

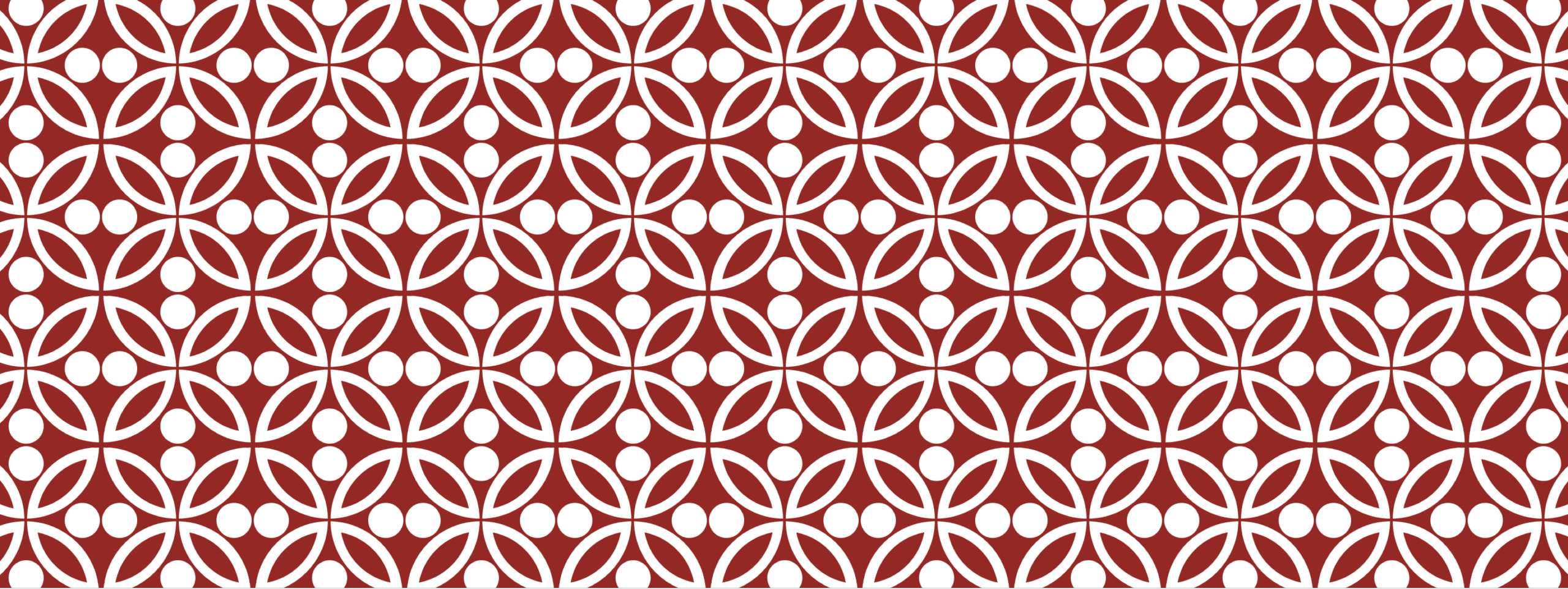
Landscape Governance Training of Trainers

Tenure Security and Conflicts on Land and Natural Resources¹



¹ This material was presented during the Landscape Governance Training of Trainers held in June and July 2019 in Cagayan de Oro City, Misamis Oriental and Valencia City, Bukidnon in Northern Mindanao, Philippines as part of the project on *Improving Tenure Security of Smallholder Farmers in Select Areas in the Philippines*. This project is implemented by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) in partnership with Xavier Science Foundation, Inc. (XSF), with technical support from Global Land Tool Network (GLTN) as facilitated by the UN-Habitat. The initiative aims to secure the tenure of about 2,500 households of indigenous peoples in two municipalities in Bukidnon, Northern Mindanao. This project is funded by German Federal Ministry of Economic Cooperation and Development/BMZ and UN-Habitat as part of the “Secure Access to Land and Resources (SALaR)” program. The views indicated in this material do not necessarily reflect those of the GLTN and BMZ.





TENURE SECURITY AND CONFLICTS ON LAND AND NATURAL RESOURCES

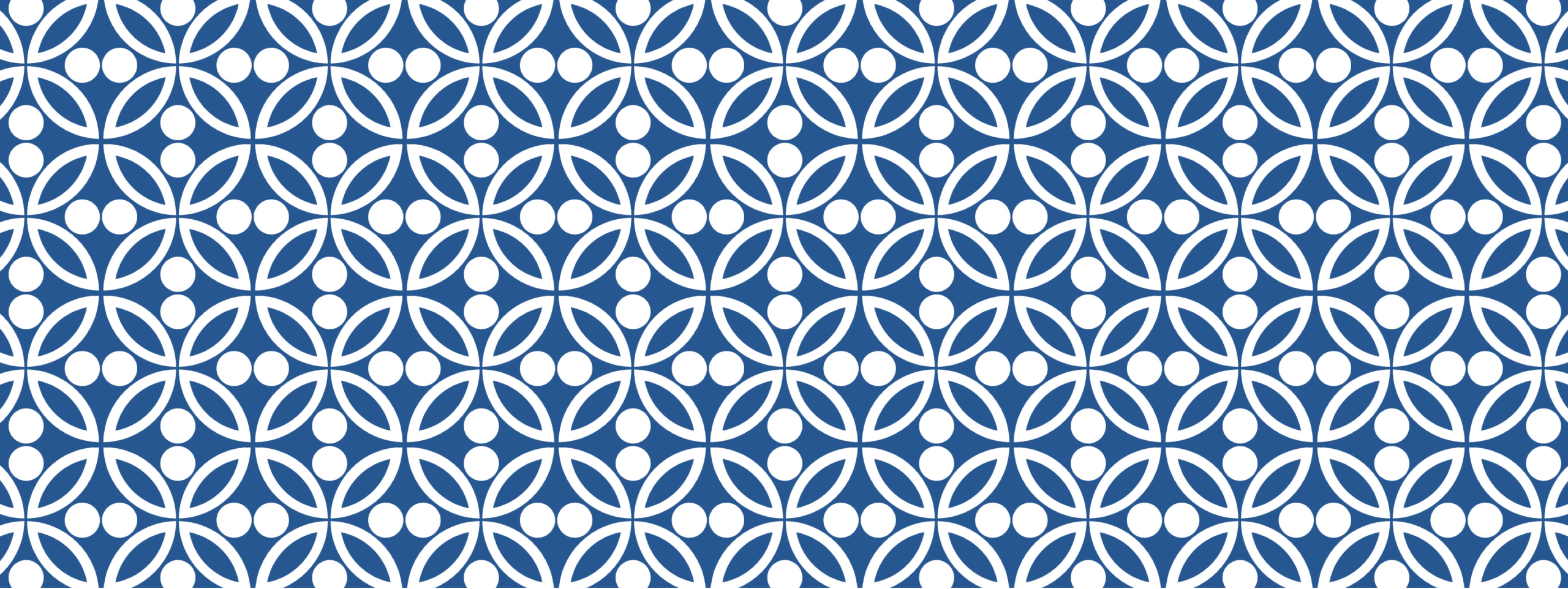


OBJECTIVES

1. Lay down the meaning of concepts and laws that govern land and resource rights and governance
2. Deepen understanding of existing land and resource conflicts in the communities' ancestral domains
3. Discuss possible strategies on responding to, resolving, and preventing land and resource conflicts

STRUCTURE OF DISCUSSION

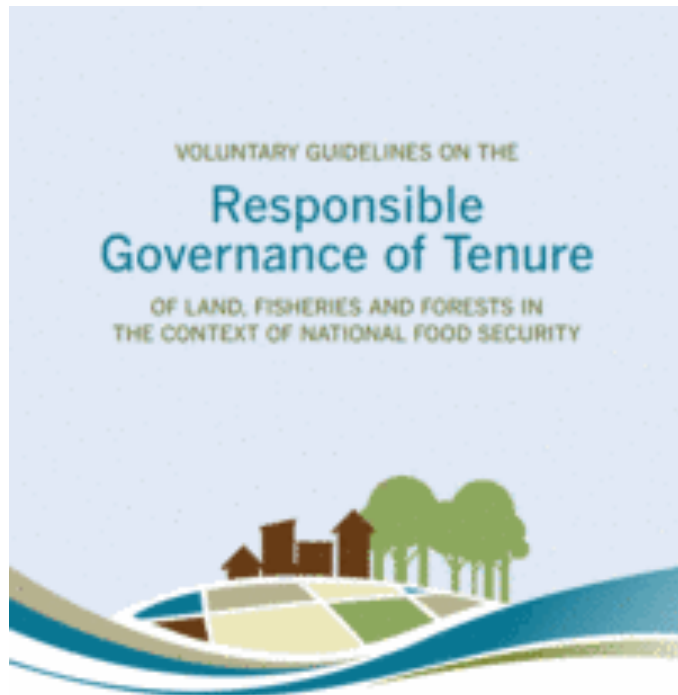
- ❖ Tenure security, land and resource rights
- ❖ Indigenous Peoples Rights Act (IPRA) and other laws on land and natural resources
- ❖ Land and resource conflicts
- ❖ Addressing conflict



MEANING OF CONCEPTS

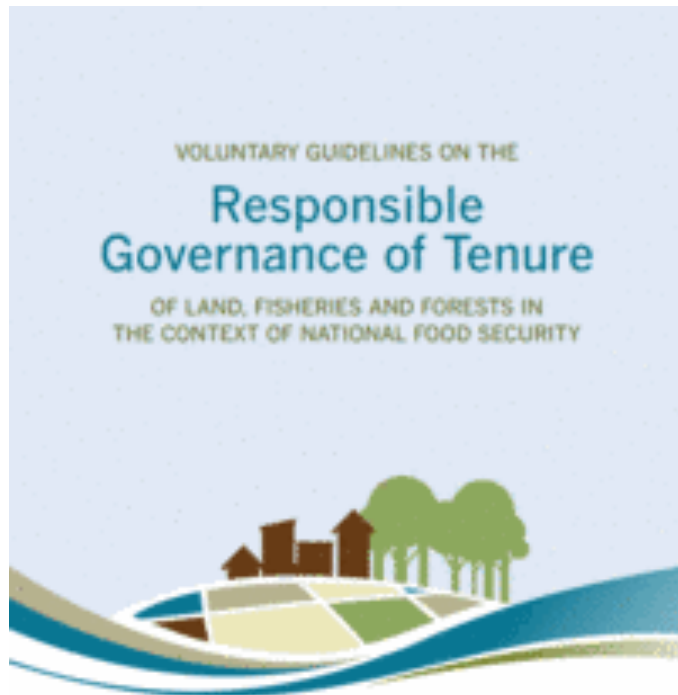
1st section

LAND TENURE SECURITY



- Relationship of people with land and natural resources**
 - According to systems (law or custom) that determine:
 - who owns and uses land/resources
 - for how long
 - according to what rules

LAND TENURE SECURITY



- ❑ May be held by an individual, household or a community
 - when held by a household or community, decision-making is exercised in the context of negotiation and consensus of all rights holders

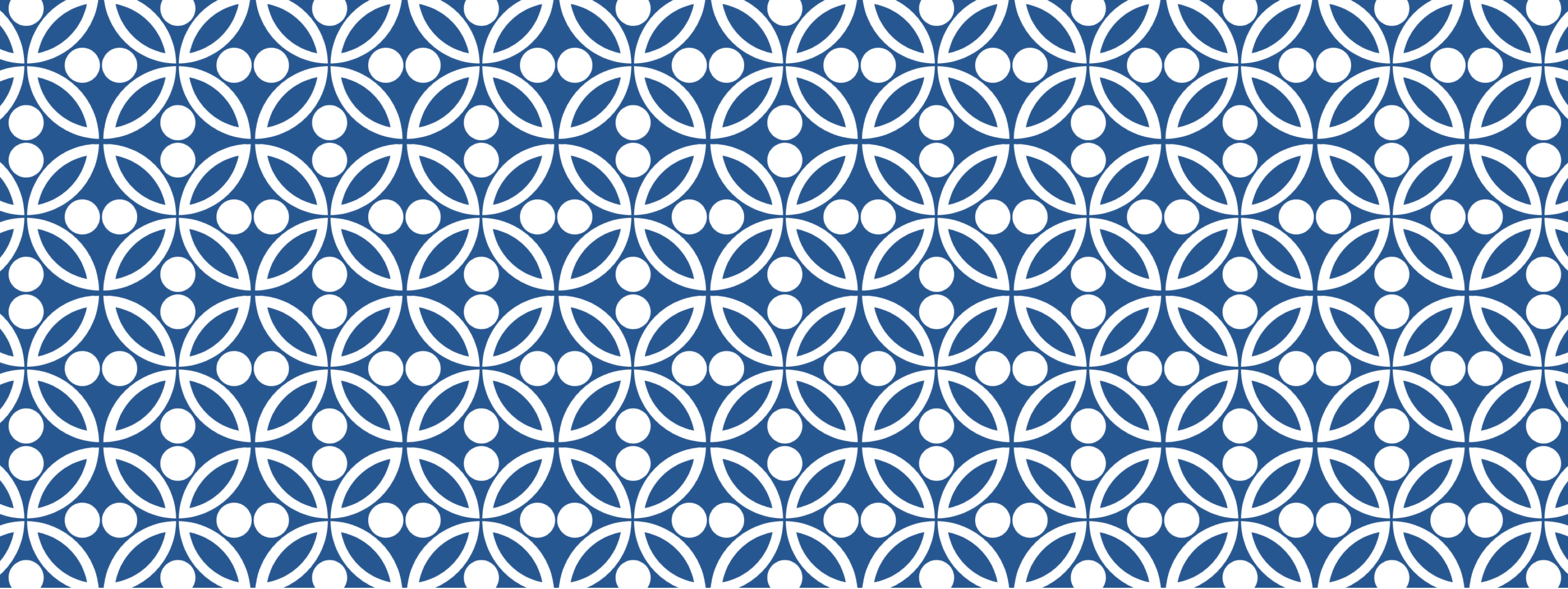
3 TYPES OF LAND TENURE SECURITY



- **Legal-** enforcement of rights emanating from the power of the government
- **De facto-** enforcement of rights by virtue of actual occupation and use
- **Perceived-** beliefs of rights-holders that their claims are legitimate and that they cannot be removed arbitrarily displaced/evicted

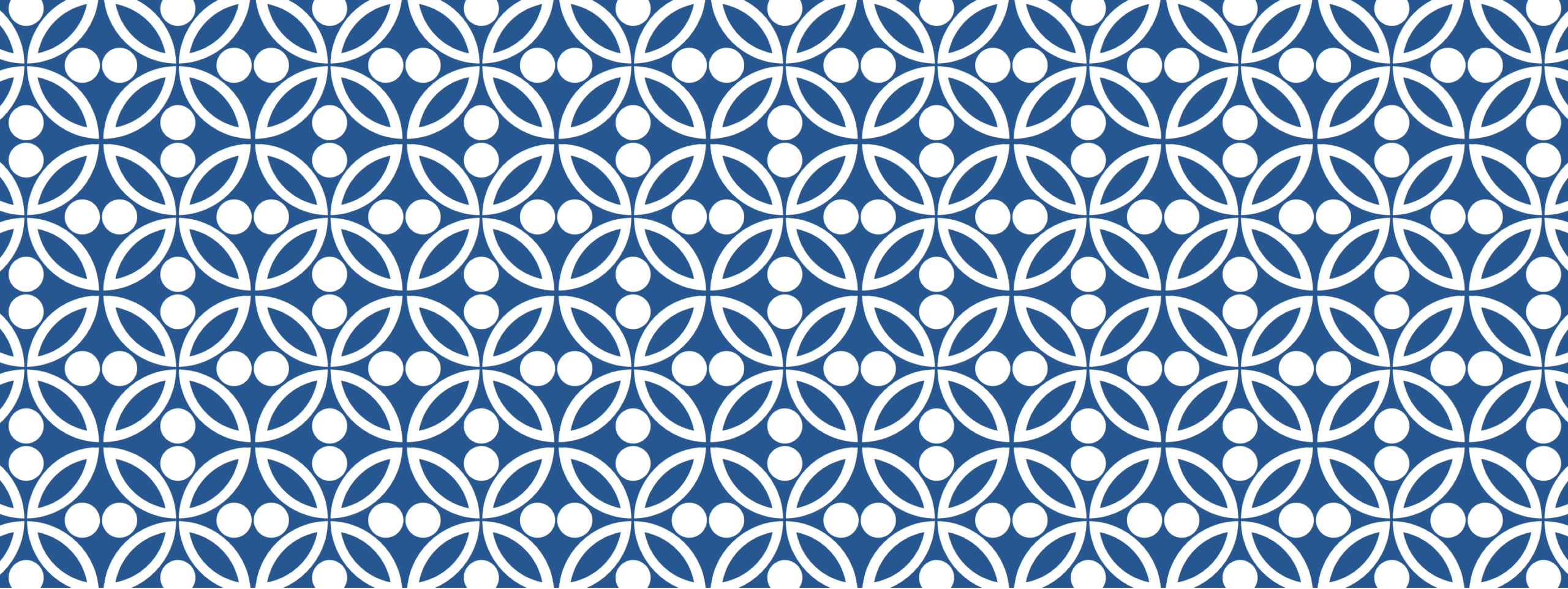
LAND RIGHTS

	Rights	Rights to ancestral domain		
		Law	De facto	Perception
Use	Access			
	Harvest			
	Exploit/Use for livelihood			
Management	Plan future use			
	Exclude/determine users			
Transfer	Lease/Rental			
	Bequeathment			
	Sale			



SOME REFLECTIONS

Discussion



LAWS

2nd section

LAWS AND POLICIES ON LAND AND RESOURCES IN THE PHILIPPINES

Framework

- Philippine Constitution of 1987

Ownership

- Civil Code of the Philippines

Sectoral and Tenure Reforms

- Comprehensive Agrarian Reform Program of 1988 and 2011 (RA 6657, as amended by RA 9700)
- Indigenous Peoples Rights Act of 1997 (RA8371)
- Philippine Fisheries Code of 1998 (RA 8550)
- Urban Development and Housing Act (UDHA)

Management and Use of Natural Resources

- Agriculture & Fisheries Modernization Act (RA 8435)
- National Integrated Protected Areas System Act of 1992 (RA 7586)
- Forestry Code of the Philippines (PD 705)
- Philippine Mining Act of 1995 (RA 7942)
- Public Land Use Act of 1936 (CA 141)

Risk Management

- Climate Change Act of 2009 (RA9729)
- Philippine Disaster Risk Reduction and Management Act of 2010 (RA 10121)

INDIGENOUS PEOPLES' RIGHTS ACT

(RA 8371)



Native Title — refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before (the Spanish) Conquest

THEREFORE, with or without recognition by the state, indigenous peoples' primordial right to self-determination within their ancestral domain/lands must be upheld

INDIGENOUS PEOPLES' BUNDLE OF RIGHTS



1. Right to Ancestral Domain
2. Right to Self-Governance and Empowerment
3. Right to Social Justice and Human Rights
4. Right to Cultural Integrity

**Free, Prior, Informed
Consent (FPIC)**

ON THE PROPERTIES OF OUTSIDERS WITHIN ANCESTRAL DOMAINS



Section 56.

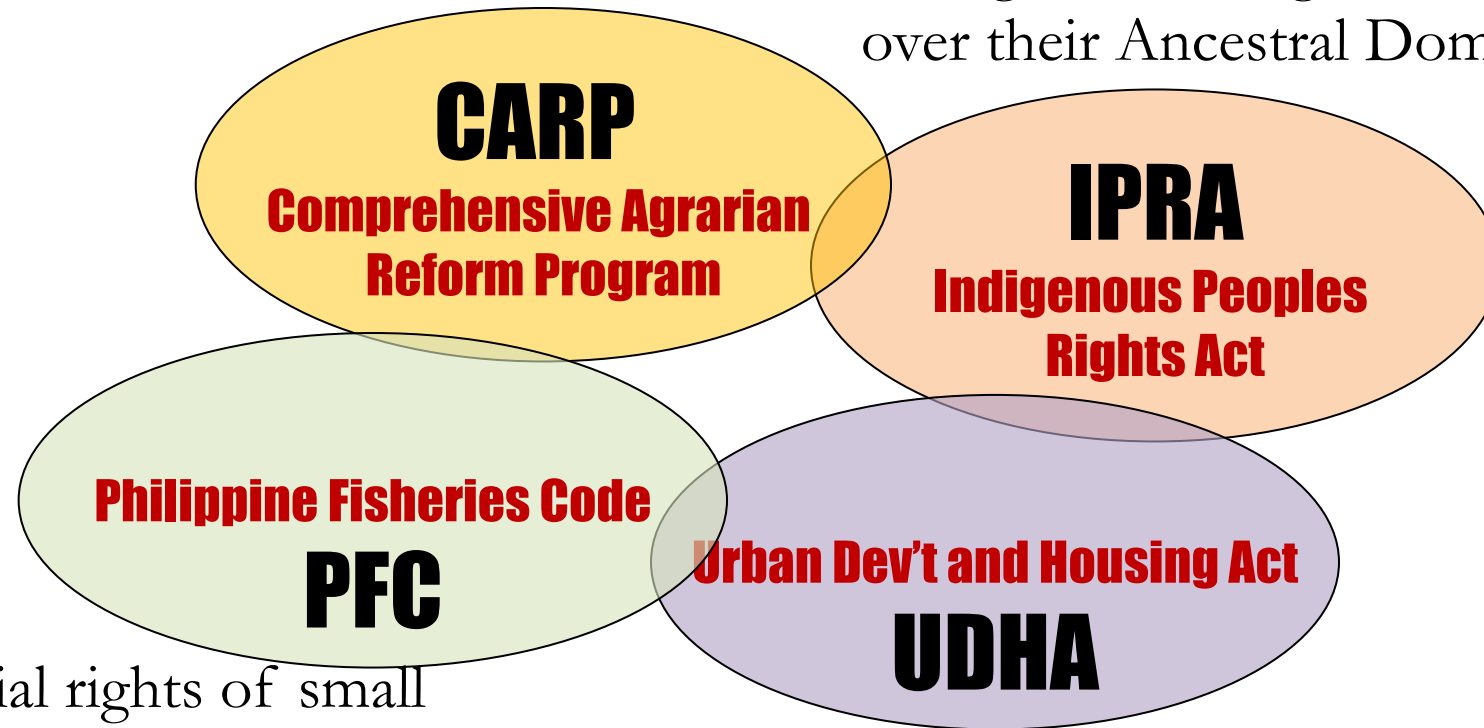
Existing Property Rights Regimes. — Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

These shall remain part of the ancestral domain.

4 na Reporma sa Lupa

RA 6657 – Distributed 9M ha of agrarian lands and production forests for the livelihood of 3.9M farmers and farmworkers

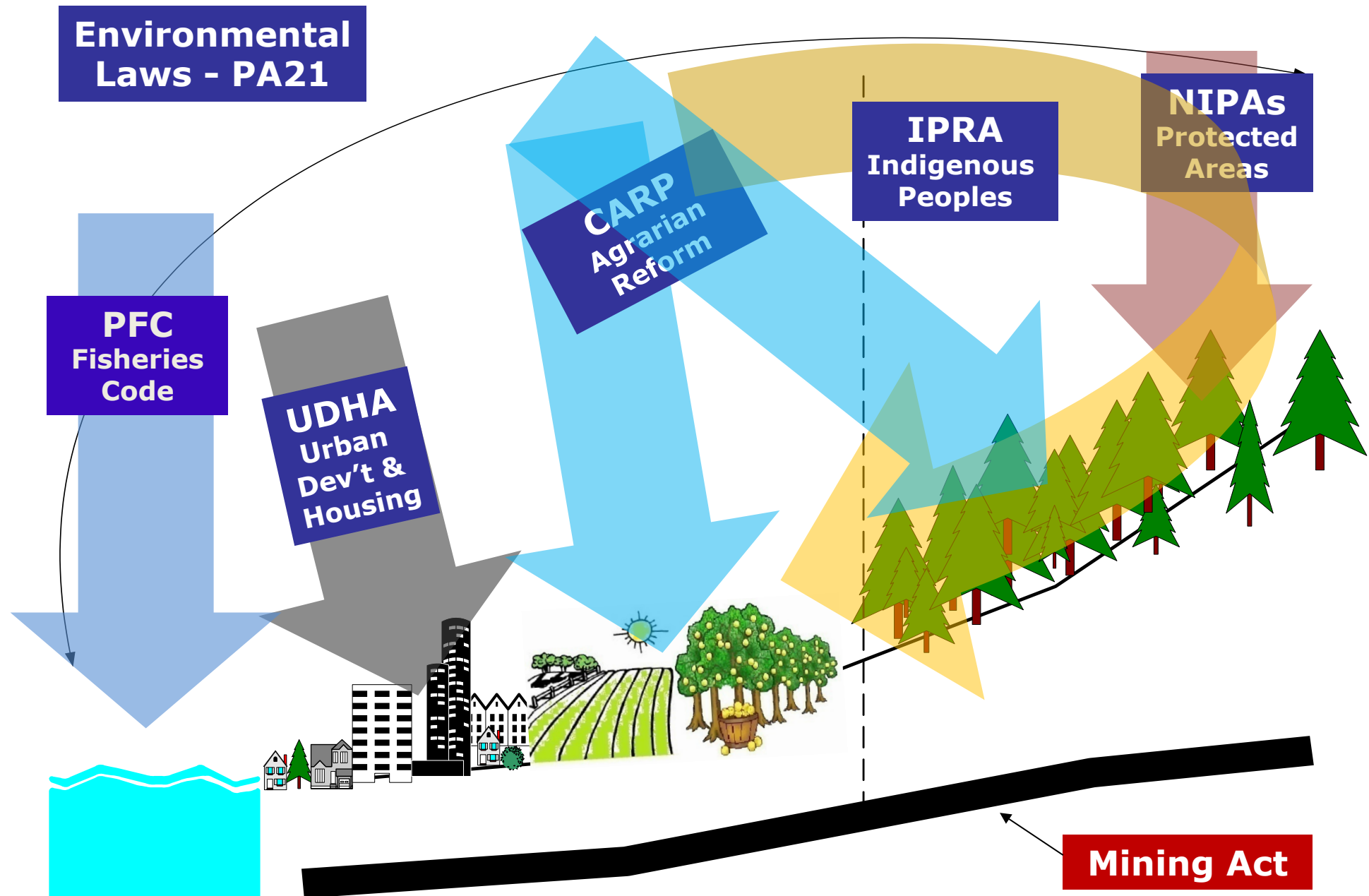
RA 8371 – Recognition, empowerment and protection of the rights of Indigenous Peoples over their Ancestral Domains



RA 8550 – Preferential rights of small fisherfolk over Municipal Waters (15km mula sa baybayin)

RA 7279 – Responding to the shortage of housing through human settlement development and socialized housing

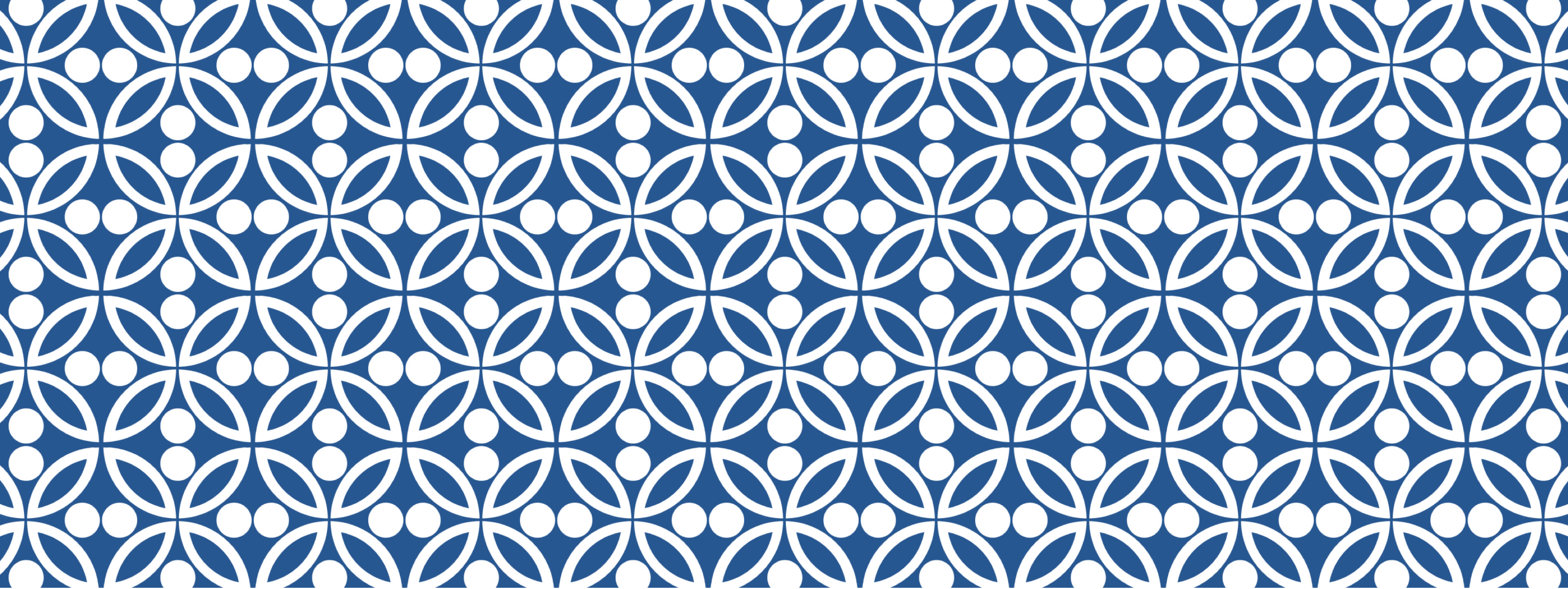
Reforms on Land in the Philippines



SOME REFLECTIONS ON PHILIPPINE LAWS ON LAND AND NATURAL RESOURCES

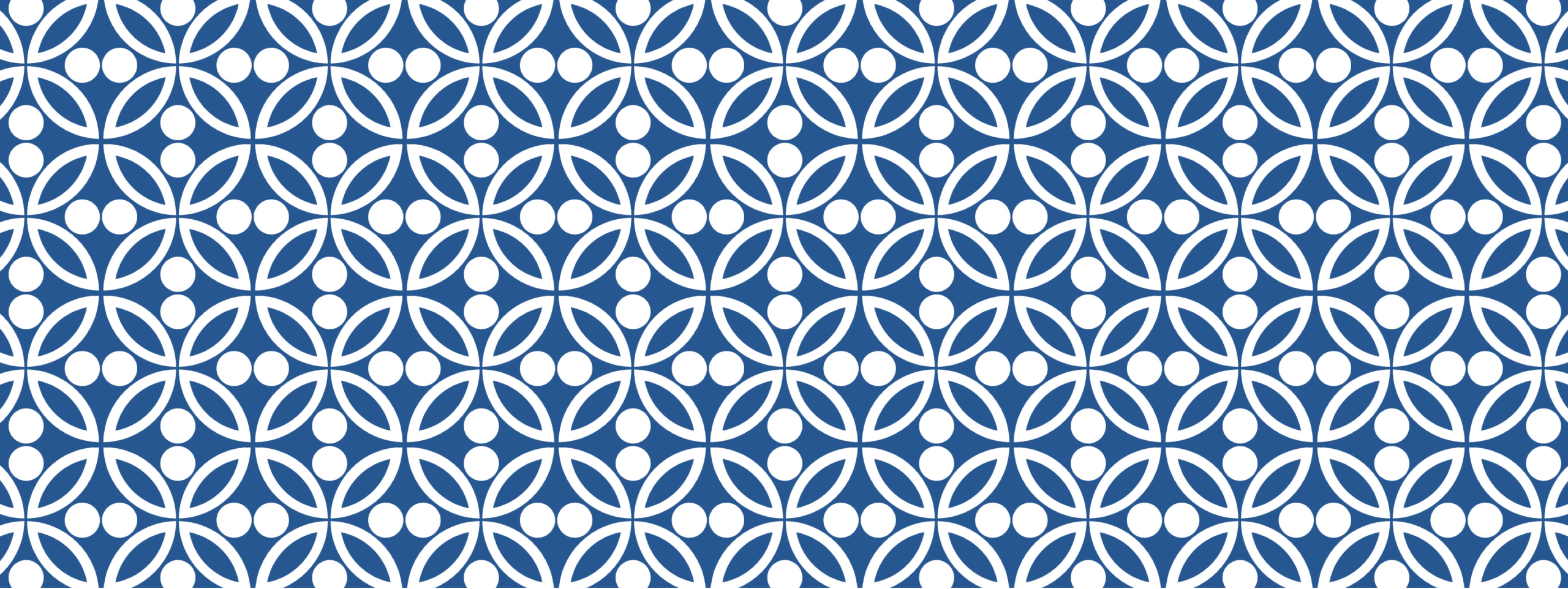
- No single law nor a framework
- Sectoral and fragmented approach
 - ❑ Context and objectives of reform are different (rights, reform, economics, environment, governance)
 - ❑ Overlapping of mandates and conflict between different land and resource rights
- Land and resource rights are bestowed through the use of different tenure instruments, ie. rent/lease, permit, contracts, titles, etc

Agency	Document	Duration	Bundle of rights (According to law)						
			Access	Harvest	Use	Exclude	Inherit	Lease	Sell
NCIP	CADC	Perpetuity	X	X	X	X	X		
	CADT		X	X	X	X	X	X	
	CALT		X	X	X	X	X	X	Only within tribe
DAR	EP	Subject to amortization	X	X	X	X	X	After 10 years	
	CLT		X	X	X	X	X		
	CLOA		X	X	X	X	X		
Private party	Agricultural Leasehold	According to contract	X	X	X	X	X		
LRA	Land Title o TCT	Perpetuity	X	X	X	X	X	X	X
DENR	Land Patent		X	X	X	X	X	X	X
	IFMA	25 years, renewable	X	X	X	X			
	CBFMA		X	X	X	X			
LGU	Municipal fishers registry	1 year, renewable	X	X					



SOME REFLECTIONS

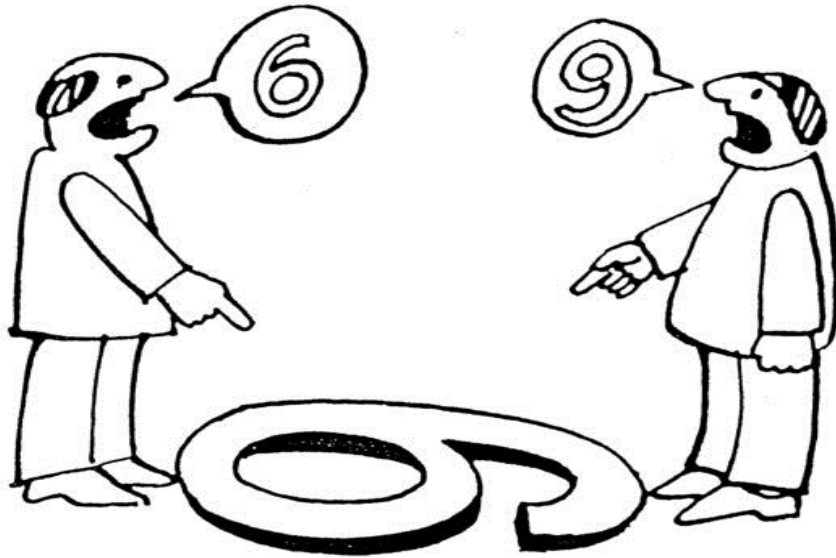
Discussion



CONFLICT

3rd section

CONFLICT



All relationships, all societies have conflict!

It is NATURAL

Situation wherein 2 or more parties **compete for control** over resources, power and/or truth

LAND AND RESOURCE CONFLICTS



Situation wherein 2 or more parties are **competing for control over the use, management, and transfer of land and natural resources**

VIOLENCE

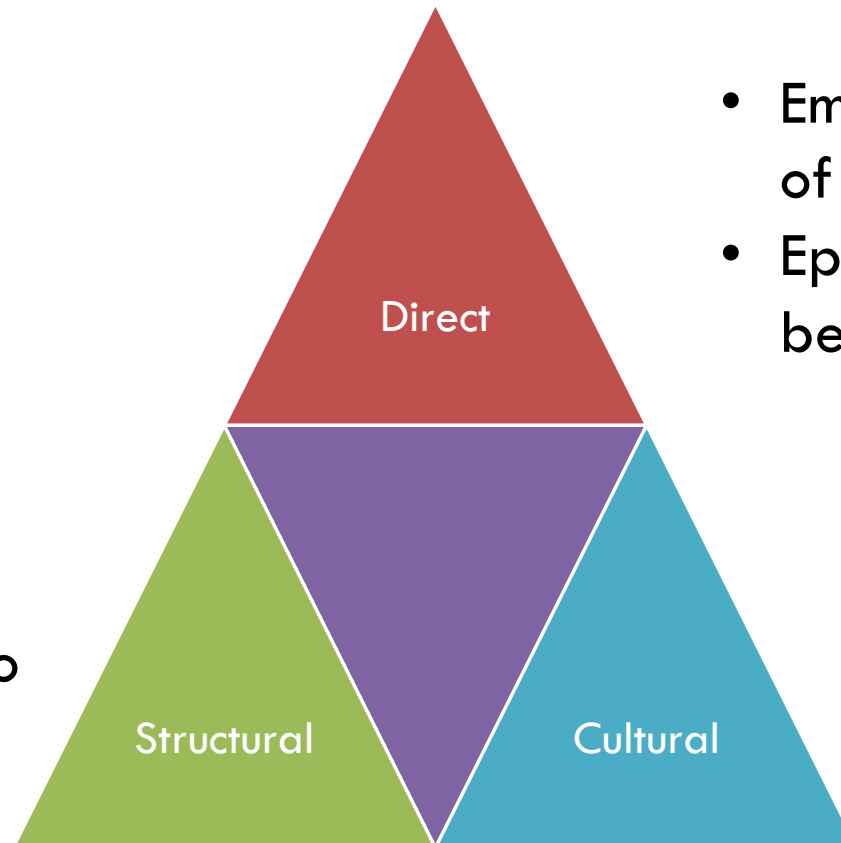


Not all conflicts turn violent

A show of force,
an imposition
of will on
others to gain
control through
destructive
means

TYPES OF VIOLENCE

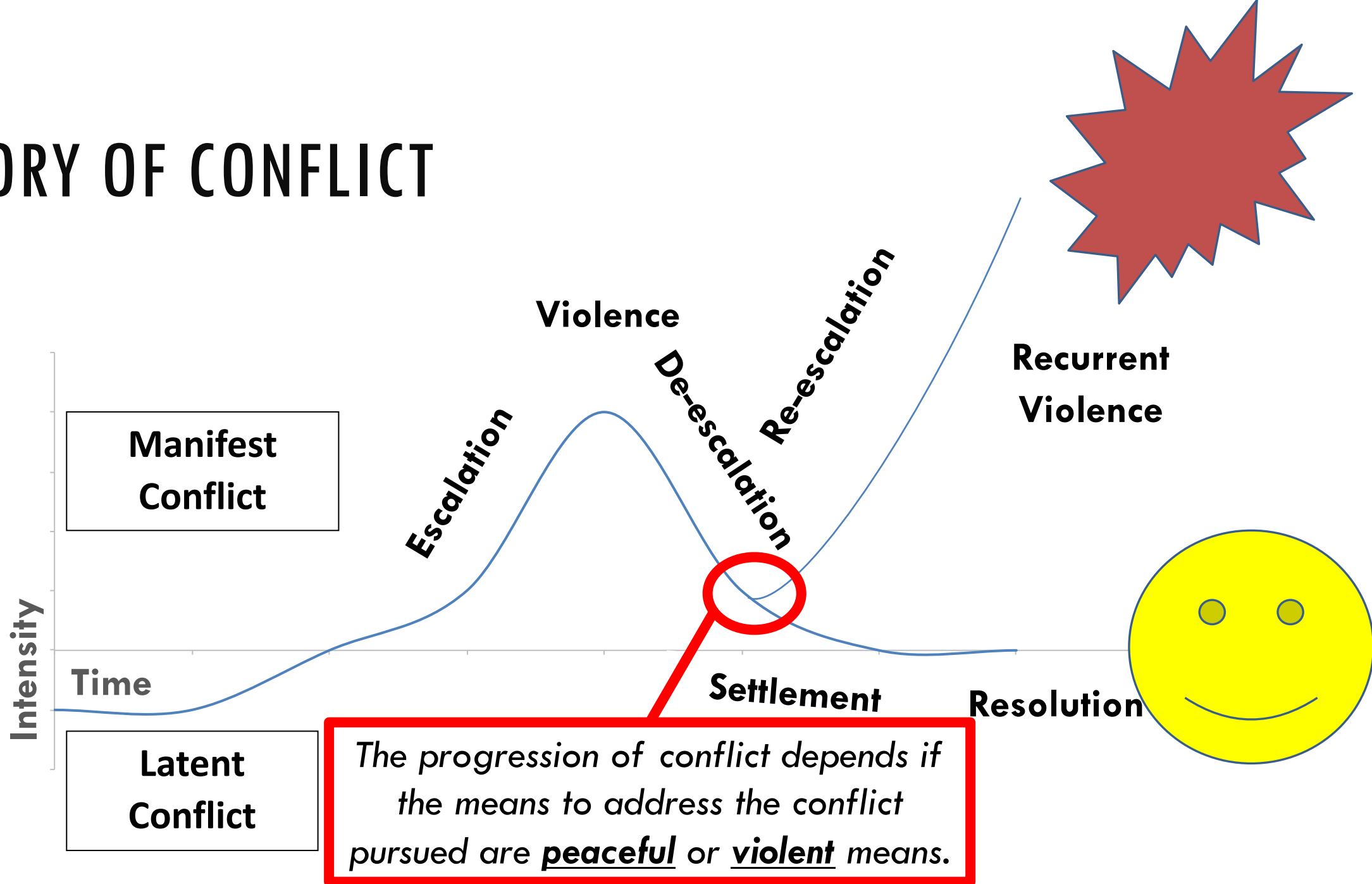
- Emanates from a legitimate system and institutions
- Often, people have no consciousness on this type of violence



- Emanates from the acts of people
- Episodic, has a manifest beginning and end

- Embedded in customs and beliefs
- Gives justification to Direct and Structural Violence

STORY OF CONFLICT



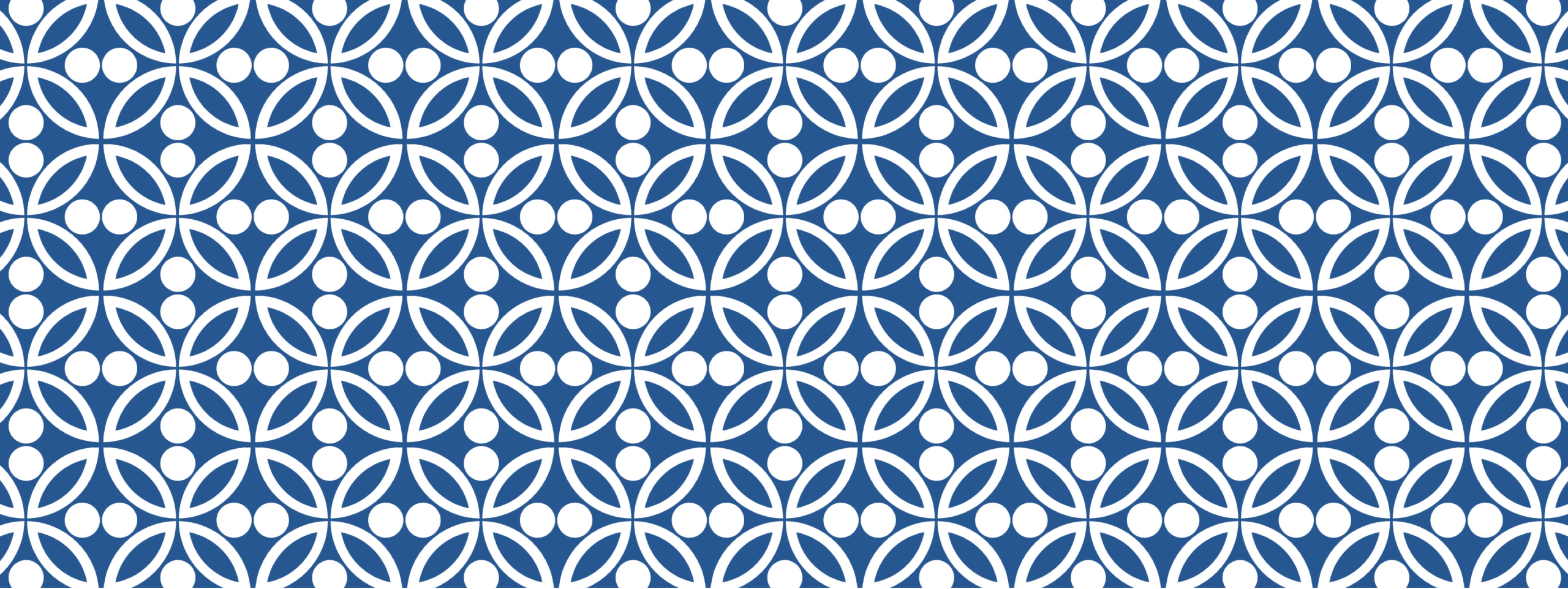
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	Bequeathment			
	Sale			

LAND AND RESOURCE RIGHTS AMIDST CONFLICTS

	Rights	Rights to ancestral domain			Effect of Conflict
		Law	De facto	Perception	
Use	Access				
	Harvest				
	Exploit/Use for livelihood				
Management	Plan future use				
	Exclude/determine users				
Transfer	Lease/Rental				
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SOME REFLECTIONS?

Discussion

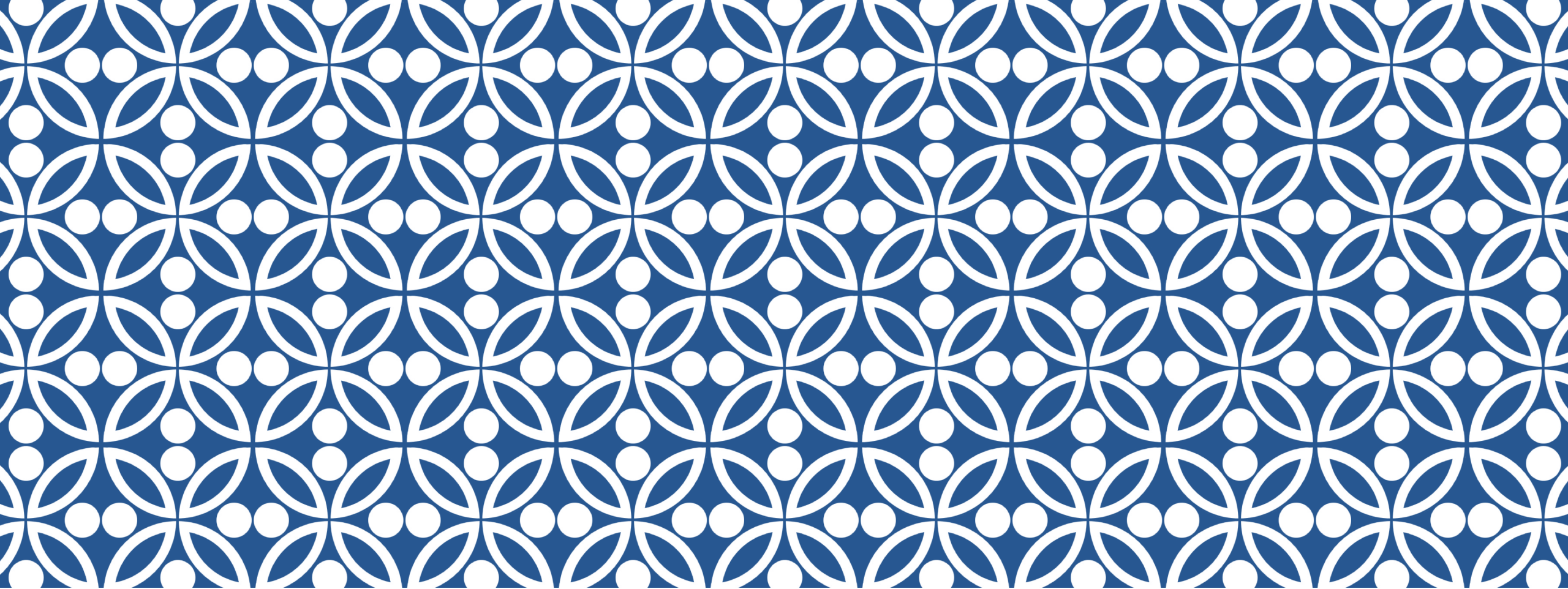
EXERCISE: CONFLICT MAPPING

Grouping

- ❖ Gather according to village within the ancestral domain
- ❖ Assign a facilitator and note-taker
- ❖ Discuss within 30 minutes
- ❖ Assign a reporter to report for 10 minutes in the plenary

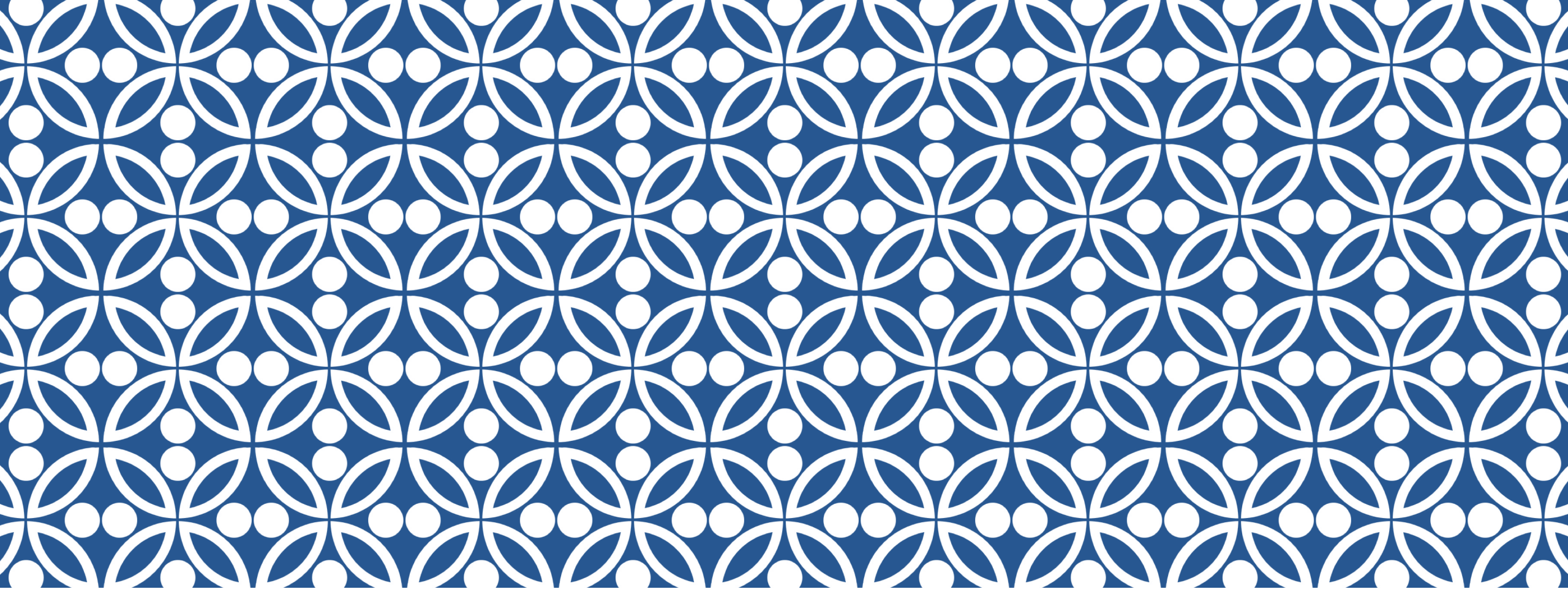
Guide Questions

- Using a map of your community's ancestral domain, identify the location where conflict over land and resources is present
- Who are the parties in conflict? (tribe VS tribe, tribe VS outsider, tribe VS LGU/agency, tribe VS business)
- What is the history of the said conflict?
- What is its effect to the community?



SOME REFLECTIONS?

Discussion



ADDRESSING CONFLICT

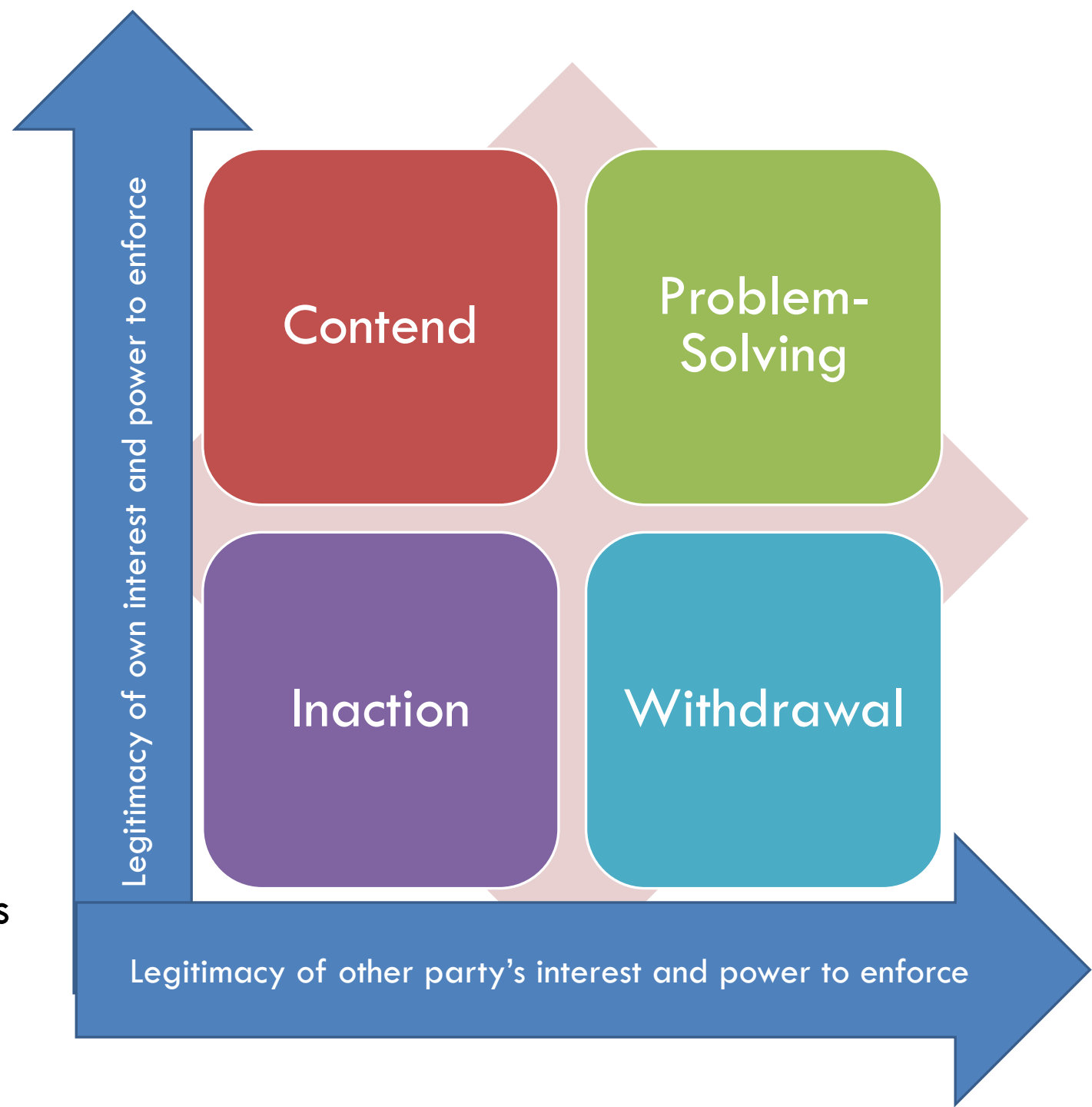
Last Section

ACTIONS WHEN IN CONFLICT

Actions in situations of conflict are connected on two important perceptions:

- ❖ Perception of the legitimacy of one own's interest and power to enforce them
- ❖ Perception of the legitimacy of the other party's interest and power to enforce them

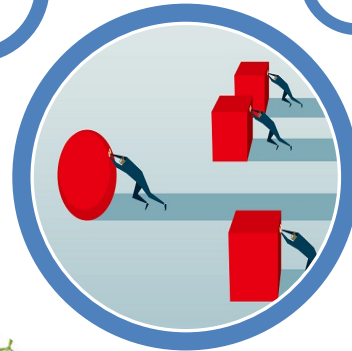
The interaction of these two beliefs bring about 4 possible actions



IMPORTANCE OF INSTITUTIONS

Provides order

- Sets rules
- Facilitates processes



Keep the powerful in check

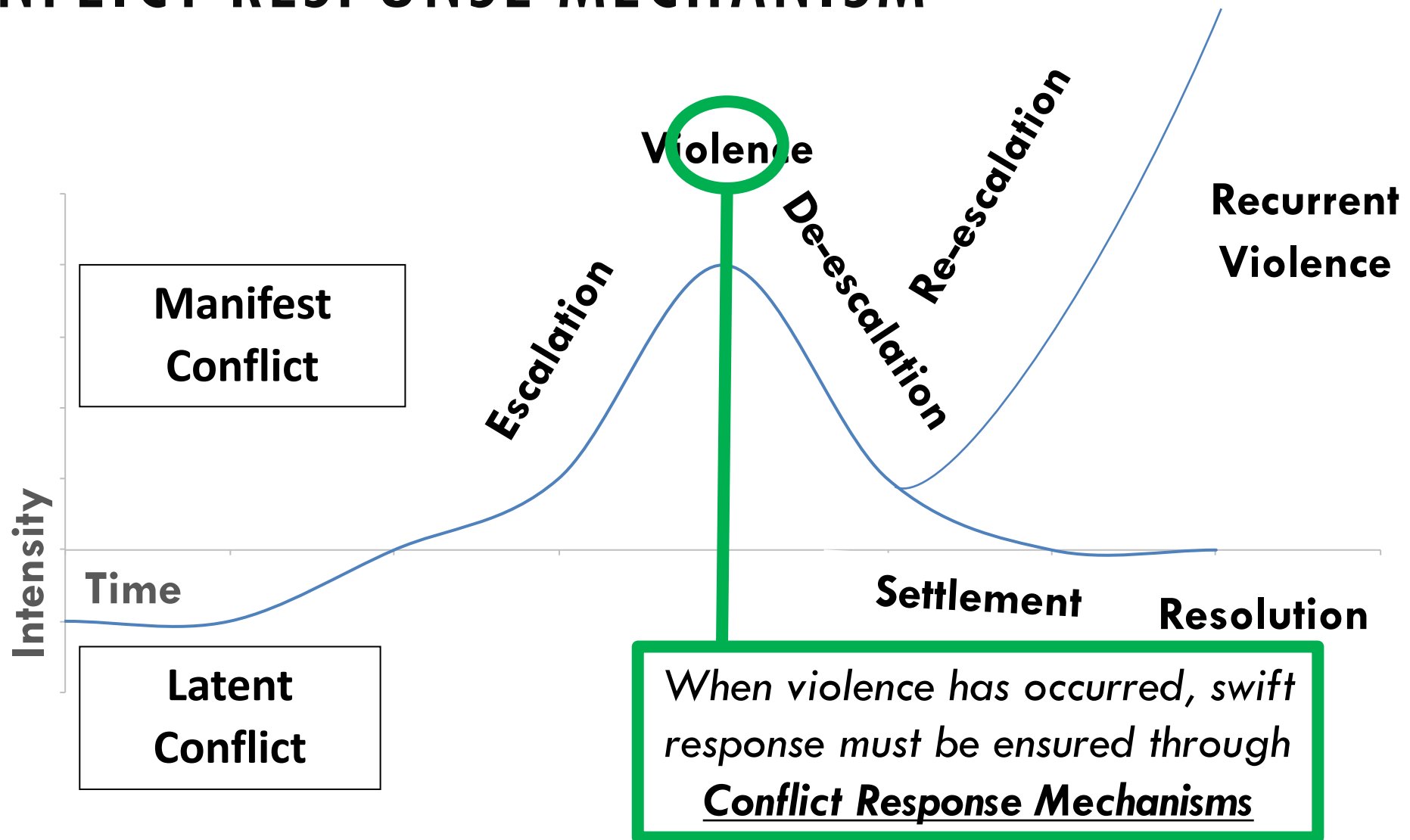
- To remind of duties
- Hold accountable

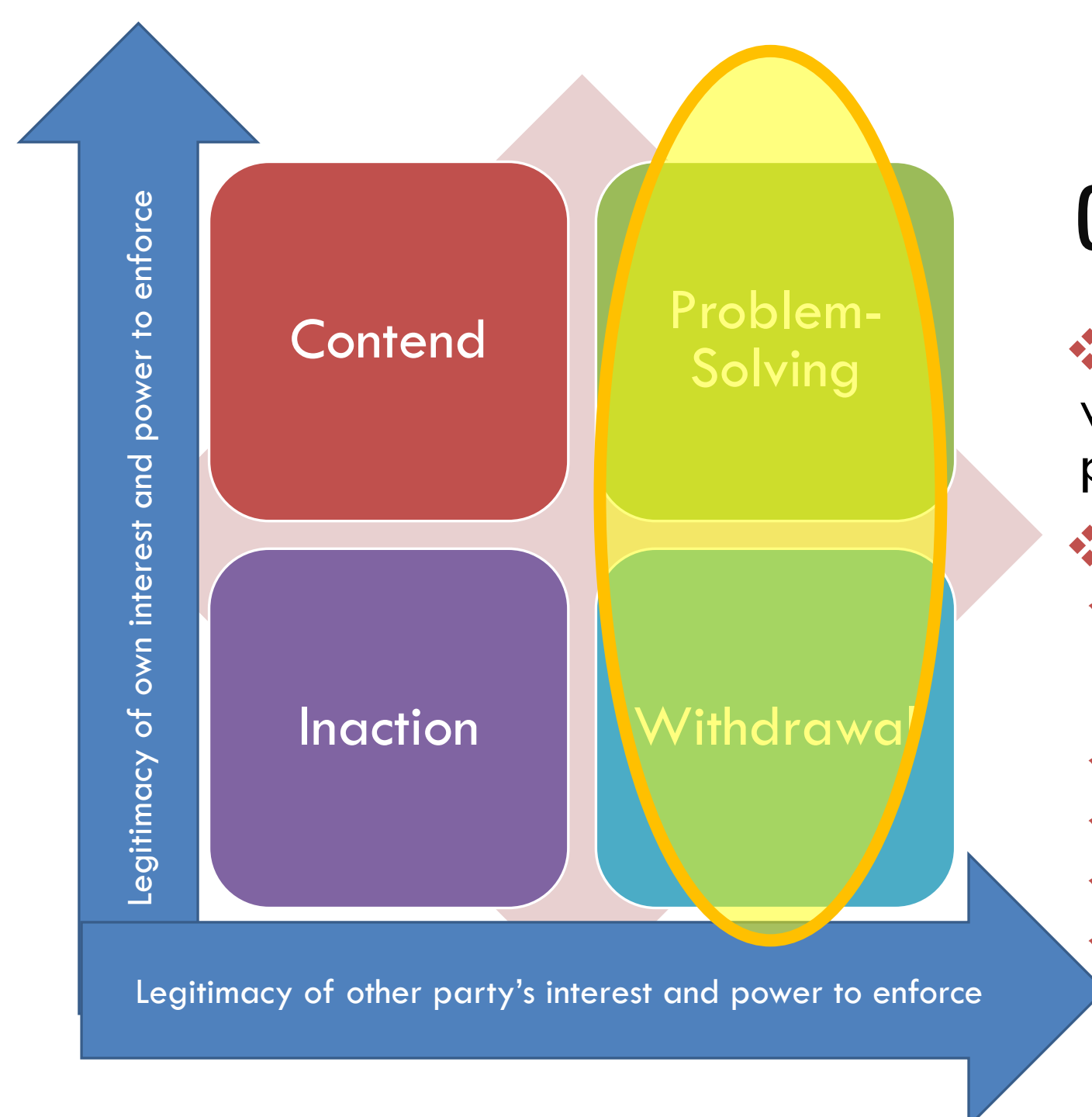


Assist weaker parties

- Protect from violence
- Provide guidance

CONFLICT RESPONSE MECHANISM





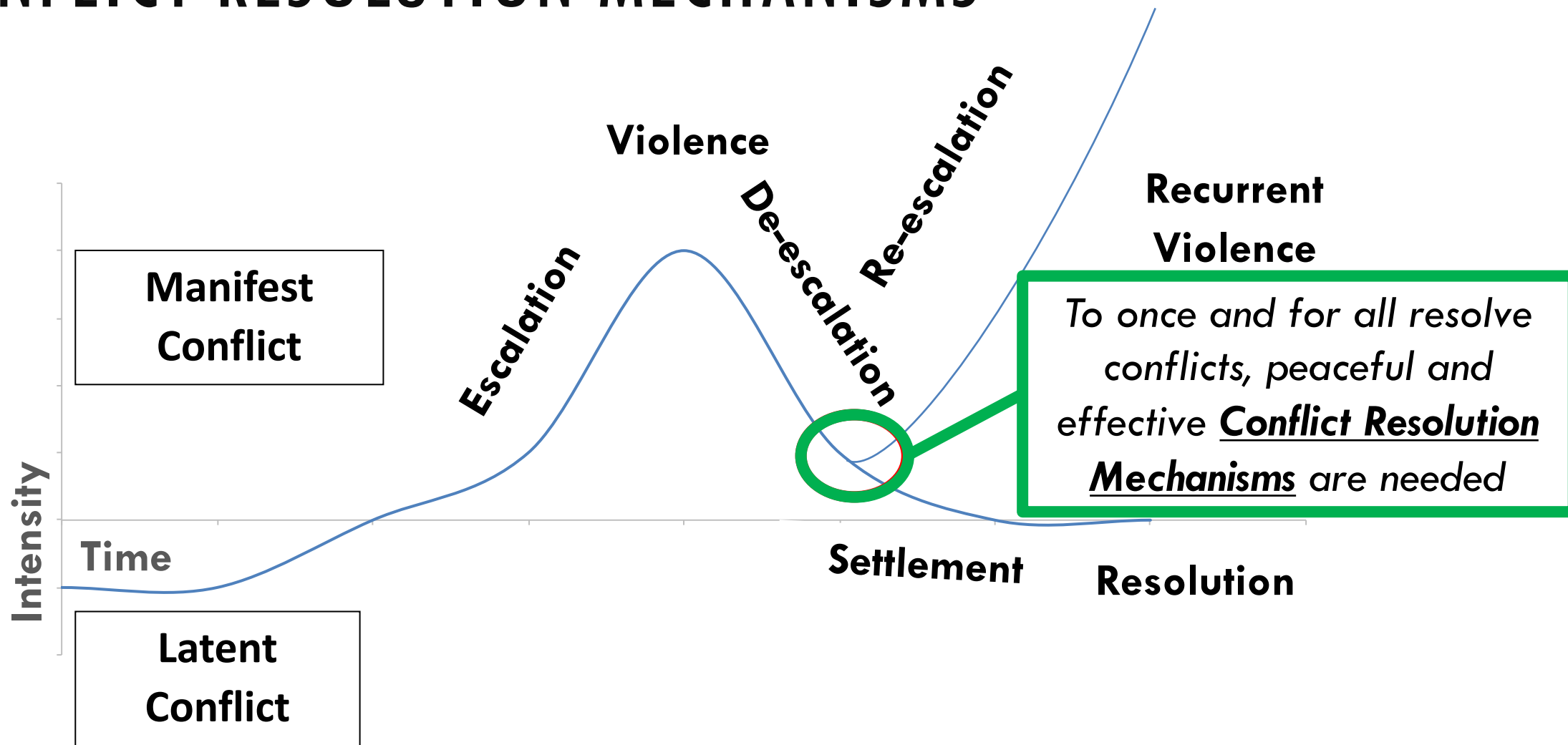
QUICK RESPONSE

- ❖ Response to conflicts especially when they turn violent is similar to preparations in natural disasters
- ❖ Options for action:
 - ✓ Put a stop to the violence through escape or provide promises to meet their demands
 - ✓ Restore order in the community
 - ✓ Tend to the injured
 - ✓ Gather evidence
 - ✓ If necessary: defend self, community and territory

INSTITUTIONS TO APPROACH FOR QUICK RESPONSE

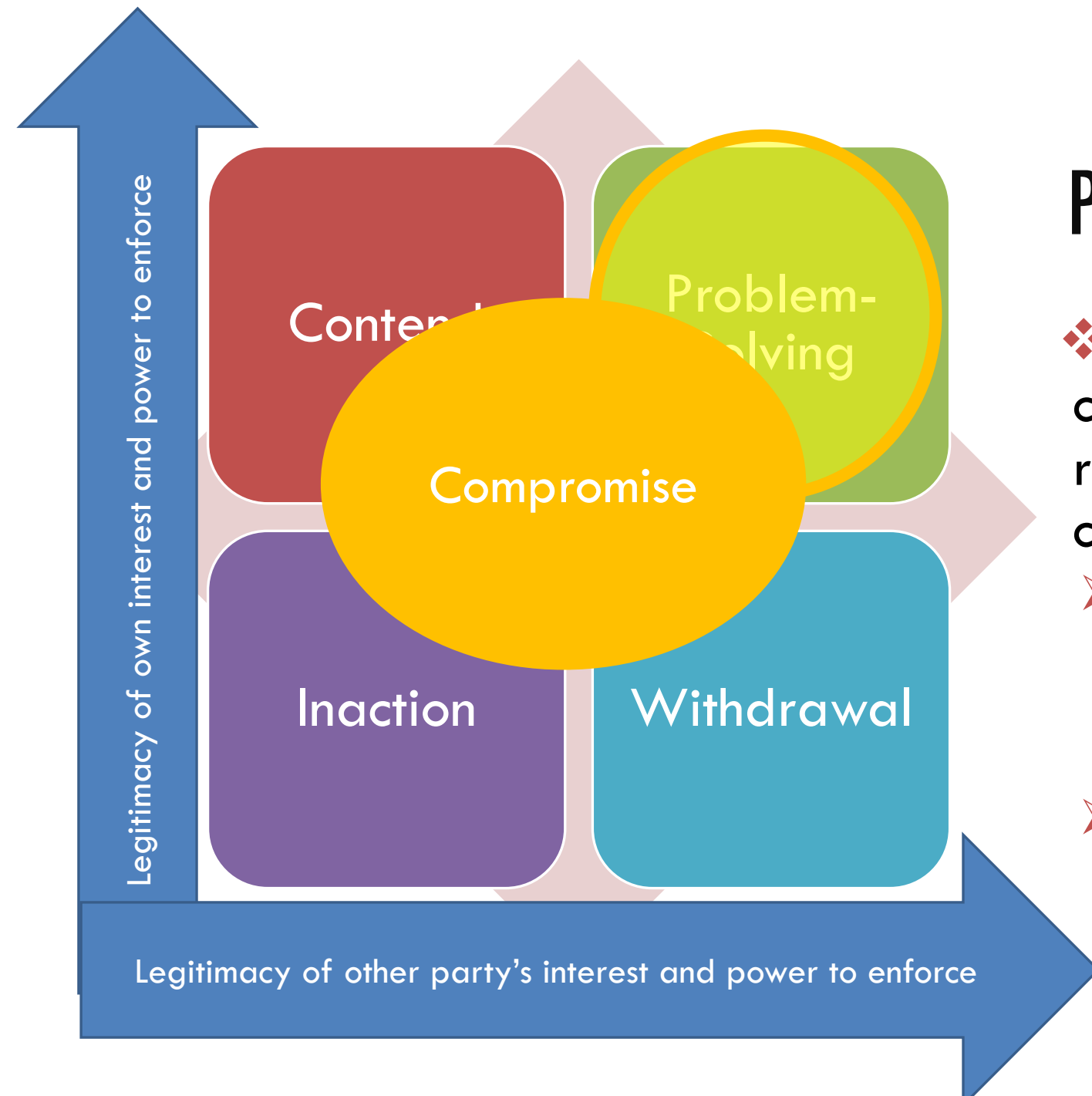


CONFLICT RESOLUTION MECHANISMS



PEACEFUL RESOLUTION

- ❖ When conflict de-escalates, there comes a time when parties are ready to resolve the causes of the conflict
 - Often this results to a compromise where both parties humbly lower their demands and arrive at acceptable terms for peaceful coexistence
 - Remember: you are not negotiating your rights! Only the ways in which they can be met. **NEVER COMPROMISE YOUR RIGHTS!**



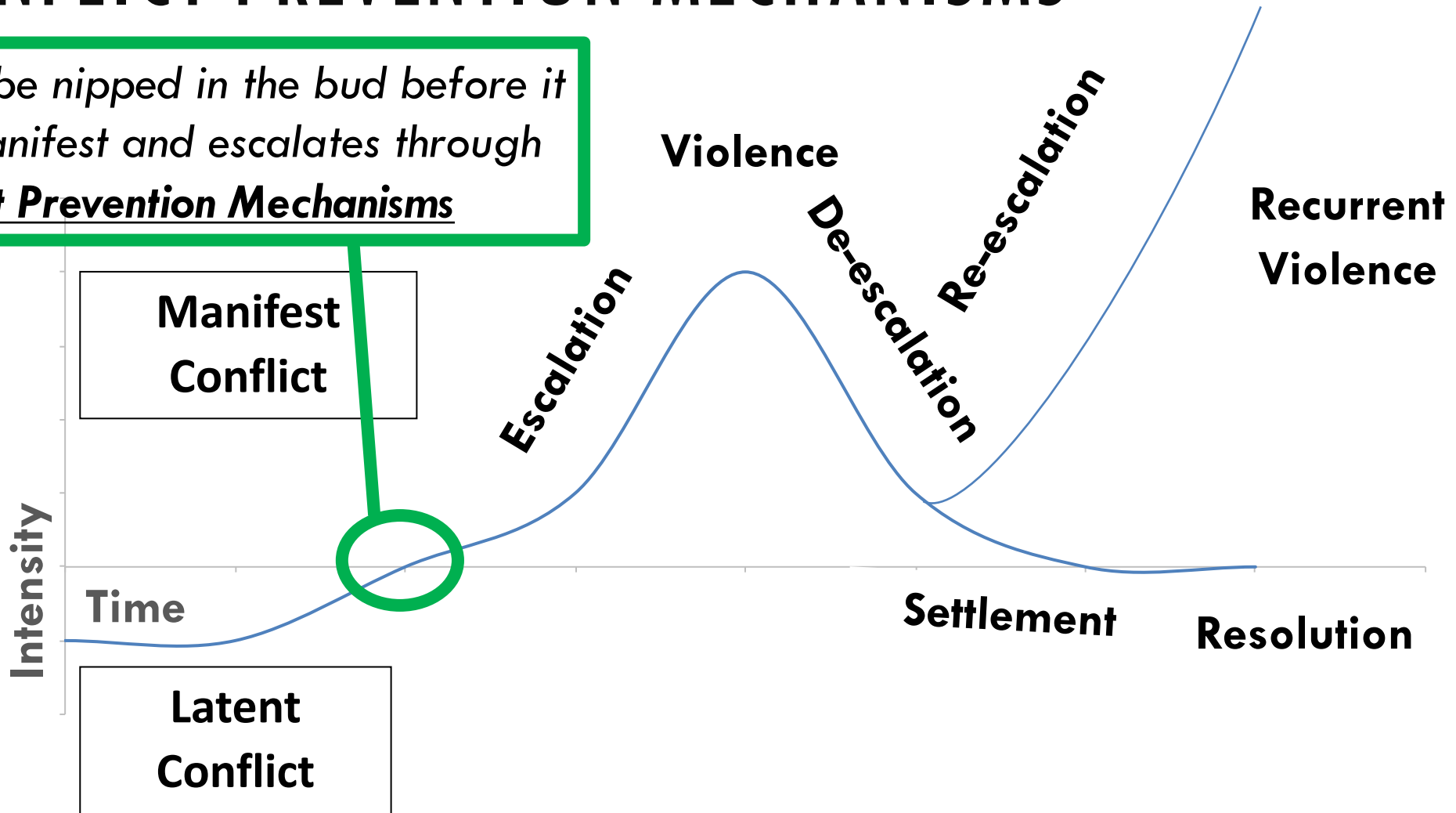
INSTITUTIONS TO APPROACH FOR PEACEFUL RESOLUTION

Conflict Type	Institution
Tribue VS Tribe	Tribal Justice System
Tribe VS Outsider	Village officials, Government, Courts
Tribe VS Government	Oversight agencies, Courts



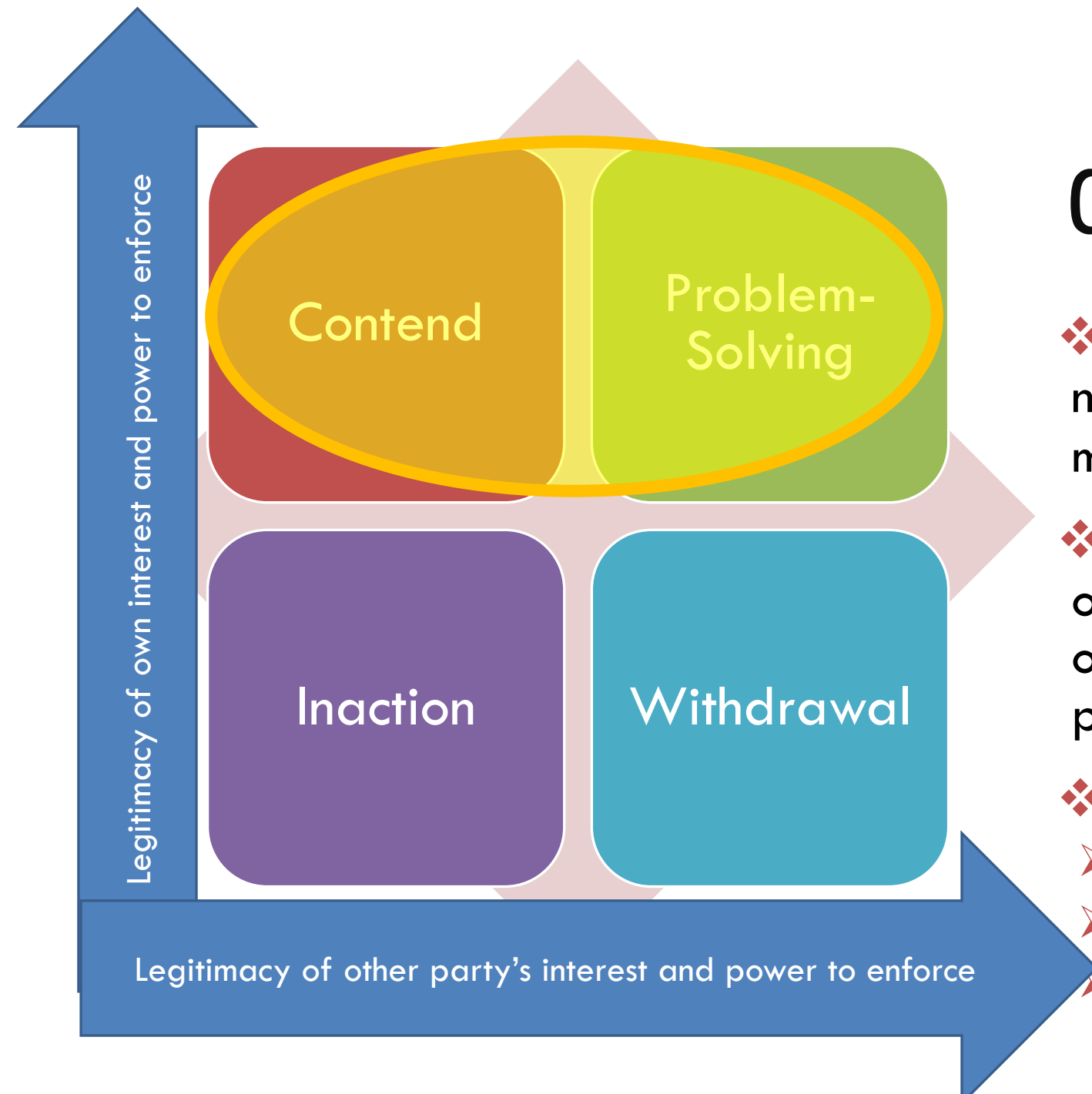
CONFLICT PREVENTION MECHANISMS

Conflict can be nipped in the bud before it becomes manifest and escalates through Conflict Prevention Mechanisms



CONFLICT PREVENTION

- ❖ It is possible that conflict can be nipped in the bud before it becomes manifest.
- ❖ This is best achieved when members of the community are knowledgeable of their rights and systems for participation are in place
- ❖ Options for community strengthening:
 - Information dissemination on rights
 - Strengthen community decision-making
 - Participate in governance



INSTITUTIONS TO APPROACH FOR CONFLICT PREVENTION

Level/Sector	Mekanismo
Tribe	Indigenous Political Structure
Village and LGU	Indigenous Peoples Mandatory Representatives (IPMRs) and LGU Officials
Protected Area	Protected Area Management Board (PAMB)
National Government	Concerned Agencies



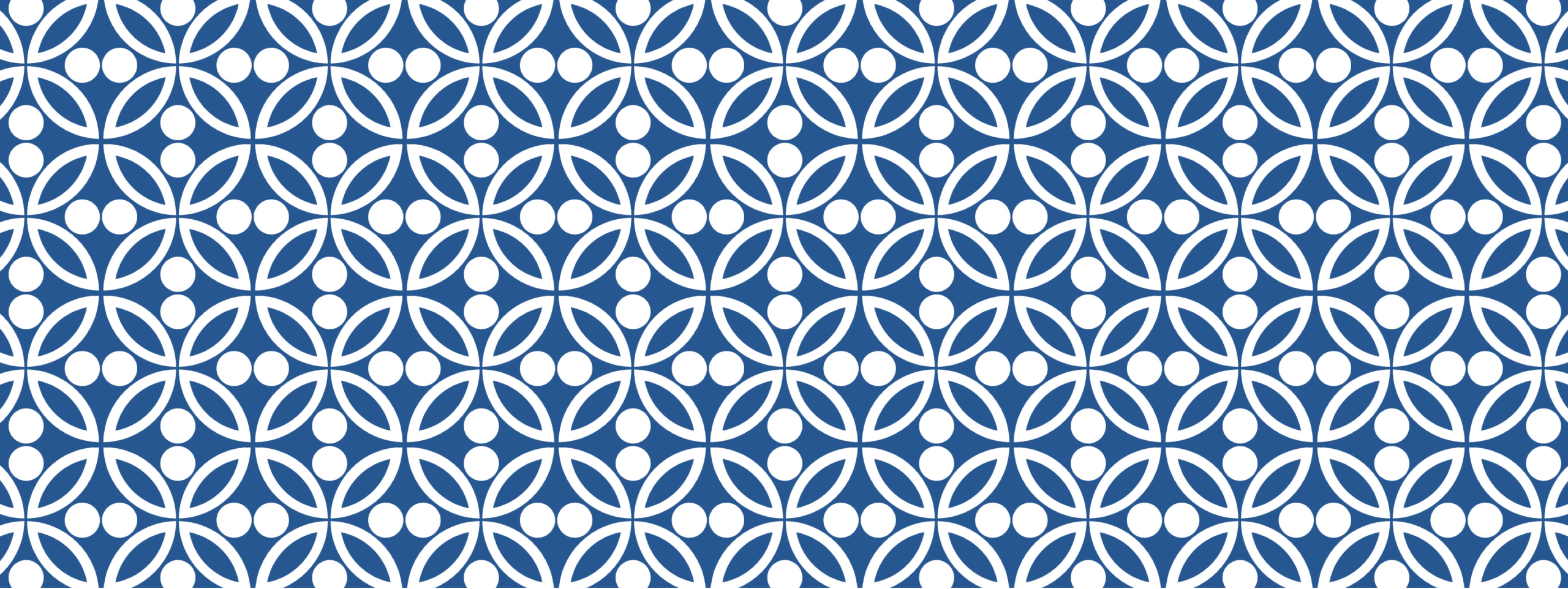
EXERCISE: ADDRESSING CONFLICT

Grouping

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- ❖ Discuss within 30 minutes
- ❖ Assign a reporter to report for 10 minutes in the plenary

Guide Questions

- Identify the interests of the conflicting parties. In what aspects are they similar and different?
- What strategies are appropriate to address the said conflict
- What actions must be initiated to prevent such a conflict to emerge again in the future? What systems must be set in place to ensure peace and security of tenure over the ancestral domain?



SOME REFLECTIONS?

Discussion