intermediate Cause (mid term)	i. a) high utility rates b) red tape c) peace and order d) population growth > econ. growth ii. lack of social services, esp. in rural areas	i. DOE, DOTC, LTFRB, SEC, ERB, NPC ii. Government in general, DEPED, CHED,	i. a) public-private PRSP b) rule of law c) implement dev't projects in conflict areas d) reduce paper req'ts and procedures (one stop shop) reduce req't. ii. increase social services especially education responsibility of private corporations, Church
Fundamental Cause (long term)	i. a) poor governance b) high cost of doing business c) lack of policies in population control ii. a) poverty/high poverty incidence b) lack of gov't resources insufficient resources	i. Branches of government ➔ school system ➔ church ➔ ombudsman ➔ PAGC ➔ CSO/NGO's/PO ii. Government ➔ value system	i. a) moral recovery program for Filipinos b) values formation seminars c) prosecution of high profile corrupt officials ii. a) population control b) increase revenues

Right to Adequate Housing Using Diokno's Symptom-Cause-Effect Tool: NEDA Regional Office Group V



Affected Persons

- Informal sectors
- Urban poor
- Homeless
- IPs

Gender Bias

A wife on her own cannot apply for a loan without the consent of the husband

EXECUTIVE SUMMARY

Chapter 5, Human Rights Based Approach to Assessment, examines the application of human rights standards, norms and principles to the process of assessment to afford better analysis of development challenges and problems, and presents a variety of human rights tools, processes and methodologies designed by human rights and development practitioners all over the world that may facilitate the conduct of cross-temporal and statistical analysis using measures of variability, situation or problem analysis, actor analysis, gender analysis, power analysis and risk analysis. Chapter 5 includes Human Rights Flowchart 3 (*Human Rights Based Approach to Assessment*) and Human Rights Checklist 9 (*Minimum Composite Information for Human Rights Based Actor Analysis*), and provides Philippine examples of how human rights tools, processes and methodologies were applied to assessment.