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# Introduction

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In recent years human rights have assumed a central position in the discourse surrounding international development. A recognition of the fundamental links between rights denial, impoverishment, vulnerability and conflict has led to the incorporation of rights-based approaches into the funding strategies, policy formulations and practice of a diverse range of actors, including United Nations agencies (UNDP, UNICEF), major donors (the UK's Department for International Development [DFID], the Swedish International Development Cooperation Agency [SIDA]), international NGOs (ActionAid, CARE, Oxfam) and local grassroots NGOs and social movements. While there is a growing literature on policy formations and the politics and principles of rights-based approaches, it is clear (i) that there is a great diversity in understandings of what constitutes a rights-based approach, and (ii) the next major step for this approach requires assessments of opportunities, advantages and challenges in the realm of practice.

This volume seeks to address these issues. Its first aim is to contribute to a small but growing body of studies that attempt to identify what difference a rights-based approach makes in practice. What is the 'value added' by a rights-based approach? How does a rights-based approach alter development work and programming? What, possibly new, difficulties and tensions arise? Secondly, the collection aims to make a contribution to a greater common understanding of a rights-based approach. Top-down attempts to formulate policy coherence in relation to rights-based approaches have made some progress towards identifying common themes, but have largely failed to convince sceptics that they go beyond repackaging existing best development practice. While acknowledging the diversity of rights-based approaches and practice, and seeking to explore its implications, this collection aims to build a greater common understanding of its core components, from the bottom up, based on insights provided by practitioners.

In Parts I and II of the book the experiences of practitioners are detailed in case studies of rights-based approaches in practice. Authors in this section are from the NGO and inter-governmental organization (IGO) communities from across the spectrum of development, humanitarianism

and conflict resolution. Part III contains three longer chapters exploring contemporary challenges facing the implementation of rights-based approaches: (the implications of rights for development in an era of neo-liberalism and 'good-governance'), the relationship between rights and culture, and aid politicization and the 'war against terror'. This Introduction sets out a theoretical, historical and political context for the chapters that follow. It provides a (re)conceptualization of human rights that speaks to the international political and economic changes associated with globalization that have accompanied and contributed to the rise of rights-based approaches. Following on from this foundation, it outlines the history, recent emergence and policy content of the relationships between human rights and development. The Introduction ends by detailing some of the major critiques of the rights-based approach, drawing out a series of thematically organized questions. These questions are returned to in a Conclusion that uses the practice-based contributions to both provide some provisional answers and to continue what will undoubtedly be an ongoing conversation.

## The first human rights revolution

The modern era of human rights began during the Enlightenment with the US Declaration of Independence (1776) and the French Declaration of the Rights of Man and the Citizen (1789). Two concepts of enduring significance to human rights jostle for influence within these documents: natural law/rights and the social contract.

The declarations had a common foundation in natural law and rights. In natural law/rights, foundations and justifications are located in God and religion, nature (the 'state of nature', given or inspired by nature), in the nature of 'man', and/or through a shared capacity for reason. Rights are potentially universal in all these guises – individuals, for example, can be seen as having rights simply by virtue of their common humanity and shared characteristics – in the 'state of nature' outside and before the formation of any social grouping, political arrangements or legal dispensation. But rights are also simply a matter of faith. Not surprisingly, such a theory of rights, once secularized and stripped of religious justification, has come under sustained criticism from philosophers, political theorists and lawyers.

Macdonald writes: 'It seems a strange law which is unwritten, has never been enacted, and may be unobserved without penalty, and peculiar rights which are possessed antecedently to all specific claims within an organized society' (1984: 22). A host of challenging questions have threatened to sweep natural rights aside: which rights are natural? Who decides? How can disagreements over these issues and changing views over time and across cultures be adjudicated? What are the implications of the chasm between ideal and reality? But, as we shall see, this conception of rights has enduring and cross-cultural significance because it speaks to the idealism and activist agenda of human rights. To claim that we are all free and equal, that we have original rights, is, arguably, a moral fiction, but it can be a very empowering fiction and has had profound political impact.

The social contract moves beyond rights as an article of faith to provide them with a socio/political-contractual grounding (Rachels 1993). Hobbes, who, alongside Rousseau, is most closely identified with social contract theory, famously believed that life in the 'state of nature', without rules or accepted enforcement mechanisms, would be a state of constant war. To escape this condition, the individual joins in voluntary association with others to form rules to govern social relations and to establish an agency – the state – with the power to enforce the rules. Certain rights are sacrificed in exchange for an agency to enforce and protect those rights that remain. In short, we exchange unconditional freedom in return for the advantages of social living, as a balance is sought between our rights and the rights of others, and between rights and responsibilities. Under such a set of rules a society can develop in which everybody is better off and in which we can afford to become moral agents. The social contract is therefore rational, and the rationale for rights is located in relationships, reciprocity and mutual benefit rather than in religious, or increasingly secular, belief.

The idea of the social contract, which entrenched the notion that there is no divine or absolute right to rule but, on the contrary, a right to government by consent, was truly revolutionary: '[The US and French Revolutions] are revolutions in the sense that they sought a radical transformation of the accepted principles of social organization, rather than a mere seizure of power within the existing order' (Evans 2001: 17). The relationship between the individual and the state was transformed. By challenging an organic, hierarchical vision of society, feudalism, the aristocracy, the church, monarchy and colonialism, the traditional relationship between the rights of rulers and the duties of subjects was inverted. Specifically, this meant that the relationships between the state and the individual, state legitimacy and consent to be ruled, were founded on respect for human rights. Both the US and French declarations contain rights that formed the basis on which the individual consented to be ruled, and rights thereby constituted the justification for rebellion in the event of their violation. The rights revolution was, therefore, both conceptual and, in time, political.

Natural rights and the social contract remain significant in contemporary human rights discourse and practice. Natural rights are philosophically

contested, but undeniably real. They are real in the sense that history is littered with examples, from the suffragettes and the anti-slavery movement to opposition to apartheid and the communist regimes of the former Eastern Europe, of occasions when individuals and groups have acted on a powerful moral sense of injustice, believing that they are neither mere pawns nor property. They do so not because states or laws encourage and protect such protests – in fact, more often than not they hinder and oppress – but instead they mobilize support through a shared belief that something is unequivocally wrong in a higher court of morality. The natural law approach to legal interpretation insists on a necessary link between law and morality, where moral principles are sought if necessary beyond the confines of the text and legislative intent. A bold interpretive strategy argues that an amoral law is not law. It is useful for our purposes to examine the recurring use of this conception of rights, and its seminal role in struggles over their conception, construction and implementation.

Confirmation of this understanding of rights comes from the contributions to this volume, for example, when participants in a study of the impact of a human rights training course developed by the Danish International Development Agency (DANIDA) and the International Law Institute, Uganda (ILI-U), state that the rights-based approach 'helped me recognize that one is born with these rights and they are not given' and 'I came to realize that rights are free and are for all' (Okille, DANIDA/ILI-U).[1] Rights are not, and cannot only be, seen 'in postinstitutional terms as instruments', but must also be understood as 'a prior ethical entitlement' (Sen 1999: 229).

The social contract, similarly, resonates through contemporary societies, politics and international relations. Various social and political arrangements – from discussions about the challenges of reforging official aid relationships through partnership along the continuum from conditionality to 'contractuality' (Maxwell and Riddell 1998), to Poverty Reduction Strategy Papers (PRSPs), described as a new form of social contract with donors (World Bank 2003: 13), to corporate codes of conduct – are discussed in these terms. Criticisms of the social contract theory also retain their relevance today: what do the powerful, the rich and those with superior knowledge gain from such rules? Given power imbalances, is there any guarantee that the rules will be fair? How can the social contract be extended beyond the state, or the international community of states, as its basic unit(s)? Why would an agent comply with a rule if there is no effective sanction? But the social contract, here seen in a new guise as operating within and across states but not yet at the level of a global contract, remains a means through which power imbalances and inequities can be challenged by allocating rights and responsibilities to all parties, in the interests of all

parties, backed up with monitoring mechanisms and sanctions. Although there are significant critiques and other important theories of relevance to human rights – consequentialism/utilitarianism, positivism, Marxism, constructivism, postmodernism – the argument made here is that rights continue to evolve at the interface of natural rights idealism/activism and social contract pragmatism/enforcement, and indeed must involve an ongoing interaction between the two to remain vibrant and responsive to change. Examples of contractualism from the case study chapters are discussed in the following section. If the Enlightenment heralded the first human rights revolution, conceptually and ultimately politically, the current era of globalization contains and demands a second revolutionary break with the past.

## The second human rights revolution

The second human rights revolution is ongoing, inextricably implicated in the era of globalization. The post-Second World War era – the establishment of the UN, drafting of the Universal Declaration of Human Rights (1948), and subsequent proliferation of human rights treaty and non-treaty bodies – is better understood both conceptually and politically in evolutionary rather than revolutionary terms, notably in relation to natural law/rights and the social contract (Marks 1998; Morsink 1984; Shestack 1998). Contemporary globalization, while retaining an important role for these two core concepts, constitutes and demands a more radical break with the past. It resituates the nation-state, both in terms of its dominance as a political actor and in terms of its relationships. In short, government has become governance, with significant implications for a human rights regime based on the relationship between the state and the individual. While some argue that the state is declining in importance, with the global market marginalizing it to a merely administrative and facilitative role, many aspects of globalization remain driven by state-based policy decisions. However, the state is unquestionably now only one site of power alongside other power-brokers such as IGOs, multinational corporations (MNCs) and NGOs.

Equally importantly, relationships between NGOs and other actors, including states, are increasingly characterized less in adversarial and competitive terms, and more in terms of complementarity and partnership. The reasons for this move towards cooperation include an initial post-Cold War opening up of international politics and strategic decisions on all sides, in both the human rights and development fields, about the need for greater effectiveness, dialogue and utilization of complementary capacities. More specifically, there was an increased use of NGOs as service

deliverers and subcontractors in the provision of development aid and humanitarian relief, and an incremental, more constructive, but also increasingly contested use of human rights discourse beyond its conventional range. Such developments have complex implications for NGOs in terms of funding relationships, independence, accountability, power relations and their ability to combine both advocacy and partnership. The second human rights revolution can thus be characterized as inextricably linked to the shift from government to governance, from 'anti-statism' to 'collaborative activism' (Falk 2004), and to the diffusion of human rights into new areas, in the search for, and struggle over, a new rights regime. The rise of rights-based approaches to development is part of this revolution.

More concretely, how are these changes manifesting themselves? The chapters in this collection repeatedly illustrate the ways in which new actors are being framed as rights holders and more particularly as duty bearers. Jonsson notes: 'There is a need to extend the claim–duty relationships to include all relevant subjects and objects at sub-national, community, and household levels.' International actors are also often added to the mix. The system of claim–duty relationships is called the 'pattern of rights', with each understood as roles individuals/actors may perform, rather than immutable labels. Individuals/actors often occupy both roles simultaneously in relation to other individuals/actors at different levels of society. Building on this conceptualization, pattern or role analysis – the identification of key claim–duty relationships for specific rights – can become an important component of programming (Jonsson, UNICEF). Within such an expanded human rights terrain, NGOs, IGOs and others seek to build the capacities of rights holders to claim rights and of duty bearers to meet their responsibilities (also Brouwer et al., Oxfam; Jones, CARE Rwanda; Theis and O'Kane, Save the Children). In short, the vertical pole of rights (state–individual) is complemented by a consideration of horizontal relationships (Jarman, Institute for Conflict Research; in the Northern Ireland context about which Jarman writes this includes paramilitaries and communities in conflict).

Relationships between the relevant actors are redrawn in a variety of ways. The stress is on alliances, coordination, complementarity, or on balancing such partnerships with advocacy, lobbying and critique, from local to global levels. Contributors talk of the dual role of civil society, advocacy and service delivery (Mander, consultant; Okille, DANIDA/ILI-U); of developing networks between community organizations to influence local and national policy (Antunes and Romano, ActionAid Brazil; Akerkar, ActionAid India; Theis and O'Kane, Save the Children); of blending a 'violations' and a 'promotional' approach (Jones, CARE Rwanda), or a prescriptive human

rights approach with the facilitative conflict management approach (Galant and Parlevliet, Centre for Conflict Resolution); while Oxfam assert: 'Working ... from the local level upwards, building the awareness and capacity to promote human rights, and joining forces and linking different actors and different levels are strategies that – when done well – give expression to Oxfam's quest for global equity' (Brouwer at al., Oxfam). These reformulated relationships, and their implications for human rights, constitute the building-blocks of the new contractualism.

The Sphere Project, for example, can be categorized as a new form of social contract, and it engages with all aspects of the second human rights revolution (a range of different actors, reformulated relationships, and an expanded, creative, contested use of rights). The Sphere Project, initiated in 1997, consists of the Humanitarian Charter, a declaration of principle(s), and Minimum Standards in Disaster Response, largely by sector, e.g. health services.[2]

It is an attempt to establish system-wide quality and performance standards. Human rights pervade this project in various ways (Darcy 2004). Crucially, the service standards are framed as entitlements, indicating a willingness on the part of those who subscribe to Sphere to be accountable for their performance measured against the standards. The Minimum Standards are an attempt to define the minimum content of a 'right to life with dignity'. In doing so, Sphere draws on international human rights law, international humanitarian law and refugee law as the basis for more specific, sector-based formulations, for example in health services, of minimum requirements for humanitarian assistance. Thus, Sphere is an extrapolation and development of rights. It also includes what are, in effect, new rights, notably the 'right to assistance', seen as implicit in the right to dignity. Those affected by conflict and disaster become rights bearers rather than objects of charity and benevolence.

Drawing an analogy between Sphere and commercial and public sector 'performance' charters in which customer rights are articulated in the form of minimum service standards, Darcy identifies a further way in which Sphere is 'rights-based':

> [Public service] charters were based on an actual or presumed contract between the service provider and the 'customer', and provided a basis for holding public sector bodies to account for their performance in a way that was becoming familiar in the commercial and professional sectors. In the broadest sense, this could be seen as an articulation of the social contract between state and citizen. More specifically, such charters usually referred (explicitly or implicitly) to more general rights principles ... By

reference to such principles, the individual citizen becomes a legitimate claimant with regard to public services, and the service charters provide a vehicle for defining the substance of the claim. Unlike a true contract, these were unilateral declarations of intent, but were based on an assumed relationship that could be seen as analogous to that between humanitarian agencies and their 'beneficiaries'. (Darcy 2004: 116)

Darcy notes the lack of consumer choice or political sanction in this particular context, although the humanitarian ombudsman concept (again drawing on a public service model), now the Humanitarian Accountability Partnership, represents an attempt to fill the accountability gap.[3] However, mechanisms for ensuring accountability and enforcement remain underdeveloped.

Finally, rights have importantly informed the stress on responsibilities. NGO accountability is situated within a wider framework of legal and political responsibility. Darcy identifies diverse actors – the UN, the International Committee of the Red Cross (ICRC), the International Monetary Fund (IMF) and World Bank, military and commercial actors – under the heading 'the globalising of responsibility' (2004: 120). Both the nature and degree of responsibility, or duty, varies, but that there is debate and evolution in this area is beyond question. Within a hierarchy of responsibility, Darcy, echoing Sphere itself, cautions against exaggerating the role, power and responsibilities of humanitarian agencies, noting their dependence on political actors and parties to conflict and that outcomes are contingent on factors beyond agency control. Darcy argues that states retain primary responsibility, and that the political contract between governments and people remains crucial and should not be undermined.[4] While largely an NGO initiative, Sphere has gained widespread support from other parts of the humanitarian system (the UN, ICRC, bilateral and multilateral donors). Over and above such support, Sphere can be used as a platform or advocacy tool to appeal to responsible political actors and lobby responsible parties, a basis for negotiations over access, resources and relief provision, and as a standard of assessment for all actors and for the humanitarian system as a whole.[5]

Sphere is one of numerous, related strands within an emergent human rights regime, many of which are informed by the rights-based approach. What does this mean for our understanding of what rights are and how their use can be, and is being, justified? One of the arguments of this volume is that locating rights at the intersection of natural rights and contractualism places rights, and the securing of rights, firmly within the realm of moral, social and political processes. Law, ideally, frames the

everyday and provides a last resort in terms of enforcement. However, if we had to go to court for everything to which we felt entitled we would have time for little else. Most rights are violated and secured in everyday life and relationships, in social and political processes. Furthermore, the interaction between the everyday and the extraordinary, and the private and the public, and the way the one folds into the other, is often overlooked in mainstream human rights discourse and practice.

These understandings of human rights guard against what can be called the legal reflex within human rights discourse, the automatic and unthinking resort to the law in the belief that it is the most effective and perhaps the only form of protection and remedy. The legal reflex can be counterproductive because the law is oppressive (part of the problem rather than part of the solution), because it is inaccessible, or because no effective legal system or remedy exists. Jonsson (UNICEF), in this volume, argues that human rights standards and principles are not precise enough to concretely inform development programming, while Galant and Parlevliet (Centre for Conflict Resolution) concur that a narrow, legalistic interpretation of rights provides little guidance for operationalizing how rights can be integrated meaningfully into conflict management processes. Okille (DANIDA/ILI-U) notes as a recommendation that as the judicial and social/political environment is inhospitable to the legal approach (the context is Uganda), human rights training should emphasize the search for alternative, 'home-grown' ways of ensuring accountability that can work within local contexts, while Akerkar (ActionAid India) notes how vast sections of the Indian population continue to be discriminated against not only because of unfair laws, but also due to the failure to implement progressive laws.

A narrow, legal approach is also unhelpful because establishing legal recognition can become an end in itself – as alluded to above, the real life of even progressive laws can easily become implicated in preserving the status quo as rights become institutionalized – and because the ambiguity of legal recognition can include a reduction in creativity with regard to activism. Formal recognition of a right is not enough (Tomas, UNDP). In the field of development, the legal reflex can sometimes be seen in relation to children's rights and the right to health, where reference to the Convention on the Rights of the Child and the International Covenant of Economic, Social and Cultural Rights (ICESCR, specifically Article 12 and General Comment 14), can serve to preclude combination strategies, that may include but go beyond the law, and the non-legal innovations detailed in this volume. Again it should be noted that these arguments do not seek to deny the importance of the law, but they do seek to establish the equal importance of political and social processes in securing human rights.

Contributors to this collection speak directly to a broader understanding of human rights. For them, justice is a social process, utilizing informal and formal mechanisms, and not purely legal (Jonsson, UNICEF; also Okille, DANIDA/ILI-U above); rights-based approaches act in the social, political and economic spheres as well as the legal (Akerkar, ActionAid India); how people relate to the law and its institutions is critical, not just the content of the law itself (Tomas, UNDP); human rights are more than just a legal code as, more fundamentally, they represent an ethical framework for human relations, applicable to all (Jones, CARE Rwanda); and rights-based approaches target laws and regulations, but also beliefs and public opinion (Brouwer et al., Oxfam). Mander (consultant) points out that rights approaches 'may derive strength and legitimacy [from sources such as] socially acknowledged ethical principles of equity and justice, or from the organization and struggles of poor people's organizations'.

More conceptually, the equal importance, indeed interdependence, of processes and outcomes is a common refrain. Galant and Parlevliet (Centre for Conflict Resolution) write 'the quality, legitimacy and sustainability of the outcome depends on the process used to achieve it', while for Jonsson (UNICEF) human rights standards define benchmarks for desirable outcomes (the minimum acceptable level of an outcome) and human rights principles should inform the process designed to achieve the outcome (the minimum level of conduct, values, e.g. participation). Good process can itself be understood as the achievement of a human rights outcome (Jones, CARE Rwanda). The most useful and comprehensive conceptualization of human rights as the everyday is provided by Galant and Parlevliet (Centre for Conflict Resolution) in their discussion of 'dimensions of rights' – rights as rules, rights as structures/institutions, rights as relationships (like Jarman, highlighting the vertical and horizontal axes of rights), and rights as processes. As the application of this schema in the case study of Pieter Mambo High School illustrates, it provides a framework for analysis and intervention.

The study by Okille (DANIDA/ILI-U) on the impact of human rights training in Uganda generates useful insights into the ways in which participants from various walks of life applied the knowledge gained of human rights in their everyday lives. Shifts were reported in mind-sets and attitudes, values and belief systems. Aside from using rights in new ways in the workplace (government ministries, local government, schools, NGOs and community organizations), impacting on staff and inter-personal relations, programming, policy and legal formulation, and more, rights also influenced family life, personal development and confidence, and political awareness.

Two final points on the human rights of the everyday, as essentially social and political processes, can be drawn from the analysis above. First, culture and local specificity are integral to this agenda as indigenous justice mechanisms may be more real than formal legal structures (Tomas, UNDP), and culture is among the factors influencing local authority and power structures (Ensor, consultant). Moreover, the local dynamics that underpin discrimination and power may be observable by or understandable only to those within communities, highlighting the need to ensure that problem analysis also comes from within affected communities (Akerkar, ActionAid India). Whereas fundamental human rights and justice can be construed as absolute concepts and non-negotiable, the application, interpretation and realization of rights and justice are negotiable within the context of specific political, historical and cultural conditions (Ensor, consultant; Galant and Parlevliet, Centre for Conflict Resolution; Jarman, Institute for Conflict Research; Jonsson, UNICEF; Okille, DANIDA/ILI-U; Theis and O'Kane, Save the Children; Tomas, UNDP). The second point is that a conceptualization of rights as implicated in social and political processes is intrinsically 'generative', with rights continually under construction within social and political struggles (Antunes and Romano, ActionAid Brazil; Brouwer et al., Oxfam; Ensor, consultant; Jonsson, UNICEF; Mander, consultant).

Among the range of conceptual and theoretical formulations that speak to this emphasis – one avenue alluded to but not explored in detail here, for example, is legal pluralism – is the distinction between choice and interest theories of rights (Edmundson 2004; Ensor, consultant). Choice theory argues that a right exists when a right holder is able to exercise control over his/her claim on another's duty. In essence, a right requires a right holder and that right holder has the power to enforce or waive the duty relating to the right. This is most persuasively a legal theory of rights. Interest theory grounds rights in the interests of the rights holder, identifying interests as the justification and foundation of rights. In this volume, Ensor argues that an alternative 'mode' of rights-based practice is revealed through focusing on the interests that rights represent rather than on the legal formalization of those interests. Complementing the legal mode, an attention to interests implies constructive engagement with cultural norms, draws attention to the processes of individual and communal change, and suggests that the struggle for justice is at times best served through rights defined locally first and globally second. By grounding rights in individual interests – that is to say, well-being – the political, social and moral necessity for legal rights is also revealed, and their aspirational aspect, emphasizing what *should* happen over what *can* happen, is explicitly stated. This latter point is particularly pertinent as it underpins the social change function of rights. As Edmundson points

out, interest theory 'exhibits a kind of generative power that many find attractive, but others find disturbing' (2004: 122).

In a related argument, stressing the need for greater flexibility in the relationship between rights and duties, Sen utilizes Kant's distinction between 'perfect obligation' ('a specific duty of a particular agent for the realization of that right') and the broader notion of 'imperfect obligation' ('[t]he claims are addressed generally to anyone who can help, even though no particular person or agency may be charged to bring about the fulfilment of the rights involved') (1999: 230). This Introduction emphasizes the interest theory of rights and the notion of imperfect obligations, not to the complete exclusion of their twin concepts, but in the belief that these understandings of rights are both neglected and speak to the challenges and dynamism of the second human rights revolution. The Sphere Project, for example, can be located within both of these conceptualizations of rights.

Given the backdrop that globalization provides to the new human rights regime, the idea that there are rights in search of duties, rights holders in search of duty bearers, is not only relevant, but necessary. Otherwise, rights will be too legal, too state-centric, too static and conservative to assist in the pursuit of social justice. Both a natural rights and social contract influence are evident in this reformulated social, political and legal agenda, as the former go in search of the latter. While an expansion in our understanding of duties and duty bearers is necessary, it needs to be informed by an acknowledgement, such as that in the Sphere Project, that the responsibilities of different actors will inevitably vary. Here the distinction between the duty to respect (a negative obligation of avoidance, not to interfere in the enjoyment of, or violate, a right), to protect (measures to protect people from rights violations committed by others/third parties), and to fulfil (the adoption of appropriate measures to aid and assist), and the need for the performance of multiple kinds of duties to secure the complete fulfilment of a right, provide a useful set of conceptual tools (Shue 1996).

In sum, the case study chapters in this book illustrate that the rights-based approach is being driven by and through diverse sets of actors, forging new sets of governance relationships, often using social contracts in the form of 'unilateral declarations of intent' and innovative reworkings of the rights–duties binary, and reinventing and contesting human rights in everyday life. Agencies seek to set up circuits or contracts of rights and responsibilities, to link real rights to equally real duties in reciprocal relationships of recognition, legitimacy and accountability, in their work and spheres of operation. These contracts, like Sphere, are not legal contracts, but exist within social and political processes. Accountability is potentially profoundly, and positively, reworked and redirected downwards

by new contractualism. But, within the broader context of partnership and collaboration with more powerful actors such as states/donors, making accountability real also represents its major shortcoming and future challenge. Mander (consultant) hopes for more active states that can intervene on behalf of the poor, taking back a layer of accountability currently ceded to the market. National and international law, citizenship and building local civil society capacity to hold national governments to account, and the evolving legal position on non-state actors, constitute part of the picture. But they are not sufficient to deliver broad-based accountability.

In redrawn vertical and horizontal relationships, a wide range of individuals and actors are reconceptualized as accountable for their actions. Notably, advocates of a rights-based approach also attempt to alter relationships with the recipients of their goods and services, constructing such recipients as rights bearers and their own agencies as duty bearers (CARE, Oxfam, UNICEF: this is less true of governmental donors such as DFID who remain reluctant to see themselves in this light). Some of the specific examples detailed in this volume – such as CARE Rwanda's participatory, interactive monitoring tool designed to provide a forum for orphans and vulnerable children to critique and direct CARE's work (Jones, CARE Rwanda) and the code of conduct developed by Somali civil society, including standards to which civil society aspires to adhere and a monitoring mechanism (Brouwer et al., Oxfam International) – raise questions, beyond declarations of intent and socio-political process, of whether those with less power in the arrangements have access to real sanction and redress. The Afghanistan government reconfiguring its relationship with donors by stressing pledges made and donor responsibility is an interesting attempt to enforce a rights-based accountability, but ultimately faces similar challenges (O'Brien, CARE Afghanistan). As Cornwall and Nyamu-Musembi note, rights-based approaches will mean little if they do not transform power relations among development actors themselves (2004: 1,432). Tomas (UNDP) is forthright on this point, noting that while the potential for improving the accountability of state actors and power holders is one of the key contributions of rights in development, the lack of monitoring and accountability within, between and over NGOs and donor agencies is the critical obstacle to its successful implementation.

A final development within the second human rights revolution relates to the much-proclaimed interdependence and indivisibility of human rights, mainly with reference to civil-political rights and social-economic rights. In mainstream human rights discourse this has become a mantra, epitomized by the Vienna Declaration and Programme for Action of the 1993 UN World Conference on Human Rights, which proclaims: 'All

human rights are universal, indivisible and interdependent and interrelated.' From the mainstream human rights community the claim remains rhetorical, more a statement of intent and a recognition of the need to be more relevant to new, particularly Southern, audiences and constituencies, than it is reality. The literature that most effectively both conceptualizes human rights indivisibility and interdependence, and seeks to validate the argument with concrete examples, comes from within development. Two seminal examples are the work of Sen (1999: 160–88) and de Waal (1997) on famine. As the following sections of the Introduction indicate, through the history and conceptual evolution of the relationship between human rights and development, these interactions were largely hidden. However, interdependence and indivisibility were to be of defining importance in the emergence and content of rights-based practice.

The rights-based approach to development is at the heart of the transformations that characterize the second human rights revolution, spanning the various actors involved, reworking the relationships identified, and irrevocably changing the ways in which rights are understood and used. Whether these transformations will deliver a political revolution in Evans's sense – a radical transformation of the accepted principles of social organization, or even a mere seizure of power within the existing order – remains to be seen. Conceptual changes, as with the earlier revolutionary era, inevitably precede a protracted set of political struggles. Despite still drawing on versions of natural rights and the social contract, what is not in doubt in the developments already underway and documented in this volume is the current reality of significant conceptual and political change. Not only are human rights possibly reinventing development, but development has the potential to reinvent human rights.

## The evolution of the relationship between human rights and development

The history of development is one of ongoing change, influenced to varying degrees and at different times by diverse pressures: dominant political ideologies; particular regional circumstances; trends in academic and non-governmental discourse; and the continuing failure to generate lasting solutions to poverty and human insecurity, to name but a few. While the changes in development practice inevitably form a continuous process, a review of the last fifty years reveals a series of trends that can be broadly associated with each of the last five decades of the twentieth century. However, as will be demonstrated, the second human rights revolution constitutes a decisive moment in the relationship between human rights and development.

The modern era of development emerged as overseas aid in the 1950s, in an environment dominated by independence movements and the gradual ending of the colonial period. Aid was provided by European states to their dependants, soon to be demanded as a duty by former colonies, and large capital injections were provided in the belief that modernization projects would have a catalytic effect on emergent economies. Aid was considered to be a transitory arrangement which would induce 'take-off' and was accordingly defined by an economic agenda: growth was sought and large-scale infrastructure projects were the mechanism for its achievement (Tomaŝevski 1993: 30–1). Ethical issues, such as welfare and rights, were, if considered at all, assumed to follow as a consequence. However, while the macro-economic effect of aid, measured in terms of indicators such as Gross National Product, was occasionally positive, it became clear during the 1960s that even where growth was achieved it often failed to improve conditions for the poorest sections of society. The realization that aid would not have the immediate effect that had been hoped for forced donor countries to reassess their role, leading to the institutionalization of hitherto diverse aid delivery mechanisms and the birth of a longer-term goal known as 'development'. The unanticipated failure of aid resulted in a period of transition during the 1960s in which the delivery and purpose of assistance was questioned by recipients and donors alike. Much that is familiar today in development emerged during this period: demands for fairer trade and aid policies, which would become the proposals for a New International Economic Order (NIEO), resulted from the first UN Conference on Trade and Development (UNCTAD, a forum that lives on) (Looney 2001: 1,128); aid flows stagnated or reduced; political and commercial 'conditionalities' emerged (Tomaŝevski 1993: 31); and direct approaches for improving welfare were sought to replace unsuccessful growth-based mechanisms. This latter point drew out development as a multidisciplinary endeavour for the first time, resulting in a redefinition that was to characterize development practice during the 1970s.

The upheavals of the 1960s brought about a new vision of development, characterized by anti-poverty initiatives and welfare and gender strategies, and as a 'broad-based, people-oriented or endogenous process, as a critique of modernisation and as a break with past development theory' (Elliot 2002: 46). This redefinition became known as the basic needs approach. Stung by the failure of earlier macro-economic strategies, economists championed 'redistribution with growth' in an attempt to pass on the benefits of financial surplus, but a failure to reduce poverty sharpened the focus on basic needs. The new approach proposed three themes: to increase income for the poor through labour-intensive production; to promote public services;

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and to encourage participation. However, participation remained narrowly defined (Mohan and Holland 2001: 182), while in most countries, only an increase in pro-poor public services materialized (Jonsson 2003: 2), with programmes designed to meet basic needs such as health, education and farming receiving donor agency funding. Despite the promises of the new agenda, the targeting of aid towards poor or excluded groups during this period proved to be a transitory phenomenon. The debt crisis at the start of the next decade, fed in part by private lending to Southern governments seeking to free themselves from the ties of increasing aid conditionality, prompted a swift retreat from human-focused development. The introduction of structural adjustment policies in the 1980s reflected a contraction of donor thinking, once again focused on narrow financial goals, with recipient states being required to enter into supposedly palliative financial administration in order to qualify for aid. Four decades of development had, therefore, been sufficient for aid policy to turn full circle, from the failure of economic growth strategies, to poverty alleviation and back to growth.

This characterization of development history offers a simple schematic of the dominant themes that arose following the moral and political collapse of the colonial system. However, while discourse, and investment, undoubtedly followed the trends outlined above, challenges to the ideologies and mechanisms employed in aid and development remained a constant feature. It is in this sense that rights can be seen as having had a continuous relationship to development throughout its history, even if the link emerged as a defining feature only after five decades of remaining largely hidden.

The 1948 Universal Declaration of Human Rights (UDHR) both coincides with the emergence of the modern development era and represents one of the strongest statements of rights as the mechanism for human realization. The UDHR not only redefined the relationship between the individual and global political order (Sano 2000: 737), but did so by declaring the individual to have both civil and political freedoms and the right to cultural, economic and social welfare. While the relationship between the different rights became disputed political territory, due in no small part to the polarization of global ideologies in the post-Second World War period, the unified presence of all rights in the UDHR is clear and relates to the goals of personal and social well-being that are synonymous with the modern development agenda. However, the separation into civil and political rights on the one hand, and cultural, economic and social rights on the other was reified by the approval of the UN General Assembly of two related, yet indisputably distinct human rights covenants two decades later in 1966 (the International Covenant on Civil and Political Rights [ICCPR] and the International Covenant on Economic, Social and Cultural Rights [ICESCR]).

As mentioned above, it was to take until the 1993 Vienna Declaration to secure rhetorical reconfirmation of the indivisibility that was clear in the text of the UDHR.

Outside the partisan power struggles of international politics, the inter-relationship between the rights identified in the UDHR and their centrality to development continued to be recognized. In 1959 at the New Delhi Congress of the International Commission of Jurists (ICJ), the indivisibility of rights was affirmed within an expanded understanding of the 'Rule of Law', a view reinforced in subsequent meetings of the Congress and through the urging of lawyers to maintain and enforce cultural, economic and social rights (MacDermot 1981: 25). Moreover, the ICJ traces its relationship with development back to this time and, in 1978, made its understanding of the relationship between development and rights clear: 'development should not be conceived of or understood simply in terms of economic growth, nor as an increase in per capita income, but should necessarily include those qualitative elements which human rights constitute and which provide an essential dimension' (ibid., p. 27).

Mohan and Holland observe that in the negotiation of the human rights covenants 'the priority [for newly independent African countries] was development' in which 'abstract debates about rights had little relevance to this cohort of modernisers who used centralised mechanisms to push through grandiose development plans' (2001: 180). This role, or rather absence, of human rights in development did not go unnoticed. As Tomaševski points out: 'the review and appraisal of the first UN Development Decade [the 1960s] encompassed in its critique of development the disregard of human rights' (1993: 12). The purpose of this criticism was limited to raising human rights awareness in development, seeking to ensure respect for human rights rather than extending to protection or fulfilment. The 1969 Declaration on Social Progress and Development, however, was significantly more forthright. Article 2 of the Declaration begins: 'Social progress and development shall be founded on respect for dignity and value of the human person and shall ensure the promotion of human rights and social justice.' The idea that development should 'ensure the promotion of human rights' is a radical statement at the end of a decade that struggled to shake off the economic imperative in development discourse and practice.

While the dominant paradigm of the 1970s shifted to anti-poverty strategies and basic needs, human rights remained a theme among those critical of or seeking to expand the concept of development. Participation came to be an accepted aspect of programming during this period. Although

predominantly focused on using local knowledge in development projects rather than popular political participation (Mohan and Holland 2001: 182), not all shared this narrow conceptualization. In 1976 the Director General of the International Labour Organization (ILO) observed that 'a basic needs oriented policy implies participation of people in making the decisions which affect them ... For example, education and good health will facilitate participation, and participation will in turn strengthen the claim for the material basic needs' (ILO 1976: 321). Basic needs, when taken in this broader sense, served to raise awareness of the fulfilment of human rights as fundamental, 'not as ends in themselves but also to contribute to the attainment of other goals' (ibid.). However, it is characteristic of an idea whose time had yet to arrive that the ILO's 1976 World Employment Conference resolution ultimately failed to include reference to the role of human rights.

Important developments did arise during the 1970s in which human rights gained a prominent profile, including the coming into force of the two international human rights covenants and the instrumental role of the Carter administration in exposing international politics to human rights. However, it was the third meeting of UNCTAD in 1972 that brought rights squarely into the development discourse through the claiming of the right to development by the governments of the South. Although it would be 1986 before the Declaration on the Right to Development would be adopted by the UN General Assembly, the idea gained significant momentum within the UN in the intervening years. In 1977 the Commission on Human Rights prompted the Secretary General to undertake a study into the international aspects of the right, and two years later the Commission affirmed the existence of the right to development (Alston 1981: 101). As part of his report, the Secretary General attempted to outline a definition of development. The content of this definition is worth reproducing here, if only due to its strikingly rights-based quality, and the Secretary General's opinion that it is representative of a 'general consensus' on the meaning of development in 1979:

> the central purpose of development is the realization of the potentialities of the human person in harmony with the community; the human person is the subject not the object of development; both material and non-material needs must be satisfied; respect for human rights is fundamental; the opportunity for full participation must be accorded; the principles of equality and non-discrimination must be respected; and a degree of individual and collective self-reliance must be achieved. (ibid., p. 102)

From this background it becomes less surprising to find that alongside

the rise of fundamentalist market economics, the momentum behind ideas that embraced both development and rights continued through the 1980s. The central and perhaps best-known advocate to emerge in this period was Amartya Sen. Sen has now become famous for challenging the technocratic approach to managed, welfarist economic development and introducing the notions of freedom, agency, capabilities and entitlement. Undoubtedly, his early 1980s challenges to conventional development wisdom and ultimate redefinition of the overall goal of development – development as freedom – has played a central role in the emergence and acceptance of the interrelationship between human rights and development. The link to rights is made strongly through the 'entitlement' concept, which captures those things that a person is in control of, or has command over, in life. Entitlements are acquired by virtue of the attainment of rights. Sen postulated that complex interdependencies link matters of life and death, such as starvation and famine, with rights, through the entitlements concept: mass starvation occurs through a lack of entitlements in a population (or more probably a particular, disenfranchised section of a population) rather than as a result of shortages in food production (Sen 1981). Moreover, through capabilities, Sen is concerned with the ability of individuals to choose and achieve different and important aspects of life (or 'functionings' in the Sen lexicon), encompassing physical needs (such as nourishment) through to more complex social elements of well-being such as participation and self-worth (Sen 1999: 74–6). In this latter sense, Sen's approach echoes the broader understanding of basic needs argued for by the ILO Director General some years previously, while more generally it is possible to see Sen's contribution as a coherent and, importantly, an economist's contribution to the ongoing rights-based discourse.

While the significance of Sen's work is beyond challenge, it remains important to see his contribution in the broader historical context: by situating Sen's ideas within a continuum of thought relating rights and development it is possible to see the eventual emergence of rights-based approaches as the product of an evolution in thinking rather than the result of a revolution instigated by the work of one individual. This context is also important for understanding how the emergence of rights-based approaches constitutes a significant break with previous development strategies. By providing a body of documents that identify rights as a challenge to mainstream development, the history of rights-based thinking offers a perspective that presents the recent emergence of rights-based approaches as the achievement of a contested goal rather than a simple 'repackaging' of the status quo (Uvin 2002: 2). The turn of the decade at the end of the 1970s provides several examples: the rights-based understanding of development

outlined by the UN Secretary General in 1979; Sen's seminal contribution; and the outcome of the ICJ's 1981 conference entitled 'Development, Human Rights and the Rule of Law'. Convened in the same year as Sen's work on famine was published, the conference brought the ICJ's understanding of the relationship between rights and development to a head. In a conclusion that is underpinned by the need for the indivisibility of rights, global action and revised social contracts – the pillars of the second human rights revolution – and that resonates with many of the chapters in this book, the ICJ synthesized three decades of discourse:

> the satisfaction of basic needs would be permanently achievable only with structural changes at all levels, local national and international, that would enable those concerned to identify their own needs, mobilise their own resources and shape their own future in their own terms. Development should, therefore, be seen as a global concept including with equal emphasis civil and political rights and economic, social and cultural rights. (ICJ 1981: 224)

## The emergence of rights-based approaches

The 1980s are now well known for the adjustment policies that formed the reaction to the debt crisis and the demands of the New International Economic Order (NIEO). However, the foregoing offers a view of how understandings of the role of rights in development were sufficiently broadly held, in institutions such as the ILO and the ICJ, in sections of the UN, and by individuals such as Sen, that they were sustained through the reversals of the 1980s. A critical backlash against structural adjustment emerged towards the end of the decade, embodied in concepts such as 'Adjustment with a Human Face', launched by UNICEF in 1987 (Cornia and Jolly 1987) and the World Bank's rhetorical engagement with poverty alleviation (Einhorn 2001: 26). UNICEF's influential challenge to adjustment advocated empowerment policies and people-centred development, and was scathing of the marginalization that had taken place under economic stabilization programmes (Jonsson 2003: 2). More broadly, Molyneux and Lazar identify a 'conceptual shift' across a range of large international NGOs towards the end of the 1980s, in which NGOs moved from being 'needs-based and service-driven to a more *strategic* approach, in which rights issues were increasingly incorporated into their work' (Molyneux and Lazar 2003: 6, emphasis in original). Thus, after several decades on the sidelines of development discourse, the failure of the neo-liberal reaction provided an environment receptive to an alternative development paradigm, allowing the human rights approach to emerge.

Recognition of the shortcomings of structural adjustment coincided with a profound shift in the global political context brought about by the ending of the Cold War. From a rights perspective, the most striking evidence of this change was the content of the Vienna Declaration. Released from the ideological stalemate of superpower politics, the Declaration was a work of compromise between North and South rather than East and West, in which the indivisibility of rights was conceded by the North in return for an acceptance of universality by the South. The broadening of the accepted definition of rights that took place at UN conferences throughout the 1990s (Hamm 2001: 1007) was aided by the increased participation of NGO representatives at international fora, including in influential agenda-setting processes (Molyneux and Lazar 2003: 23). Indeed, Molyneux and Lazar argue that NGOs operated decisively in the transformation of development priorities. With many NGOs having adopted the language of rights, the centrality of their role is demonstrated by the range of levels across which they operated in the 1990s: along with participating in the flurry of 'end of millennium' UN conferences, NGOs were influencing and being influenced by donors' demands for a broad-based, social justification for project funding, while also communicating and reacting to the concerns of their Southern partner organizations (ibid., p. 24). In societies that were transforming themselves from authoritarian regimes, civil and political rights were assumed, and used to demand cultural, economic and social justice. Social movements understood Katarina Tomaševski's observation that 'impoverishment and disempowerment are two sides of the same coin' and therefore 'economic and political governance ... became the target of popular protests' (1993: 5). Thus indivisibility finally started to be realized across a range of actors, not only from above in the rhetoric of governments, but crucially also in the emergence of 'development from below' (Sano 2000: 739). In terms of the emergence of rights in development, this transition towards a common recognition of all human rights proved crucial: as those who had articulated a vision of rights-based development had identified for more than three decades, indivisibility of rights forms the key element in the approach. Thus, with the ending of the Cold War and a consequent opening up of international politics, the threads of failing neo-liberalism, resurgent indivisibility, social movement activism and long-standing intellectual support combined to form a bond tying rights to development.

The contributors to this volume reinforce this view of rights indivisibility as a core component of rights-based approaches (see, for example, Brouwer et al. on Oxfam's five 'aims' and the importance of freedom of information, expression and assembly in sustaining short-term subsistence gains, and

citizens and civil society organizations. This is due primarily to its history of operational programmes, whereby Oxfam GB teams in country programmes work in direct collaboration with government, as well as with civil society. While this area of work is clearly important (Tomás 2003: 11–16), Oxfam is mindful that where governments are not genuinely interested in justice and promoting rights, a commitment to capacity building must not provide a façade to deflect criticism and action.

By contrast, Novib Oxfam Netherlands has consistently worked to strengthen the capacity of autonomous partner organizations and NGOs in particular, both at an internal/micro level (organizational development) and at an external/macro level (institutional development). Over time, this institutional development has deepened into alliance-building, lobbying and advocacy, and building citizenship, which is well illustrated in the Somali case study presented above. In a recent policy paper (Novib 2004), this standing policy has been reaffirmed: a strong civil society is crucial in order to create a system of checks and balances between the agency, the government and the private sector.

## A common language and a coordinated approach

As this chapter has demonstrated, a variety of methods to promote the fulfilment of human rights has emerged from the adoption of a rights-based approach across the Oxfams and in different national contexts. Although the emphasis and *modus operandi* of particular Oxfams may differ, common to all are the shifts that occurred when they redefined their work according to five rights-based aims and related strategic change objectives, and when programme and campaigning work focused on well-defined targets for holding institutions accountable for their policies and practices. Despite some differences in their ways of working, the Oxfams have demonstrated how a rights-based approach can be implemented in programmes and campaigns to transform a spiral of poverty and human rights abuses into a virtuous circle, in which rights holders benefit, and duty bearers fulfil human rights. This can take place at regional, national and international levels, or indeed – and most powerfully – at multiple levels combined.

The examples presented here illustrate efforts by one or more Oxfams to develop their rights-based approach further. One way is to assess the outcomes of partner organizations' work against rights-based aims and strategic change objectives. Another is to improve the awareness and capacity of duty bearers, either the state or multinational corporations, to meet their obligations to respect human rights. A third is to strengthen the voice of local actors through capacity building and multi-level advocacy

and media work. A fourth is to ensure that the full continuum of rights is addressed, whether by Oxfam or others.

While the implementation of a rights-based approach in terms of institutional accountability has become a significant feature across the work of the Oxfams, there has been less discussion and collaboration on an equally important component of the RBA: that of incorporating human rights principles throughout Oxfam's practice. These principles are of course enshrined in Oxfam's stated intent; but ensuring that they are consistently put into practice, not merely enshrined in institutional rhetoric, is a continuing challenge.

The extent to which Oxfam staff practise these principles in their day-to-day work depends on a whole host of factors, including levels of awareness, capacity and willingness to uphold the standards through programme and campaign cycles. It also depends on how well staff and their counterparts are supported to uphold these standards in the face of other organizational demands.[15] Arguably, Oxfam struggles with translating theory and good intent into good practice no more or less than the typical international NGO. But because of its increasingly high profile, it is particularly important for Oxfam to be mindful of its responsibilities when it describes itself as an agency with a rights-based approach at its core. A focus on global-level campaigning must not lead Oxfam to overlook the real situation of local communities, and Oxfam must meaningfully evaluate whether global successes are being translated into improvements for the world's most marginalized people. Rights such as the freedom of information, expression and assembly must be exercised everywhere, or short-term gains will be lost. Indeed, the requirements of broad-based campaigning and the increasing demands on CSOs for sophisticated planning and reporting mechanisms are in some ways competing with this imperative for attention and resources. Nevertheless, it is evident that mainstreaming the principles of human rights will be an increasing aspect of Oxfam discussions, both internally and externally with counterparts and other stakeholders, in the coming years.

Oxfam faces other challenges in implementing a rights-based approach. Many people are not aware of their rights, so awareness-raising will be a lengthy process. Some governments are not committed to protecting and promoting rights; even in cases where they express commitment, they may lack the necessary resources. And at times, Oxfam refrains from pressuring governments about specific violations, for fear of risking legitimacy or of creating future risks to staff and programmes.

Despite these challenges, the universal language of rights has helped the Oxfam affiliates and their partners to speak a common language, and

to express in authoritative and internationally accepted terminology the essential elements for achieving human development and global justice. The unequal power relations that constrain human development can be confronted more forcefully when international principles and instruments of human rights can be brought to bear on national legislation, and in turn citizens can draw on both levels to demand their rights. Rights-based development programmes and campaigns are an important complement to the longer-established activities of organizations dedicated to the protection of human rights. Working on these issues from the local level upwards, building the awareness and capacity to promote human rights, and joining forces and linking different actors and different levels are strategies that, when done well, give expression to Oxfam's quest for global equity.

## Notes

1 For more information, see Oxfam International (2000); available at <www.oxfam.org/eng/about_strat.htm> Hereinafter, references to programme or campaigns encompass both development and humanitarian goals and activities.

2 In this chapter, 'Oxfam' is used when it is applicable to the twelve affiliates of Oxfam International, rather than any specific affiliate.

3 When adopting the OI Strategic Plan 'Towards Global Equity' (2000), the RBA was one feature of the OI profile, the other three being 'humanitarian response and development action'; 'action, advocacy and learning'; and 'working with autonomous, local partners'.

4 For more on this vicious circle, see Williams (1995).

5 For an excellent overview of how an analysis of rights holders versus duty bearers is intrinsically linked to the action-oriented character of rights, and human rights in particular, see the contribution of Bas de Gaay Fortman in Boerefijn et al. (2001: 49).

6 Through claiming respect for and protection and fulfilment of rights. The legitimacy of development actors to contribute to fulfilling rights is described in an analysis of Henry Shue's work on the trinity of obligations (Brouwer 2001: 18).

7 The Millennium Declaration, adopted by the UN General Assembly in 2000, which has generated the Millennium Development Goals as specific targets for 2015, can be seen as a reaffirmation of the UN Charter.

8 The twelve Oxfams have organized their work globally into twelve 'regions' that form units for coordination and joint action.

9 For example, Oxfam GB's Global Citizenship programme has had a significant impact on the development of global citizenship studies within the UK National Curriculum.

10 Make Poverty History represents a shift in Oxfam's Education Now campaign towards a broader alliance and the goal of persuading governments and donors to achieve the Millennium Development Goals.

11 For more on this relational character of rights, see Lund-Madsen 2001: 3–4.

12 Interestingly, these are classified as elements of 'the human rights approach', 'the responsibilities approach' and, to a lesser extent, 'the human rights education approach' (Marks 2003: 5–6, 16–22 and 23–6).

13 The WTO panel found that $3.2 billion in US cotton subsidies and $1.6 billion in exports credits (for cotton and other commodities) contravene WTO rules. This represents almost all cotton subsidies and close to 50 per cent of all export credits used by the USA in 2002.

14 This emerged as a key priority during consultations conducted among the staff by Oxfam America and Novib Oxfam Netherlands on implementing an RBA. A comparison of the outcomes of those consultations may be obtained from the OI secretariat (Brouwer 2003).

15 For example, by taking advantage of opportunities for policy dialogue that do not permit thorough consultation with affected communities.

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## 3 | The case of CARE International in Rwanda

ANDREW JONES

Adoption of a human rights approach to CARE's work would mean that we view the people we assist as rights holders, and not simply as beneficiaries or project participants. Our central aim – across all our programmes – would be to facilitate, in collaboration with others, a process of self-empowerment of poor, disenfranchised peoples and communities in order to help them pursue and achieve progressively their rights, broadly defined, as human beings. This central aim would not deny the importance of CARE's provision of basic supplies and services, often critical to livelihood preservation and recovery as well as longer-term development. Nevertheless, across all CARE programmes, the provision of supplies and services would be thought of as a means to an end, and the end – the engagement of marginalized and vulnerable people in the realization of their rights – would be central to programme design, implementation and evaluation (CARE International statement, February 1999)

Over the past decade, many relief and development organizations have embraced and sought to integrate a human rights or rights-based approach (RBA) to their work. Such a shift reflects the growing recognition that development, at its core, is not about injecting resources and technical expertise to facilitate the delivery of basic social and economic services. Rather, it is about a much wider set of human conditions that enable people to live with dignity and to develop their full potential as human beings. This chapter is an attempt to present CARE's RBA integration process through the lens of its experience in Rwanda.

Rwanda is a country and society seeking to recover from a history of political and ethnic violence culminating in the 1994 genocide. The genocide had a devastating impact, leaving profound physical and psychological scars and reinforcing deep divisions in Rwandan society. A mere ten years later, the government and the population in general are faced with the overwhelming task of rebuilding, even as armed elements and sympathizers of the previous, genocidal regime remain at large in the region and a constant threat to Rwanda's security.

In Rwanda, government has long been dominated by a select few to

the detriment of the vast majority of the population. There is virtually no tradition of popular participation in public affairs. The freedoms of expression and association have long been suppressed by a heavy-handed state. Long-term institutionalized control (and often abuse) of power by a relative few has frustrated if not hijacked poor, marginalized Rwandans' development efforts. That said, the current government of Rwanda is making an effort through, for example, the poverty reduction and decentralization processes, to tolerate and even invite civil society participation and, to a limited degree, dissent. Most significantly, there is now some space for citizens, including women and youth, to participate in and shape development opportunities. Although the prevailing culture remains one of fear, distrust and silence, these are positive signs.

## From needs to rights: a look at CARE's RBA

*The wider CARE context* From its origins delivering CARE packages to post-Second World War Europe, CARE International (or CI) currently comprises twelve member CAREs in the following countries: Australia, Austria, Canada, Denmark, France, Germany, Japan, the Netherlands, Norway, Thailand, the United Kingdom and the United States. CI's secretariat is in Brussels. The organization provides relief and development assistance in more than sixty-five countries across Asia, Africa, the Middle East, Eastern Europe, Latin America and the Caribbean.

At the same time as CARE was developing new mission and vision statements in the late 1990s, the organization also was exploring a human rights-based approach to its work. This stemmed from an internal push to become a more principled organization and reflected the broader community's efforts to address the shortcomings of apolitical humanitarian aid and micro-level economic and social development programming, which had yielded far too little in the way of lasting, systemic results.

CARE's RBA initiative started, informally, with high-level discussions reviewing our work, especially our emergency response efforts, from a human rights perspective. These more theoretical discussions led to four country-specific case studies, through which CARE staff in different parts of the world and in a range of operating environments explored the implications of a rights perspective for their work. By the late 1990s, the initiative was formalized, with a full-time staff person dedicated to increasing staff understanding of RBA, promoting field experimentation with a commitment to ongoing learning, adapting organizational policies and systems to incorporate RBA principles and on-the-ground learning, and developing strategic alliances with like-minded organizations worldwide. Since that time, a growing number of CARE country offices worldwide have experi-

mented, more and more profoundly and systematically, with RBA in relief and development work.

Within CARE, we understand human rights holistically, as entitlements all people have to basic conditions supporting their efforts to live in peace and dignity and to develop their full potential as human beings. Those basic conditions span the spectrum of civil, political, economic, social and cultural rights. For CARE, as defined at a global conference in 2001, RBA means that:

1. We support poor and marginalized people's efforts to take control of their own lives and fulfil their rights, responsibilities and aspirations.
2. We stand in solidarity with poor and marginalized people whose rights are denied, adding our voice to theirs and holding ourselves accountable to them.
3. We hold others accountable for fulfilling their responsibilities towards poor and marginalized people.[1]
4. We oppose any discrimination based on sex/gender, race, nationality, ethnicity, class, religion, age, physical ability, caste or sexual orientation.
5. We examine and address the root causes of poverty and rights denial.
6. We promote non-violence in the democratic and just resolution of conflicts contributing to poverty and rights denial.
7. We work in concert with others to promote the human rights of poor and marginalized people.

These defining characteristics of RBA say little about practical implications, which depend on how an organization integrates in its operations a commitment to human rights.[2] One could argue that development organizations since long before the 1990s espoused principles such as participation and solidarity with the poor. What is really different about RBA, or is it just the latest packaging of good development work? Several important differences come to mind. First, the fact that such elements of good development practice become mandatory in a rights-based framework; there is nothing optional about participation when viewed as a human right, for example. RBA transforms relationships between governmental or development agencies and the recipients of their goods and services. RBA implies that development actors assume responsibility – morally if not legally – for the impact their assistance has on people's ability to realize their rights. Beyond that, three marked differences are worth highlighting.

First, RBA demands equal attention to process and outcomes. Process – in the form of genuine participation and relationships of accountability between poor people and responsible actors – represents, in and of itself,

the achievement of a human rights outcome. Process also is essential to the long-term, institutionalized changes needed to ensure that other human rights and poverty reduction outcomes are sustained. Second, RBA deepens the focus on people who face discrimination and exclusion in their communities and societies, people whose rights are systematically denied. Development assistance through a rights lens focuses on fostering respect for their equal dignity and worth and on enhancing their opportunities in life. A critical part of this equation is their right to participate meaningfully in public affairs, and especially to hold their leaders to account. Third, RBA tells us that we have to tackle legal, policy and socio-cultural issues impeding development at the roots, both to live up to our commitment to advance human rights and to make major and lasting gains in poverty reduction.

These changes, if fully put into practice, are radically different from traditional, mainstream development approaches. CARE and many other (governmental and non-governmental) development actors have sought to ground their work in human rights principles and norms for the better part of a decade now. Even where the commitment to change is genuine, change tends to be evolutionary as such a paradigm shift cannot take place overnight.[3] Part of the explanation for this is that RBA calls for internal, organizational change, which is extremely difficult because it shines the spotlight on our own shortcomings in respecting and fostering human dignity and rights. Yet only by going down this 'house cleaning' path can we be effective role-models and agents for change externally.

*CARE Rwanda's adoption of a rights-based approach* In Rwanda, CARE developed a long-range strategic plan in late 2000 and early 2001. At that time, the country was emerging from a decade-long period of strife, preceding and following the genocide in 1994. CARE staff reflected on their traditional aid philosophy, approaches and results and agreed that CARE had to do what it could, in partnership and alliance with others, to tackle the underlying causes of poverty and social injustice in Rwanda. Otherwise, the organization risked accomplishing little and, even worse, becoming part of the problem.

The final versions of CARE Rwanda's mission and programme goal, as refined at the mid-term strategy review workshop in December 2003, are as follows:

> CARE Rwanda's mission is to work alongside communities to enable them to overcome underlying and specific causes of poverty, achieve positive lasting change and live with dignity.

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By the end of June 2006 (i.e. the end of the current 5-year strategic plan), poor and marginalized communities targeted by CARE programming will have identified and taken action to address specific and underlying causes of poverty and fulfil their rights in peaceful coexistence.

The staff went so far as to identify rights (defined as 'respect for the dignity of all people', 'solidarity with communities' and the promotion of social justice) as a core value of CARE Rwanda. On paper at least, RBA became a central paradigm for all our programming. Of course, translating commitments on paper to daily practice is the hard part, and we are currently struggling with this. The staff is overwhelmingly Rwandan and thus comes from a culture where conformity and acquiescence to authority are deeply engrained. Moreover, in spite of favourable policy developments in recent years, the reality on the ground is not conducive to diversity of civic thought and action. The state continues to view NGOs as essentially technical assistants and subcontractors in the shared endeavour of developing the Rwandan population.

In the following section, I will describe our strategy for integrating RBA to development within CARE Rwanda, followed by our experience to date.

## CARE Rwanda's strategy for becoming a rights-based organization

*Internal transformation* CARE Rwanda's change strategy is predicated on the assumption that, in order to promote rights externally with any measure of credibility and success, we have to transform ourselves internally. The emphasis, externally, is on both empowering poor, marginalized groups and nurturing an environment enabling them to mobilize, express themselves freely and realize their rights. This is vastly different from traditional 'business as usual'. We thus have begun constructing a culture of rights at the workplace and, staff member by staff member, a heart-felt, personal commitment to advancing rights in our work. Without internal ownership of RBA, outward action is doomed to fail. The following objectives are guiding the change process:

1. Cultivate staff ownership of RBA, building on supporting values and norms in Rwandan culture/society and encouraging open discussion where there are tensions.
2. Weave basic and rights education, and support of the grassroots-level defence and pursuit of rights, into new programme and project designs.
3. Engage in policy dialogue at all levels with an emphasis on the commit-

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ment of resources and creation of opportunities for poor, marginalized Rwandans to realize their rights to participation in public affairs, health, education and an adequate standard of living.

4. Strengthen partnerships and alliances with Rwandan and international organizations sharing similar objectives.

It is impossible to view CARE Rwanda's internal change process, through which local ownership of RBA is cultivated, as anything but a long-term one. The process has been characterized by widespread curiosity among staff and, over time, a growing enthusiasm among a core set of committed colleagues. One key driver of this commitment is the clear link certain staff have made to the violations of human dignity and rights that have underlain Rwanda's episodic ethnic violence, and most notably the 1994 genocide. Colleagues increasingly realize that without grappling with the underlying societal issues that foster division and exclusion, CARE cannot and will not achieve much in terms of contributing to Rwanda's sustainable development. They also see increasingly how human rights norms and standards challenge, with a universal legitimacy, generations of social and political discrimination and control, of resources and opportunities for advancement by a relative few in Rwanda. They want to see real change in Rwandan society and systems of governance, even as they are acutely aware of the risks associated with challenging the status quo and are thus cautious in how they proceed.

Of course, in a society where open criticism of authority remains taboo, outright resistance to this shift in CARE's directions has not been highly visible, although there undoubtedly are many who are uncomfortable about the change process, particularly those who are risk averse. They may go along with it, at a surface level, but are not genuinely part of it. To address this problem, a central element of CARE Rwanda's approach has been to facilitate local leadership of the process. Even with a programme director who served as CARE's global rights-based programming adviser prior to coming to Rwanda, or perhaps especially because of this, emphasis has been placed on supporting emerging leaders from among the Rwandan staff. Emerging leaders were those who showed the most interest in learning more about RBA and contributing to its integration within CARE Rwanda. Nurturing these seeds of change, CARE Rwanda has invested in such colleagues' conceptual understanding of RBA and development of such an approach for application in the Rwandan context. This has resulted in the formation of a corps of change agents (or 'ambassadors') who are themselves driving the process (and not merely following for reasons such as job security). At the end of the day, sceptics are much less likely *genuinely*

to buy in to the change process on the basis of a foreigner's as opposed to a fellow Rwandan's appeals.[4]

With the emergence of a core group of Rwandan staff firmly behind the rights-based change process in CARE Rwanda, programme and project teams have engaged in a growing number of pilot initiatives to integrate rights analysis and action into efforts to combat poverty and social injustice. Experimentation ranged from new tools and approaches for poverty analysis and participatory programme design, monitoring and evaluation (DM and E), to non-traditional programme activities to complement our more traditional local-level assistance to community groups and service providers. Such new approaches are changing the way CARE defines and interacts with its primary constituency, towards greater focus on the poorest and most marginalized Rwandans and greater accountability for the results of its interventions. They also have brought us much more squarely into broader social and political arenas, well beyond the narrow confines of technical support to the health, agricultural, micro-finance and education 'sectors'. This is shifting CARE's relationships with civil society and with government.

I will focus the rest of this chapter on two practical changes to CARE Rwanda's programme DM and E brought about by RBA integration. These centre on how development assistance agencies (i) analyse the causes of poverty in programme planning/design processes and (ii) monitor and evaluate how they are doing. After presenting new approaches being tested by CARE Rwanda, I will close with observations on key challenges and opportunities for practitioners moving in the rights direction.

*From purely technical solutions to socio-political action: rights-based analysis and design* In Gikongoro Province in 2003, CARE Rwanda invested in a participatory, inclusive analysis of the underlying causes of poverty and rights deprivation. The objective was to go beyond the extensive data collection already undertaken for the government's development of its poverty reduction strategy, which was limited mainly to quantitative information and simple community rankings of priority needs. To do this, we applied our causal–responsibility analysis (CRA) tool, adapted from UNICEF (Jones 2000b). In brief, the tool links the analysis of causes of poverty to a human rights framework by identifying the rights issues underlying poverty and exploring the associated responsibilities and capabilities of key duty bearers. Such information is then used to design interventions that can help to bring about more responsible, rights-based action to address conditions of poverty.

In this case, the analysis uncovered a range of factors driving poverty

in the province, including social discrimination and exclusion, limited educational and economic opportunities, and ineffectual, unaccountable governance. It also helped to shed light on key responsible actors and why they are not doing more to address the underlying issues, and thus generated ideas for rights-based programming in response. Table 3.1 provides a sense of the results generated in this case.

Application of the CRA tool is one tangible example of how RBA is changing our programme analysis and planning process to take into account and respond more explicitly and deliberately to the rights violations that create and perpetuate poverty and conflict.

So what has CARE Rwanda done to translate such analysis into action? We are currently looking to integrate this in-depth analysis, as much as possible, in our Gikongoro programme planning and design processes through a rights-based programme approach. A rights-based programme consists of a set of focused and mutually reinforcing activities – some project-based, some non-project-based; some carried out by CARE, many carried out by others – that are based on strong social analysis of underlying causes of poverty and social injustice and that, over time, lead towards the sustainable achievement of a common rights goal. Key elements of the definition are the following:

- activities are focused and mutually reinforcing, not scattered (as projects in a 'sector' sometimes are)
- many activities are projects, but some might not be (e.g. basic government programmes, advocacy efforts, mediation and dialogue efforts)
- CARE carries out only some of the activities; others are also important
- some activities within a programme may be relatively technical but these need to be combined with other efforts designed to contribute towards a more fundamental, rights-based goal
- strong social analysis informs the programme goal and its activities
- each programme must be custom-made for its own social and political environment
- the time-frame is longer than a project
- the goal is sustained change in the form of achieving a rights-based goal for poor, marginalized, and vulnerable groups (Ambler 2002)[5]

CARE Rwanda's Gikongoro programme is heavily focused on HIV/AIDS, with short-term, essentially emergency, funding behind it. What the CRA analysis is helping us to do is maintain a broader focus on social and political factors that prevent people living with HIV/AIDS (PLWHA) and AIDS widows and orphans from improving their conditions and frustrate

TABLE 3.1 Causal responsibility analysis in Gikongoro province

| Underlying human rights-related causes of poverty | Potential actions in response |
|---|---|
| | Working with partners, empower poor and marginalized people and encourage and support government efforts to: |
| Governance issues: i.e. factors affecting the access to, and sharing of, power in the public sphere | • Promote free access to information on decision-making processes, especially planning and budgeting, at all levels, and make them more participatory and inclusive<br>• Promote transparency and accountability of public officials and others in positions of power vis-à-vis the population |
| Economic opportunities: i.e. factors affecting people's ability and opportunity to generate income | • Enhance agricultural production and facilitate better access to markets (pro-poor and -marginalized land policy, road and communications networks, marketing associations/networks)<br>• Facilitate better access to credit (savings and credit associations/societies, favourable regulatory environment)<br>• Strengthen people's ability to cope with the environmental constraints affecting agriculture |
| Access to basic education: i.e. factors preventing or hindering children from getting basic education | • Promote understanding about, and enforcement of the government policy on universal primary education (addressing cultural values and norms standing in the way)<br>• Address the issue of child labour<br>• Promote understanding of family planning and effective access for all to family planning services |
| Social discrimination/exclusion: i.e. factors resulting in the marginalization of certain segments of the population from decision-making processes and the benefits of development and other resources in the province | • Promote tolerance and accommodation among all members of the population (addressing deep-seated discriminatory attitudes and stereotyping of certain groups, raising awareness on human rights and responsibilities, promoting equitable access to public resources and opportunities)<br>• Promote transparency and accountability (vis-à-vis marginalized groups) of public officials and local leadership |

their efforts to live with dignity and self-worth. Donor funding, not surprisingly, is concentrated on technical interventions to strengthen the health system, provide access to voluntary counselling, testing and anti-retroviral therapy for those PLWHA who qualify, and provide care and support to

PLWHA and AIDS widows and orphans to alleviate their suffering. All of this is vitally important, but it does not address deeper societal issues related to ignorance about HIV/AIDS, stigma and discrimination against PLWHA and AIDS orphans, exploitation and exclusion from governance.

In developing a rights-based programme approach, CARE and its partners and allies are beginning to address these issues, even if funding is directed mainly at short-term health goals. How? CARE's rights-based response to HIV/AIDS extends, through community mapping and action planning[6] and the use of popular theatre and radio, to community awareness raising and dialogue on the conditions and expressed demands of PLWHA, widows and orphans and, through strengthening paralegal capacities and outreach, to the provision of legal aid services for those who have suffered abuses. Such efforts call for longer-term investments and new types of partnerships, but they are critical to defending personal security, engendering community inclusion and solidarity, and assisting marginalized groups' participation in public affairs. Importantly, they also can be sold to donors on the basis of their contribution to the achievement of mainly short-term health results.

*From top-down to bottom-up accountability: rights-based monitoring* In Gitarama Province, CARE Rwanda is experimenting with a participatory, interactive monitoring tool designed to provide a regular forum for the orphans and vulnerable children (OVC) we serve – approximately 2,250 child-headed households (CHH) across seven districts – to critique our work and to suggest new approaches and directions for our interventions. The pilot tool is designed for the children to hold CARE and others who are, or should be, providing assistance to account. A limited set of questions is asked every four months, confidentially and in a safe environment, of selected children involved in CARE's programme. CARE and local partner representatives will report back each time on how we have taken into account OVC feedback from previous gatherings in current approaches and future plans, with space made for them to critique the steps we have taken. What is unique about this approach is its emphasis on accountability; affording OVC regular opportunities for scrutiny of CARE's and others' actions and committing ourselves to respond, directly to them, is at least an initial attempt to share power and control over the OVC programme. The tool is grounded in a child rights perspective, which is pushing us to respect more fully children's right to be heard and, at the same time, raising our awareness on a broader range of living conditions associated with children's well-being.

In light of the fact that CARE's standard monitoring and evaluation

system already collects periodic data on basic social services and economic indicators, we have focused data collection in this complementary pilot initiative on other factors pertaining to children's well-being, such as discrimination, protection and participation. That said, the tool preserves space for the orphans and vulnerable children to raise their own, self-identified priority issues. The first round of testing of this tool – carried out in June and July 2004 – brought out major issues that previously may have been suspected but never systematically tracked and acted upon. Table 3.2 illustrates key issues identified by the children themselves and provides a sense of how CARE is responding.

This pilot approach to monitoring and accounting for the results of our work with orphans and vulnerable children has provided direction to our staff and to local partners and volunteers, and plans are being made to test such an approach in CARE's other programmes across Rwanda.[7]

## Challenges and opportunities for rights-based programming

RBA implies a whole new perspective on how international NGOs engage with national civil society and governments. Traditionally, CARE's local civil society partners served essentially as subcontractors and we paid attention mainly to whether they could carry out the required (by CARE) task and little else.[8] We are now looking more deliberately to get behind civil society partners that are genuinely representative of and accountable to the poorest, most marginalized Rwandans and, based on their constituents' priority problems and proposed solutions, are willing to speak out and act on their behalf. We understand this agenda to be central to our RBA and believe poor Rwandans will not be able to lift themselves out of poverty unless and until they can exercise such rights.

By 'speak out', I do not necessarily mean publicly or confrontationally, but with conviction and persistence none the less. This is a major issue in Rwanda, where all too often national CSOs are unwilling to express independent views or positions on public affairs for fear of being perceived to be 'political'.[9] Many such CSOs lack a grassroots base anyway and cannot speak genuinely on behalf of groups they supposedly represent.

An independent CSO has its own constituency and is committed to responding to and representing that constituency. It does not follow blindly what governments are doing but, on the basis of its constituents' views and demands, critically examines and engages governments with the ultimate aim of improving their Rwandan constituents' conditions.

In spite of the Rwandan government's efforts to encourage citizen participation, their appreciation for, indeed tolerance of, critical review is still limited, which affects the degree to which civil society asserts itself. On

TABLE 3.2 Accountability to orphans and vulnerable children in Gitarama Province

| Major themes and recommendations | CARE's planned response |
|---|---|

### Belonging/community relations

'They do not treat us like other children – they rebuke and beat us; we live alone and no one can protect us', teenage boy

'They do not treat orphans as human beings; you wonder if you insulted God! In reality, they are jealous because we get assistance from CARE', girl head of household

- Conduct vulnerability mapping exercises with communities, encouraging all to see OVC as a community problem to which they have to respond together
- Provide assistance to communities based on participatory analysis and agreement on the most vulnerable

- Organize, through the OVC programme's advisory committee, discussions with local leaders on vulnerability mapping
- Develop specific criteria for determining the most vulnerable CHH
- Undertake detailed planning of vulnerability mapping exercises and carry them out
- Organize meetings with donors to promote flexibility in programme implementation – a participatory process for the selection of beneficiaries requires a heavy investment of time and resources

### Protection

'After my parents' death, my paternal uncle took our banana plantation', teenage girl

'I saw some boy running after a child, having [sexual] relations with her, and threatening that, if she says anything, he will kill her', child, under twelve

- Conduct child rights training with local authorities and have them present their responsibilities to CHH
- Document cases of property and sexual abuse for advocacy
- Strengthen links with legal aid providers and facilitate access for victims of abuse
- Continue to sensitize OVC about their rights, the responsibilities of others, and legal recourses

- Organize meetings with CHH associations to discuss their ideas for sustainable development activities (reports to be shared with and taken into account by CARE staff, as much as feasible)
- Educate heads of CHH on the importance of communicating all information they receive through CARE's interventions to their younger siblings and of involving them in household decision-making
- Look to initiate and support mass media communications through which OVC themselves describe their lives and contemplate their futures
- Train local leaders in the rights of the child and help establish forums through which OVC's real needs and priorities are expressed and incorporated into local-level planning processes
- Elaborate a child rights training module for CHH within psychosocial training already underway
- Continue child rights training for those authorities who have not yet received such training
- Create partnerships/networks for documenting and communicating abuses
- Initiate and facilitate discussions with responsible actors at different levels to establish procedures to protect CHH

### Participation

'They [local authorities] do not ask us to tell our problems; they take decisions for us', boy, head of household

'CARE involved us because we requested goats [for manure] and CARE gave them to us', boy, head of household

- Consult OVC in design and implementation of all project activities
- Educate children on how to involve younger siblings in decision-making
- Hold discussions, in which children have a central voice, with local authorities and communities on the vulnerability of CHH

TABLE 3.2 Accountability to orphans and vulnerable children in Gitarama Province (continued)

| Major themes and recommendations | CARE's planned response |
|---|---|
| *Empowerment* | |
| 'If CARE could put children into handicraft schools, we could find jobs ourselves because we want to solve our needs', boy, head of household | • Continue food distribution while preparing all except the most vulnerable recipient CHH for phase-out in one year |
| | • In the meantime, provide small livestock and agricultural inputs, train CHH further in business literacy and micro-savings and loan (for micro-enterprise) activities, and expand activities designed to increase OVC access to basic education |
| 'The authorities could request community assistance to build the houses that collapsed', boy, head of household | • Encourage and support CHH in the sustainable use of their resources (e.g. land) |
| • Continue to respond to immediate needs, strengthening community and government commitment and capacities, while initiating more long-term, sustainable interventions | • Develop an approach/methodology to facilitate OVC identification of the causes of their problems and solutions |
| • Strengthen OVC capacities to resolve their own problems | • Apply the approach within associations of CHH and community volunteer mentors and follow it up with regular monitoring by OVC themselves |
| • Assist OVC to identify and contribute to addressing the underlying causes of their problems | |

the one hand, President Kagame himself has recognized the role of civil society organizations as constructive critics of the government,[10] and, within certain boundaries, there is space for engaging in public affairs. CSOs have engaged in the PRSP process and in the development of national policies relating, for example, to land, education, including civic education, HIV/AIDS and orphans and vulnerable children. On the other hand, organizations pushing more aggressively[11] for changes in government policies, practices and plans, risk crossing the line between being 'constructive' critics and mere critics. If that line is deemed to be crossed, CSOs risk being labelled political opposition, or, even worse, 'divisionist'.[12] Of course, to protect the Rwandan people in a society still deeply scarred by what happened in 1994, the government has an obligation to regulate very tightly any genocidal forces operating in the country. A central challenge in Rwandan society is distinguishing between such extremists and Rwandans in general who, though diverse in their views, want to construct a better future for themselves and their country.

Looking ahead, Rwandans need to transform their largely ethnically-driven, negative perceptions of each other and the social division that festers as a result. An essential way forward in this regard is to open space for honest discussion among Rwandans and between Rwandans and their government on the state of affairs in the country. To nurture this, CARE is supporting civic education and promoting public dialogue and debate. For example, CARE is one of some forty organizations active in Rwanda's Peaceful Coexistence Network. The Coexistence Network was initiated by UNHCR, through its Imagine Coexistence Project, in 2000 and housed at CARE from mid-2002 until early 2004. The Network provides a forum for national and international NGOs, government officials, donors and researchers working in the field of peace and reconciliation to exchange experiences and ideas contributing to the reconstruction and consolidation of a peaceful society in Rwanda. Monthly meetings of the Network seek to create an environment marked by respect for divergent opinions and a spirit of trust and openness in the pursuit of mutual learning and action on behalf of peace and reconciliation, although progress in this direction has been slow, with some authorities showing little tolerance for criticism of government policy and practices.

Working with other Network members, CARE's intention is to foster such fora at decentralized levels, as a way to contribute to popular participation in public affairs, which remains a foreign concept to ordinary Rwandans and their leaders. The government-backed decentralization process offers a real opportunity to advance this vision, even as changing popular attitudes, perceptions and practices, grounded in generations of

top-down, authoritarian rule will require a long-term, fundamental change process.

CARE's RBA does not preclude strong working relations with government; in fact, on the contrary, it underscores the importance of building such relations. Even as CARE Rwanda supports the (slowly) emerging civil society in the country, particularly groups representing poor, marginalized Rwandans, it is committed to raising the awareness and strengthening the capacities of public officials to fulfil their human rights and poverty reduction responsibilities. This translates into more regular, honest engagement on the conditions of poor, marginalized Rwandans and what actions need to be taken by the government, with assistance from CARE and others, to advance a culture of human rights and sustained progress towards rights realization and the reduction of poverty. Ultimately, RBA holds the potential for deeper, more meaningful, collaboration with government, at times seeking to persuade responsible authorities to do the right thing and, where mutual commitment is there, striving together to achieve shared goals.

CARE recognizes that poor people's realization of their human rights is a monumental, long-term challenge. RBA calls, necessarily, for a sustained, collective effort on the part of a range of concerned actors. Thus, CARE seeks to build coalitions and alliances for rights realization, as is being done currently with like-minded organizations – including government ministries (for gender and the promotion of the family, education, etc.) – dedicated to putting in place a rights-based strategy and action plan supporting the hundreds of thousands of orphans and vulnerable children in Rwanda.

## Final reflections

What lessons can be gleaned from CARE Rwanda's experience integrating RBA? The most important overall lesson is that integrating RBA takes time, especially in a polarized society still struggling to overcome conflict and construct independent civic space. Even in a more favourable country environment, RBA integration is not easy. For one, major institutional funding of development NGOs comes through 'project' windows. NGOs like CARE implement a series of projects for their respective donors. Each project is a self-contained unit, with its particular design, budget and reporting requirements. The project-based system of development aid breeds tubularity, with little space for synergy and broader, more strategic thinking across interventions. It also breeds insularity, as different NGOs implement 'their' different projects largely in their own worlds. The result is that the kind of collective, multidimensional approaches needed to attack the roots of poverty, including the denial of rights, are difficult to piece together in practice. At another level, donor governments and their tax-paying constituents increasingly want to see immediate, tangible pay-offs from their investments. The result is pressure for rapid-fire results that generally discourage reflection and longer-term efforts to change the more fundamental structures and systems underlying persistent poverty and rights deprivation. All of these factors work against a rights-based programme approach. To place development programmes in a longer-term, rights framework requires transcending short-term timelines, 'output' (as opposed to 'impact') thinking and project boxes.

Above and beyond these broader, systemic issues, the Rwandan context is particularly resistant to rights-based change, in spite of not insignificant political will. Even as stated policies and priorities of the Rwandan government have changed in pro-rights and pro-poor directions in the last several years, deeply entrenched social and political systems and practices remain largely the same. Hierarchical leadership, passive acceptance of the status quo, and a culture of silence, rumours and mistrust, are not conducive to pro-rights change. Deep societal divisions colour every Rwandan's view of the world and choices about with whom to relate and how. Politically, they fuel government suspicion, thereby limiting civic space and at least the short-term prospects for participatory, rights-based development. Full adoption and effective implementation of RBA to development will take time, as well as considerable political acumen, diplomacy and personal conviction and courage in the Rwandan context.

Even while we recognize that change takes time and persistence, there are a few additional lessons to guide CARE and others' approaches. One key to success is to find and get behind progressive thinkers and change agents, both on the staff and in the wider society. The old maxim about strength in numbers is critical in contexts such as Rwanda, and real rights-based change can be moved forward only by passionate, bright and courageous people working together. Thus, efforts to build national staff commitment and coalitions and alliances among like-minded organizations are essential.

Another key to success is to exploit windows of opportunity furnished by the government. Rwanda has seen some very positive policy development over the past few years, including the PRSP, the democratization and decentralization policies, most provisions of the new constitution, and specific legislation covering women's rights and the rights and protection of children. This pro-rights and pro-poor legal and policy framework provides a solid basis from which to pursue rights-based development in Rwanda. One can debate the depth and breadth of government commit-

ment to such policy developments, many of which came into being with a strong push and extensive technical assistance from the international donor community. Still, the legal and policy framework is in place to make real rights and poverty reduction progress. All too often, policies and laws are passed without adequate follow-up. Rights-based development organizations should help to focus everyone's attention on the commitments made in pro-poor, pro-rights legislation and encourage and assist, by demonstrating practical approaches that work, their fulfilment. Of course, one has to appreciate the magnitude of the task in a country like Rwanda; still, real if incremental progress towards rights realization should be expected by all involved.

Another key lesson from CARE Rwanda's experience is that lower-profile, more local-level actions to empower poor, marginalized people to develop their full potential and stand up for and contribute to their development are less threatening than higher-profile, national-level work on behalf of human rights and poverty reduction. This is especially true in countries with politically controlled environments. The point here is not so much that decentralized action is further from the radar screen of national governments but that major progress at national level cannot be constructed without a foundation – and a foundation can be built only from the bottom up, through long-term investments in changing social attitudes, perceptions and practices, and corresponding political institutions. Starting small is not an excuse for avoiding major, underlying causes of poverty. The ultimate aim of RBA has to be systemic change, independent of external support, that achieves lasting gains in human rights and poverty reduction.

Finally, no matter where NGOs/CSOs applying RBA choose to intervene, risk assessment and management become supremely important. CARE Rwanda's experience shows that transparency, regular communications and relationship building with leaders are essential. Proactive engagement helps to minimize misunderstandings, smooth over potential differences of opinion, and not just avoid trouble but strengthen shared commitment to rights and poverty reduction goals.

In conclusion, the pilot application of RBA is central to CARE Rwanda's change strategy, allowing us to test what works in practice. While the theory has been clear for some time now in CARE Rwanda and the wider development world, appropriate and workable ways for putting the theory into practice have been much harder to pinpoint. Experimentation leads to 'demonstration plots' that CARE staff and other development actors can observe and draw inspiration from, refining their thinking and future actions in the process.

## Notes

1 CARE has taken the view that all development actors have an obligation to respect and foster human dignity and rights. Whereas state actors, including national governments and multilateral government agencies (i.e. the World Bank, European Union), have legal obligations to respect, protect and fulfil human rights, CARE's view is that, as moral beings, we are all obliged to respect each other's rights and to do our utmost to assist their protection and fulfilment. This reflects CARE's view that human rights represent more than just a legal code; more fundamentally, they represent an ethical framework for human relations.

2 It may be helpful to consider two approaches. The first could be termed a *'violations'* and the second a *'promotional'* approach. The former focuses on denouncing violations of human rights and on enforcement through legal remedies. The latter emphasizes positive ways to engage governments, important non-state actors, civil society organizations and poor marginalized communities themselves in the pursuit of rights through education, dialogue and advocacy. While both of these approaches are necessary, CARE generally is adopting the latter, promotional approach. In any case, CARE country offices worldwide are grappling, to one degree or another in a range of contexts, to put these characteristics into practice (Jones 2000a).

3 For many development agencies, a human rights approach has become central to their policies and plans in recent years. That said, the level of awareness and (especially) ownership of such approaches in the field varies considerably. On the whole, my sense is that official policy pronouncements from home offices in 'the North' barely filter down to decision-makers on the ground and thus scarcely influence their actions. In other words, changes on paper, even seemingly radical changes, can all too easily amount to the same wine in new wineskins.

4 How can I be so sure that emerging leaders are not simply following to gain the favour of senior management? My assertion is necessarily impressionistic and perhaps somewhat wishful; I have, after all, invested a lot of my time over the past couple years in this! That said, one development that supports the assertion is that I have observed ambassadors challenging CARE's internal policies and practices and pushing for them to be better aligned with human rights principles, which is a relatively confrontational and risky business. Such courage and energy would not be exhibited without heart-felt commitment.

5 For an abbreviated version developed for CARE Rwanda staff, see Jones (2004).

6 Community mapping refers to a participatory and inclusive process through which representatives from all segments of society – including government and especially vulnerable and marginalized groups – come together at local level to analyse the underlying causes of their HIV/AIDS-related vulnerabilities and the responsibilities they all have to address those causes. Action planning refers to the planning process that follows such analysis, through which various actors agree to intervene in complementary ways to reduce or at least mitigate their communities' vulnerability to the causes and consequences of HIV/AIDS.

7 The potential for advocacy based on the results of such monitoring efforts is clear and already being realized informally. CARE Rwanda also sees this as an opportunity to promote more systematic monitoring of OVC conditions by government at all levels.

8 This, of course, all too often reflects our own mere subcontractual relationship with donor agencies.

9 Even as an international NGO with member organizations predominantly in much freer, Northern societies, CARE is only slowly evolving to assert its independence from donor governments and challenge policies and practices that are detrimental to poor people around the world. The evolution in this direction is essential to our 'walking the talk'.

10 See, for example, Maina and Kibalam (2004: 71), citing an 8 August 2002 speech by President Kagame.

11 In other words, confrontationally – in this day and age in Rwanda, the government is not receptive to anything other than a low-profile, collaborative approach.

12 Rwanda's new constitution guarantees free thought, opinion and speech but, at the same time, forbids 'all propaganda of an ethnic, regional, racial *or divisive* character' (see Arts 34–35). What constitutes 'divisive propaganda' is left undefined. Rwandan CSOs alleged to be divisive are at great risk and inevitably have to curtail their activities. International agencies (including CARE) have been accused of contributing to ethnic division as well, for supporting allegedly divisive Rwandan groups.

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# 4 | Rights in practice – assessing the impact of rights-based training in Uganda

PAMELA ASHANUT OKILLE

... as we let our own light shine, we unconsciously give other people permission to do the same. (President Nelson Mandela, inaugural speech, 1994)

There is increasing international attention focused on the importance of human rights to development, more specifically, a recognition that pure service delivery has not resulted in sustainable change, so there is a need to shift to a more demand-driven and rights-oriented approach. The idea of addressing human rights and bringing about lasting change in structures that contribute to the entrenchment of poverty is not new. However, there have been a few successful efforts to integrate these ideas into programmes and activities aimed at poverty reduction. There are some examples, but the challenge is to articulate and translate these so that they can be understood and made useful in various contexts.

In Uganda, as in other developing countries, key donors and the government have recognized the central role that human rights play in relation to poverty eradication and development. In response, various initiatives are being implemented to promote and generate discussion among civil society organizations and government agencies, on the relationship between human rights and development, and what this means in practice.

Between 2002 and 2004, eighty-six women and men attended a course entitled Applying Human Rights to Governance and Development. Developed by the Danish International Development Agency (DANIDA), through its Human Rights and Good Governance Programme (HUGGO) in Uganda, and the International Law Institute, Uganda (ILI-U), this course provides space for the participants to discuss the dual role of civil society – advocacy and service delivery – and to explore how these roles can be enhanced through the application of the rights-based approach (RBA) to development. The course targets civil society organizations (CSOs) that operate at district level, within a decentralized system of governance and therefore deals with realities at the local level. Recipients of this training include national CSOs, district-based CSOs and local government officials. The initial training was carried out in 2002, followed by a national training course in 2003

and district-based trainings in late 2003 and early 2004. The course is arranged under four modules that cover human rights (including national and international legal frameworks), civil society, the RBA to development, and CSO roles under the decentralization framework.

After three years of application, HUGGO and ILI-U decided to study the impact of the course. In addition to exploring the overall impact of the training and methodologies applied, the study also examines the participants' understandings of human rights and particularly RBA in practice, thus contributing to ongoing national and international discussions and debates on the efficacy of the approach. A study was thus commissioned in May 2004 to assist the exploration of the aforementioned issues. The methodology used was administration of a questionnaire and follow-up discussions/interviews, as well as a study of available documentation on the course.

The study and this chapter are a result of conversations and interactions with forty-nine women and men who work in east, west and central Uganda. The teachers, doctors, lawyers, accountants, NGO workers and journalists who experienced this training have given us the opportunity to share their lives, their work and to hear stories of their courage, perseverance and optimism. This chapter reflects these conversations and offers a glimpse of the impact that applying human rights can have, providing encouragement in a situation where most perceptions of the viability of rights are rather negative. It therefore offers insights on possibilities and opportunities to be built upon in future initiatives, and in so doing will inspire those who are doing human rights work to let their light shine too.[1]

## Perceptions and understandings of human rights

In response to a question on specific new topics learnt, 58 per cent of the responses focused on the area of human rights. Of these, 72 per cent were exposed to learning in the area of international human rights instruments, including the African mechanisms (African Charter on Human and Peoples' Rights and its implementing organ the African Commission), for the first time. Of much interest were the enforcement mechanisms, and how relevant they are to the Ugandan context, as well as knowledge of instruments that the Ugandan government has ratified. Four responses identified new learning in linking the Ugandan constitution to international instruments, and the awareness that CSOs can appeal against human rights violations using the constitution and international instruments. One female participant expressed awareness and exposure to women's rights for the first time, as follows: 'As a woman, I did not know that there are rights for me.'

Fifty-two per cent of the respondents indicated that their perspectives of local government, specifically in the area of accountability, had changed, and that they now understood that local government officials as duty bearers had a high level of accountability. One respondent, specifically referring to accountability in planning and budgeting processes, stated that, '[w]e have the right to participate in budget processes; they [local government] should not plan for us'. Twenty-five per cent of these responses focused on a new perspective that local government officials should be considered as partners of CSOs, and highlighted the importance of local government and CSOs working together for development. One respondent stated: 'I thought that the local government had nothing to do with CSOs but now I know they need to work together for development.' Another 21 per cent emphasized the need for local governments to be more conscious of rights and to integrate the RBA to development in their work. Further changes in perspectives included the recognition of central government as a duty bearer and therefore as ultimately responsible for the rights of citizens.

Eighteen per cent of the responses mentioned that they had realized the importance of CSOs working together in order to attain their common objective of respect for human rights. Thirteen per cent of the responses on CSOs focused on the recognition of the importance of accountability of CSOs to their constituents.

Twelve per cent of the respondents indicated new topics directly related to the concept of the RBA to development. The distinction between duty bearers and rights holders was a new area. One response stated that '[h]uman rights need to be given priority to enhance development', and another that '[d]evelopment is people-oriented and so people should be consulted'. In response to questions that sought to explore their understanding and perception of RBA, the responses can be divided into seven main categories: (i) 13 per cent indicated that RBA highlighted the importance of participation, one respondent stating, 'I have understood the need to avoid token participation', and in terms of the relationship between rights and methodology for participation, '[I am] more sharpened on rights and how to approach the masses'; (ii) 6 per cent indicated that RBA highlighted the importance of participation in government development processes; (iii) 26 per cent responded that RBA means and requires increased consciousness of the rights of others and confidence to challenge rights violations; (iv) 37 per cent pointed out that RBA means human rights are part of development, and therefore, as one respondent stated '[d]evelopment strategies should not hinder human rights'; (v) 6 per cent linked RBA to the importance of dealing with political issues; (vi) service delivery was seen as an obligation, as one respondent commented, 'I come to realize that service delivery to the country is an obligation and a privilege so much that the

country doesn't need to merit it, they deserve it by right, and no conditions should be applied'; (vii) RBA as information flow and advocacy.

The boxes below contain stories that capture some of the different perceptions and understandings.

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### Box 4.1 Rights at work

Nasta works with the AIDS Support Organization (TASO) in Mbale. The Mbale TASO branch is a model office in Uganda in terms of management and successful operations, and Nasta is proud to be one of the team that does so well. She told us that before she attended the ILI-U course she firmly believed, like many in NGOs, that what mattered was attainment of targets and outputs within a given time-frame. So, as the person in charge of the counselling section, she used to demand results from her staff without any concern for staff interests and issues. As a result, her relationship with her team was characterized by lack of openness and dialogue. However, after attending the course she has become more flexible in her approach to dealing with staff. She states: 'I appreciate RBA in relation to management and understand it this way, that as organizations run there is a framework within which they must view the people they work with. All the staff have rights, they are individuals in their own right – there are some slow performers, fast ones and others need to be motivated.' Nasta enjoys a better working relationship with her staff and strives to ensure that staff in all circumstances have the right to be heard.

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### Box 4.2 RBA and programming

Emmanuel is a member of the Rwenzori Anti-Corruption Coalition in western Uganda. In a discussion on his perception of RBA, he stated: 'I see the RBA as encompassing everybody and touching on basic rights such as that to food, shelter and health. The RBA helped me recognize that one is born with these rights and they are not given.' He further elaborated that 'because of the RBA training, I now know that before any development programme there is a need to identify the rights to be fulfilled and how people will benefit. After assessing the development programmes against the rights, the beneficiaries can determine whether the programme will help them or not.'

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### What has been done differently?

All the participants were affected differently by the course and applied the information gained in their lives and workplaces in accordance with their designated roles and responsibilities. Seventy-two per cent of respondents indicated that they had done something differently as a result of the training. Ultimately, the course was able to create shifts in the mind-sets and attitudes of the participants. These shifts have been manifested in the way they relate to their families, other people, their colleagues, duty bearers and their constituents.

For instance, 80 per cent of the respondents indicated a change in their attitudes towards their families, particularly their children and wives, who are now considered to have equal rights, notably the right to be heard. One particularly pointed out that '[r]ights and governance should start with the family', and another stated that he had realized that 'respect for individual rights can boost the self-esteem of each member of the family'.

Fourteen per cent mentioned increased confidence and capacity to train others in human rights-related issues, and 20 per cent indicated increased confidence to take action on matters of rights concern, including in the following instances: demanding a list of tender awards from the district administration; confronting police about corruption; helping people to come out of police custody without paying a bribe; resolving conflicts among women voters; and an increasing ability to demand one's own rights. Twenty-two per cent indicated changes in personal development that had led them into doing some things differently, such as acquiring email, reading more and attending more rights-related activities. Sixteen percent stated that they had generally increased interest in government programmes, while 28 per cent of the responses indicated things done differently in their organizations, with heavy emphasis on the use of participatory planning.

The examples in the boxes below (pp. 104–6) overlap with those cited above to indicate that changes were not just in perceptions, understandings and values, but also extended to changes in practice.

### Challenges/obstacles to applying RBA

Since most of the respondents related the application of RBA at district level to their capacity and ability to influence and engage with local government officials, many of them (25 per cent) indicated the lack of commitment by local government as a key challenge. This is particularly reflected through the local government not having time for them because of a busy schedule and other commitments. It was specifically mentioned that 'local governments are too busy attending workshops on the Poverty Eradication Action Plan (PEAP), Local Government Development Plans (LGDP), etc.'.

## Box 4.3 Improved dialogue and listening

Rosemary is the deputy head teacher of ADRA Primary School in Mbale. She stated that she has been able to apply the insights and knowledge from the course to her school situation through having more dialogue with the pupils, i.e. giving them a right to be heard. Formerly there was a communication gap between teachers and pupils. This is what Rosemary referred to as a 'more dictatorial approach to learning' in which 'you would sit on a teacher and the teacher would in turn sit on the children'. However, she has created more space and time to meet and discuss with teachers, who have in turn been more open to listening to their pupils and the result is that the children feel freer to express themselves. Rosemary understands RBA to be 'giving a platform to an individual and the individual knowing and exercising their rights towards sustainable development'.

## Box 4.4 Applying RBA to policy and legislation

Bernard works at the Ministry of Gender, Labour and Social Development and attended the course in 2003. He has had various opportunities to use the information gained from the course since then in his work. One of his great achievements so far is his work in spearheading and ensuring the drafting of the proposed Equal Opportunities Bill and policy that are currently before cabinet. In his words, these documents are 'fully rights sensitive'. As a result of this and other contributions he has made on RBA, he has been co-opted on various policy task forces, most recently on the one drafting an adult literacy policy, and he is specifically charged with working on the policy guidelines and the policy and legal framework, all of which will need to be 'rights sensitive'.

Bernard has participated in and facilitated CSO training workshops on RBA, participated in radio talk shows and workshops on the right to health, and in a case study on best practices on RBA that assessed the work of his ministry. In his view, RBA is a tool that empowers individual and communities. He thinks the key ingredient to ensuring the application of RBA is to create paradigm shifts, so that people stop perceiving others as recipients of services, but as rights holders who have a say in what they are provided.

## Box 4.5 RBA and women's rights

According to Margaret, a member of KALI (Karambi Action for Life Improvement), a community-based organization in Kabarole, western Uganda, 'the RBA opened my eyes to specific rights of women. I came to realize that rights are free and are for all.' Margaret is a local councillor and her efforts have mainly focused on advocating for the rights of children and women. When local council budgets are being drawn up, she ensures that issues of concern to women and children are included in the budget.[2]

She asserts: 'I am more confident and know that I should not be unduly harassed. For example, I have to ride a motorcycle to do my work and I used to be afraid of traffic policemen. After the training I now know that if a policeman demands to see my permit I have forty-eight hours within which to produce it and that I can present it at any police station. I have also been able to sensitize other motorists of this. I can challenge anyone who infringes on my rights. I have full capacity.'

Margaret also said that 'as a woman I have grown up knowing that when a man divorces you, all you can do is pack up your belongings and go. Now I know that women too have rights to property and can demand a share of the property. I will give you the example of a woman in my village who was married officially. After several years of marriage her husband decided to divorce her and send her away with nothing. I spoke to her about her rights and referred her to the constitution as well as helped her approach Legal Aid who are now assisting her present her case in court. I am confident she will win the case and get compensation from her husband.'

Another respondent mentioned that the leaders felt challenged by them and insinuated that they were politicking and interfering with their work. This was also alluded to by two other respondents who emphasized that they are perceived as people who were stirring up trouble as follows: 'Some local leaders are blaming us for opening the people's minds about human rights.' A female respondent mentioned that 'people complained that these women would be big-headed'.

Another group of respondents pointed to organizational barriers from bosses and workmates who do not appreciate RBA. This means that while they believe in ensuring that human rights are mainstreamed into their

## Box 4.6 Using rights language

George, also a member of the Rwenzori Anti-Corruption Coalition, has been using 'rights language' in his interactions with the authorities and said that '[w]henever a policeman senses that you have some knowledge of your rights they will treat you with more respect and will not intimidate or harass you. For instance, whenever I ask a policeman, "Please officer, can I know your number?" he senses that he might get in trouble later if he is up to anything funny, and usually will not pursue a request for a bribe.'

George stated that he is also more confident in seeking justice. Recently, someone who didn't know how to drive drove into his aunt's house. The matter was reported to the police and the car impounded. However, both the car and driver were released and the police seemed to lose interest in the case. He has taken up this matter on behalf of his aunt and asked the police to ensure the case is followed up and his aunt compensated.

He believes RBA works, and says that 'we are now able to demand and assert our rights. We who were trained are even sensitizing others. The RBA should be improved by sensitizing others as well.'

organization's programmes, this is not a view shared by other members of the organization.

Twenty-three per cent of the respondents mentioned ignorance about human rights among people at the grassroots as a key challenge. One specifically mentioned that 'grassroots partners find it hard to conceptualize rights'. One participant pointed out that there is a 'not possible' attitude among the community. This is particularly challenging because members of the community need to appreciate the value of human rights before they can respect these rights, as well as demand the fulfilment of their rights.

It was also pointed out that it is difficult to get people to congregate and listen to messages on human rights because people do not gather unless they are assured of money for their transport or lunch. It is particularly challenging for the respondents who are keen to share the knowledge they acquired, and yet they do not have any funding for such costs.

### Conclusion and recommendations

The training was relevant and has been able to influence attitudes and mind-sets which are at the centre of human rights work, i.e. the values

and belief systems. People have been able to apply RBAs in their lives and work to varying degrees. The challenge is to provide support to sustain this momentum, and work on providing other people with the opportunity to experience and benefit from the training. Among the specific recommendations made for the course were the following:

1. The great interest and appreciation of the module on human rights legislation and enforcement mechanisms may indicate that the respondents have observed a way to enforce respect for human rights and hold duty bearers accountable for human rights. However, the judicial and social/political environment may not augur well for the justiciable approach, the training should therefore emphasize the search for alternatives, 'home-grown' alternative ways of ensuring accountability that can work within the participants' specific contexts.

2. The training should have a follow-up module that further explores the challenges of applying RBA. This module should build upon the participants' experiences in applying RBA. It should also include a component on power relations and how they are manifested, particularly in the relationship between local government and CSOs. The area of gender analysis can provide insights on how to analyse and address power relations.

3. Many of the respondents related RBA to participation, and more specifically participation of the grassroots, the most vulnerable and those who are often discriminated against. This may be an area worth exploring further through questions such as: Who are the poor and vulnerable in given situations? How are they identified? CARE International and the Community Development Resource Network, in Uganda, have carried out research in this area.

4. Not all the respondents participated in the action planning session of the training and, even then, no mechanism was put in place for review and follow up of these plans. ILI-U should consider providing follow-up support to trainees, and encourage participants from the same locality or working on similar issues to provide support to one another.

### Notes

1 This chapter is an abbreviated version of a report of a study carried out for DANIDA HUGGO, and the ILU-U, entitled *Rights in Practice: Exploring the Possibilities and Opportunities that Applying RBA Presents* (September 2004).

2 Local councils consist of elected representatives and are a structure within the local government system.

Antunes and Romano [ActionAid Brazil], defining a struggle for the right to food in terms of a fight for citizenship). They provide a wide-ranging argument for a holistic interpretation of the indivisibility and interdependence of human rights, including not only civil-political and economic-social rights but also process and outcomes; multiple levels from the local to the global, top-down and bottom-up approaches, and a Northern NGOs focus on home government policies as well as the international arena (Brouwer et al., Oxfam; Jones, CARE Rwanda; Jonsson, UNICEF); public and private actors/spheres (the everyday); and new as well as existing rights extending to include both individuals and collectives (Antunes and Romano, ActionAid Brazil; Ensor, consultant). The case study chapters demonstrate the indivisibility of human rights in practice, and as a fundamental component of good development practice. Through concrete examples, such practice can genuinely inform a theoretical understanding of indivisibility that is coherent and grounded in reality.

Undoubtedly, a broader range of factors than those outlined above combined to forge a new consensus around rights at the start of the 1990s. Perhaps most significantly, the search for a normative discourse with which to address an increasingly globalized world with multiple and diverse nodes of power, along with a pre-existing international framework of rights standards and mechanisms contributed as underlying, rather than proximate, causes for the emergence of rights (Hamm 2001: 1007; Mohan and Holland 2001: 180). It is also an oversimplification to suggest that rights arrived into a world that was remade at the end of the 1980s; structural adjustment has since been rebranded and found a new home in some Poverty Reduction Strategy conditionalities, rather than having been displaced entirely; the broader neo-liberal paradigm lives on through economic globalization (Hamm 2001: 1007); and the gradual dismantling of Cold War institutions and ideologies has been neither rapid nor complete (demonstrated, for example, by the USA's ongoing refusal to ratify the ICESCR). However, without the positive synergies between component parts of the second human rights revolution, realized to a large extent through the many faces of indivisibility, it would have remained unlikely that an idea as potentially challenging as rights would have taken root as a developmental concept at all.

Despite theoretical and rhetorical convergence, the content of rights-based development differs with regional and thematic focus and with the degree of institutional commitment to and particular understanding of the relationship between rights and development. This diversity is apparent from the contributions in this volume, but core commonalities can also be identified. Maxine Molyneux and Sian Lazar, in examining the role of

rights in development projects in Latin America, identify a number of key elements common to rights-based practice in the region. In particular, they highlight building 'micro–macro linkages' to transform personal values and interpersonal relationships as a crucial step in actualizing the content of otherwise abstract legislation. Similarly, they describe the process of 'changing mentalities' in which those who express their needs move from a focus on charity and favours to being claimants with rights (Molyneux and Lazar 2003: 9). These themes are also common to the rights-based practice detailed in this volume and are significant in taking up the challenge that rights represent. Rather than seeking only technical or quantifiable outcomes, an engagement with rights stimulates a political transformation in which the ideas that rights represent in a particular context are drawn out and emphasized in ways that are relevant to everyday life, in socio-political as well as legal processes. Such transformations can challenge established, often hierarchical structures within society and are therefore not uncontested. Moser and Norton bring this aspect into sharp focus by demonstrating how rights may be used as an entry point to challenge power relationships. Used in this way, rights offer both a tool for analysis of who owes a duty to whom and a mechanism for framing the legitimate claims that are identified (Moser and Norton 2001: 16).

Molyneux and Lazar's study develops the transformational aspect of rights by highlighting their use as a mechanism for 'strategic action' that encourages active participation and at best will 'empower the poor to analyse their own personal situation, attribute responsibility and work out the means to improve it'. Further, by assisting the poor to 'find their own voice' and thus define their own development objectives, the projects in the study are found to be both more effective and more likely to be sustainable (Molyneux and Lazar 2003: 10). Taking up the importance of voice, Urban Jonsson, a major contributor to UNICEF's human rights approach and the author of a chapter in this volume, sees communication as being of central importance to rights-based practice, with rights realization 'triggered by the process of communication; that is by an interaction between claim holders and duty bearers that admits the former into the decision making process'. Communication of this sort is characterized as an empowering, two-way, interactive process that enables claim holders to identify desired changes, and is contrasted with 'behaviour change strategies' that are designed to persuade marginalized people to adopt desired practices (Jonsson 2003: 27; also see Jonsson's contribution to this volume).

At the level of policy, the Office of the High Commissioner for Human Rights (UNHCHR) in the Asia-Pacific region instituted a study in 2002 of the emerging features of rights-based approaches to development (Nguyen

2002). Drawing on the documentation of eighteen UN agencies, development cooperation agencies and NGOs, the study identified four 'levels' of integration of rights into the development process.[6] The policies surveyed reveal different understandings of the causal relationship between development and human rights at each level of integration, described under the headings: successful development leads to respect for human rights; respect for human rights contributes to sustainable development; realization of human rights as a goal of development; and realization of all human rights as the ultimate goal of development. The range of attitudes described by the four categories demonstrates that within the field of development the role that is afforded to rights remains extremely variable. In the first category, rights are seen as an outcome of development and therefore only incidentally related to intervention programming. Illustrative of this understanding is the World Bank, which takes the view that 'the advancement of an interconnected set of human rights is impossible *without development*' (ibid., p. 3, emphasis in World Bank original). However, the latter three categories all see rights as an increasingly integral part of the development process, with the final policy group in fact inverting the relationship and defining development itself as the achievement of human rights.

The analysis provided by the UNHCHR study demonstrates that an institution's understanding of the relationship between rights and its function (in this case, development) is fundamental in determining the role that rights play. For some organizations, rights are mentioned only to locate their work with respect to what is perceived to be the latest terminology or trend. Others, however, identify rights as instrumental to or even as the definition of their function and purpose, and set their policy goals accordingly. Those organizations that fall into Nguyen's final category, in which development is defined as the achievement of rights, include Oxfam and DFID, whose overarching rights-based principles are summarized as: 'accountability, equity, non-discrimination and participation. Situations are analysed through a human rights analysis framework, which ... poses questions about power relations within society: political, economic, social and cultural' (ibid., p. 6–7).

A review of the policy documents of NGOs such as ActionAid and CARE reveals that this integrated role of rights in development practice is representative of many interpretations (ActionAid 1999; CARE 2002), including those found in a study examining Danish rights-based aid policy: '[the policies studied reveal a focus on protection of individuals and groups against power exertion ... a focus on non-discrimination, equal opportunity and participation ... a focus on enabling support that allows individuals

and groups to lead a life in dignity, free of poverty, with access to certain minimum standards of living, health, water, and education' (Sano 2000: 751).

These examples point to an interpretation of the rights-based approach in which the central components of development work, such as participation and empowerment, are reclaimed and repoliticized from neo-liberal instrumentalism and mainstream appropriations by powerful institutions such as the World Bank. Participation, for example, is not a needs-based consultation for specific projects but becomes a more inclusive and democratic process of popular involvement in decision-making over decisions that affect people's lives, based on rights and responsibilities (Cornwall and Nyamu-Musembi 2004). Moreover, these interpretations point to an approach that constitutes a challenge to power. Some of the infrastructure of this challenge has been outlined already. Expanding the range of those considered rights holders and duty bearers, in relationships in which the latter individuals/actors are reframed as accountable, is not a neutral act. Many contributors to this collection suggest that rights-based approaches address the root, structural causes of poverty and conflict. Poverty is understood as a symptom of deep-rooted inequalities and unequal power relationships, in short as a state of powerlessness and rightlessness (Akerkar, ActionAid India; Brouwer et al., Oxfam; Mander, consultant); and human rights abuses are conceived as symptoms and structural causes of conflict (Galant and Parlevliet, Centre for Conflict Resolution). If rights violations underpin poverty and conflict, the relevant relationships and situations need to be transformed by questioning power and resource imbalances. Interventions focus on the poorest, the marginalized, on discrimination and inequalities, and seek to mobilize, empower and more. Rights-based approaches problematize policy trade-offs that are harmful to the poorest, and both help to protect people from the unjust exercise of power and can be used to challenge power (Jonsson, UNICEF).

The experiences relayed by Antunes and Romano (ActionAid Brazil) specifically focus on reclaiming power for the poor and marginalized from social systems that perpetuate inequality. Populist, elite politicians who provide services but prevent the formation of people's organizations and drug gang bosses who provide public services across their territory in exchange for loyalty, are identified as the power holders that have trapped populations in poverty and dependency. The struggle for sustainable food and nutrition for the poor is therefore met by developing the agency of and providing support to community groups and social movements, who in turn offer an overt challenge to the dominant political authority. Notably, a key contribution of the international NGO in this work is the provision

of accurate information, for example on the extent of malnutrition or the numbers of people migrating due to poverty, highlighting the relationship between knowledge and power (see also Akerkar's description of ActionAid in India).

O'Brien (CARE, Afghanistan), while acknowledging that aid has always been political, makes the useful distinction between capital 'P' 'Political' and lower case 'p' 'political'. The former is partisan, promotes particular political actors and non-consensual values, whereas the latter asserts that aid should be informed by certain core, higher, consensual or universal political values and takes sides to the extent that it is pro-poor. O'Brien's argument is that the core political values of humanitarianism (neutrality, impartiality, humanity) have been found wanting in complex politicized scenarios such as the 'war against terror', and need to be supplanted by the values or principles of human rights. All such values are 'political' because they inform processes through which resources and power are allocated and used. O'Brien explores how a rights-based approach has enabled humanitarians to provide a principled response to aid 'Politicization' in Afghanistan, addressing specifically the core dilemmas of the militarization of humanitarian action and funding. O'Brien argues that the rights-based approach can give NGOs the ability to define and affirm their own values when faced with competing political demands.

The challenging of power can take a wide variety of forms at a concrete level. Recipients of a human rights training course in Uganda spoke of a new confidence that would help them to raise human rights concerns and challenge violations, from demanding a list of tender awards from the district administration to seeking justice. Again, knowledge is a form of power:

> [w]henever a policeman senses that you have some knowledge of your rights they will treat you with more respect and will not intimidate or harass you. For instance, whenever I ask a policeman, 'Please, officer, can I know your number', he senses that he might get in trouble later if he is up to anything funny, and usually will not pursue a request for a bribe. (Okille, DANIDA/ILI-U)

Similarly, Akerkar (ActionAid India) reports that, for several of those involved in projects set up following the communal violence in Gujarat, the engagement with rights was a 'transforming experience', giving them the confidence to challenge authority and fight for justice.

Jones (CARE Rwanda) states that the rights-based approach reorientates NGOs from purely technical solutions to socio-political action. So, for example, CARE's programme in Gikongoro province, heavily focused on HIV/Aids, complements technical interventions such as strengthening the health system and access to voluntary counselling, testing and anti-retroviral therapy, by attempting to emphasize the deeper societal issues of ignorance about HIV/AIDS, stigma, discrimination and exclusion. Jones also raises the issue of resistance to the rights-based approach, both within CARE Rwanda itself as well as society and the broader body politic. In a polarized and fragile society, recovering from genocide and with little by way of a culture of public debate and participation, there is a political sensitivity to anything perceived to be divisive and limited space for the critical engagement and challenges to the status quo that rights-based approaches require. Okille (DANIDA/ILI-U) and O'Brien (CARE Afghanistan) concur that assertions of rights can be seen as a threat or irritant by those in power. This insight is nuanced by noting that a lack of understanding of the processes of change can be a central problem; Tomas (UNDP) asks how rights-based actors can manage change in both the realization of previously repressed rights and in the location of decision-making power in such a way as to minimize or mitigate the challenge to vested interests.

Various issues are raised by this discussion of rights and power. Perhaps the most important is again Evans's point: does a rights-based approach attempt to transform radically, or simply modify, the prevailing neo-liberal economic order? This, in truth, is not clear from the contributions to this book. While rights-based approaches can be top-down and appropriated from above, they can also take their place in a long history – spanning anti-colonial and anti-apartheid struggles, campaigns for the Right to Development and the New International Economic Order (NIEO), and the ongoing activities of social, anti-globalization and anti-war movements – of attempts to use, construct and appropriate rights from below to challenge power holders. However, while the rights-based approach identifies structural concerns, can it transform them? The challenges to power often appear local and fragmentary (within particular projects or NGO programmes) rather than systemic, with structural factors often beyond the control of the relevant actors. Jones (CARE Rwanda) states that '[t]he ultimate aim of RBA has to be systemic change, independent of external support, that achieves lasting gains in human rights and poverty reduction', while for Antunes and Romano (ActionAid Brazil) '[t]he biggest problem in the fight for existing or new rights is how to consolidate ... practices and obligations, in order to not depend on politically favourable governments'. How structural change might be achieved requires much greater clarification, both conceptually and practically. A further issue requiring more research is how NGOs combine a strategy of challenging power with relationships characterized by partnership, collaboration and varying degrees of financial

dependency. Finally, and as a related point, it should be noted that the application of a rights-based approach, and reframing relationships in terms of rights holders and duty bearers, does not inevitably result in resistance or conflict. As the chapters by Jarman (Institute for Conflict Research) and Galant and Parlevliet (Centre for Conflict Resolution) show, the successful acceptance and internalization of rights and responsibilities, both one's own and those of others, by a range of actors, can defuse rather than ignite conflict.

The history of the relationship between rights and development highlights the role played by the broader political context in defining the emergence, function and impact of rights. The emergence of the rights-based approach during the 1990s rather than the 1980s, for example, had more to do with the international political reconfigurations that took place during each period than with changes in appreciation of the need for rights. What, then, is to be the role of rights in the new millennium? Undoubtedly, the post-9/11 context has yielded setbacks through a flexing of muscles by economic and military power holders against rights. New challenges to indivisibility have emerged as focus is drawn away from economic and social and towards civil and political rights, both through new attacks on liberty (internment including at Guantanamo Bay and in the UK; abuse including at Abu Ghraib; and crackdowns throughout the world under the guise of the 'war against terror') and through attacks 'for' liberty (Afghanistan, Iraq). However, the experiences described in this volume repeatedly highlight how rights assume greater relevance when attacked or when they are systematically denied to populations and, moreover, the framework for action provided by rights becomes even more necessary and relevant in places such as Afghanistan and Iraq where the space for intervening is narrowed by the 'war on terror' (O'Brien, CARE Afghanistan). Just as the history of rights is characterized by advances and setbacks, the contest over ownership of rights, and their very meaning, is now continuing in new political contexts. Current and past challenges to the role of human rights in development will no doubt be matched by new variants in the future as local and global political environments evolve; the task for rights-based practice is not only to respond to the changing environment but also to play a part in shaping it.

## Critiques of rights-based approaches

This section by and large summarizes the arguments of key authors who have critiqued rights-based approaches. It is structured thematically and each section ends with a set of questions raised by the critiques. The questions should be seen as challenges to which subsequent chapters

and the Conclusion need to rise. The Conclusion to the volume returns to the questions posed in the Introduction, and attempts to provide some provisional answers drawing not on academic or policy literatures, but on the practice-based contributions in this book. Three critiques are addressed in some detail: overreach, politicization and false hope.

*Overreach* Accusations of NGO overreach have been levelled at facets of work ranging from moral and political ambition to operational skills and capacity.

For humanitarianism, Rieff (2002) argues that overreach has its origins in frustration at dealing in failure, with a limited, isolated role addressing short-term needs rather than long-term, systemic, root causes. Haunted by the mantra that there are 'no humanitarian solutions to humanitarian problems', Rieff argues that humanitarianism invested in the idea of itself as a force for social transformation, a force to build new societies. Overthrowing the Taliban, for example, appeared to be a much better way of meeting the humanitarian needs of the Afghan people than trying to work with an essentially obstructionist regime. This has led humanitarians to look beyond relief to human rights, but also to intersections with development, peace-building, conflict resolution, democracy and good governance. Rieff condemns 'holistic' humanitarianism as 'anything and everything' (2002: 272); 'a serious, wonderful, and limited idea has become a catchall for the thwarted aspirations of our age' (p. 335).[7] Chandler, citing Nicholas Leader's (1998) classification, makes a similar argument about humanitarianism's 'deepening' (solidarity and advocacy for victims in conflict situations in terms of protection, security and human rights) and 'broadening' (from humanitarian relief to longer-term development) (Chandler 2002: 26–40). Crucially, for Chandler, this overreach is more interventionist in scale and duration, requiring NGOs to seek the support of states and international institutions. These developments looked as if they might ally humanitarian objectives to the power and resources to ensure success.

Overreach required an emphasis on complementarity and coordination, which Rieff submits to trenchant critique. These processes have operated across principles, policies and actors. Rieff argues that not all competing claims – '[t]ruth and justice, peace and justice ... human rights and humanitarianism' (2000: 283) – can be reconciled. For one, rights often conflict with each other. The question of whether principles clash spans the fields of human rights, humanitarianism, development and conflict resolution, for example in relation to the relief–development continuum, the convergence of human rights and development/humanitarian discourses, and peace versus justice. In Duffield's view, the complementarity of development

and humanitarianism, founded in rights, is claimed by the development community in order to secure its own future in the face of an almost continuous history of failure. If humanitarian action suffers or is sacrificed as a consequence, it 'would appear to be a price worth paying to maintain the concealment and responsibility of the development profession' (2001: 93). Duffield is similarly forthright in denouncing a regime that embraces conflict resolution and post-war reconstruction: 'one could well argue [that] donor governments are expecting a child to do the job of an adult' (p. 88). However, for advocates of a rights-based approach, the binding glue in these proposed complementarities is human rights, seen as the clearest bearer of shared values, and as a means of addressing abuse of power, inequality, the root causes of problems and providing sustainable solutions. Human rights can appear particularly prone to being appropriated as a source of legitimacy for failed discourses and an answer to everyone's problems. There are also questions about whether NGOs have the capacity to undertake the necessary analysis and interventions.

The frequently claimed tension between peace and justice can be depicted in the following terms: 'conflict managers' stress a swift end to war, which may require compromise and amnesties, while the 'democratizers' emphasize human rights, prosecutions for perpetrators, democratic institutions and the rule of law (Baker 1996). These approaches are shot through with differing emphases on processes and outcomes, pragmatism and principles, short-term and long-term objectives, immediate needs and structural causes, that lend themselves to claims of incompatibility on the one hand, but also complementarity and the need for coordination on the other (see Galant and Parlevliet, Centre for Conflict Resolution). The call for greater coordination has been directed at all levels, from international interventions to local, community programmes. Putnam (2002), for example, argues that international human rights organizations need to show greater tactical and political flexibility, particularly in the early stages of peace implementation, balancing the 'enforcement approach' to human rights protection with an emphasis on providing education/training and building domestic institutions, such as the police force and judiciary, on which the former approach depends. Her assertion is that human rights are best served by coordination, integrating human rights into peace implementation missions and collaborating with post-settlement governments. At a national and community level, contributors to a recent issue of *Human Rights Dialogue* (2002) indicate that in conflicts such as those in Northern Ireland and Sri Lanka, which are characterized by inter-group tensions, splits within and between human rights and conflict resolution approaches can mirror splits in society. In such contexts these political and politicized

appropriations may in part be overcome by greater coordination. But, as Rieff reminds us, the price of such coordination can be high.

If humanitarian actors have embraced greater coordination, within and beyond the humanitarian system, the result has, for Rieff, been confusion, a blurring of lines between, say, NGOs, states and militaries. NGO–state links are not new – American humanitarianism has a long tradition of cooperation with government and was deeply implicated in US Cold War foreign policy – but they have expanded and deepened dramatically in the post-Cold War era, in large measure due to a dependency on state funding, with NGOs often becoming, in effect, subcontractors. These interrelated issues – funding; the subcontracting of previously state functions in welfare, service provision, development and humanitarian relief; resulting implications for independence and accountability – affect NGOs across all the issue areas addressed by this book.

What Rieff calls 'state humanitarianism' crowds out autonomous humanitarian space, in part because one way in which its power is exercised is by subordinating humanitarianism to other agendas. Most provocatively, humanitarian objectives have been used as a rationalization for war. Other examples, such as the role of the UNHCR as 'lead agency' and gatekeeper for the humanitarian effort in Bosnia, powerful in relation to the NGOs yet powerless in comparison with the major states, similarly brought home some of the stark realities of coordination infused with unequal power relations. Rieff prefers the more modest aims of an independent humanitarianism – of Médecins Sans Frontières (MSF) and French humanitarianism more generally[8] – over the prevailing ethos of linkages, coordination and mainstreaming. Thus, for him, the implication of stressing complementarity and coordination is a third C: cooption: 'Historically, no social movement has ever succeeded for very long in retaining sole custody of the ideas it has championed or the values it has tried to stand for. Cooptation has been the historic destiny of most if not all large moral ideas' (Rieff 2002: 288).

The encounter with state power and institutionalization is fundamentally transforming. Mohan and Holland make a similar point with regard to human rights and development: 'The emergence of RBD [rights-based development] discourse ... has created an operational space for an absorption of the rights agenda within the neo-liberal policy frameworks' (2001: 182), and 'the neo-liberal establishment has successfully repositioned itself with respect to the rights-based agenda by championing accountability, transparency and the role of citizen participation in demanding their rights' (p. 183).

The theme of overreach speaks directly to the challenges that characterize

ize the second human rights revolution: complex relationships between diverse actors; complementarity, coordination and cooption in new regimes of governance; the challenge of whether to work with or against governments (see Rieff 2002: 291); and struggles over the appropriate role for and meaning of human rights, including the search for appropriate duty bearers and rights indivisibility. Under the umbrella of 'overreach', this volume will seek to address the following questions:

- Is there evidence for the claimed complementarity between human rights and other agendas such as development, humanitarianism and conflict resolution in the search for more holistic, longer-term solutions?
- Is it possible to say in what circumstances coordination, notably with states, leads to negative results (incoherent organizational mandates, blurred divisions of labour, cooption) or positive outcomes (increased influence and effectiveness, maintenance of space for independent action and effectiveness)?
- Do NGOs and IGOs have the capacity to operationalize rights-based interventions (especially when it involves working outside traditional areas of knowledge and competence, significant retraining, the capacity to do necessary research and political analysis, and so on)?

*Politicization* One of the most frequently articulated challenges to the growing influence of human rights is that it politicizes NGO work that is often more traditionally thought of in the guise of various combinations of independence, impartiality, neutrality and so on.

The politicization of humanitarianism for relief agencies, for example, is a result of the wider role humanitarianism has come to play in global politics. The humanitarianization of world problems represents a form of depoliticization and political disengagement by states. Hence the bleak view that in countries of little strategic interest, humanitarian assistance became the paradigm for North–South relations in the post-Cold War era (ibid., p. 87, citing a UN official in eastern Congo). As Bosnia and Rwanda exemplified, where states, the media, and to some extent NGOs, characterize political problems as humanitarian, humanitarian relief can become a substitute for real political action, and an alibi for state inaction and a lack of political will. States could simultaneously appear to do something while substantively doing nothing. Humanitarianism, so the critique goes, became an impediment to genuine understanding and appropriate action. And humanitarian agencies found themselves mired in their powerlessness, dependencies and complicity (here the allegations range from complicity

in ethnic cleansing and helping to stop Bosnians leaving for the West in the former Yugoslavia, to assisting the Rwandan *genocidaire* to regroup in the refugee camps of eastern Zaire/Congo). 'It is now commonplace to read of humanitarian aid prolonging wars, feeding killers, legitimising corrupt regimes, creating war economies and perpetuating genocidal policies' (Chandler 2002: 43). The primary sickness afflicted the major power-brokers (states and, to a lesser degree, the UN), but a secondary ailment affected the humanitarian NGOs (Rieff 2002: 123–93).

The irony is that at the same time as states and inter-governmental actors have sought at least rhetorically to depoliticize their activities – although the post 9/11 era of accentuated aid politicization has stripped some of this mask away – shrouding foreign policy in a mantle of humanitarianism and human rights, NGOs have embraced human rights as politics. Aid has been identified by NGOs across the development–humanitarian spectrum as inherently political. And the embrace of human rights was an acknowledgement of this fact, a means of contesting the depoliticization of foreign policy *and* 'Politicization' of aid and of driving the rubrics of expanded-/over-reach, confronting power and longer-term sustainability in complex, compromising political contexts and emergencies. Set against this trend and cutting across the categories of humanitarianism, development and conflict resolution, some practitioners remain wary of human rights politics to the degree that it is perceived to judge and marginalize constituencies they feel need to be engaged with in the humane and pragmatic pursuit of basic needs and peace. The depoliticization/politicization nexus is thus a nuanced one, dividing NGOs and other actors internally and from one another.

The engagement with politics and human rights means many things: advocacy and the lobbying of governments to live up to their responsibilities; forms of political analysis and calculation; a framing of development, humanitarian and conflict resolution work in terms of rights and responsibilities; a preparedness to withhold aid and assistance, and even withdraw from particular situations, if it is calculated that they will prolong conflict and undermine human rights; and more.

There are a range of critiques of the various forms in which politicization and human rights have begun to influence international politics. Duffield differs from many in condemning what he sees as an illusion of political engagement, despite the frequent reference to politics from within the NGO community. For him, 'the new humanitarianism fails to make a radical break with the technicist and (despite the adoption of the term political) apolitical nature of development discourse' (2001: 92). The failure of humanitarian actors to be political in the sense of being 'capable of

altering outcomes' is at the heart of Duffield's critique (p. 96). A genuine political engagement would address the complex reality that surrounds humanitarian disasters and design programmes accordingly. The politics of the new humanitarians, however, is merely 'politics as policy', amounting to an admitting of and transparency in the compromises that humanitarian actors are forced to make in the course of their work – that is, their policy decisions – rather than the design of overtly political programmes that aim to impact on the prevailing socio-political environment. This represents, in effect, a call for more politics (overreach, ambition), not less.

Another set of critiques questions the subordination of sovereignty and democracy to human rights, development and humanitarian interventions. Chandler denounces what he sees as an era characterized less by the demise of state sovereignty in the service of individual human rights than by the end of sovereign equality between states – a radical construction that lay at the heart of the UN and the international legal system it created – in which powerful states have come to be seen to have a moral right, uni-laterally or collectively, to uphold human rights even if their actions are legally questionable. On the one hand sovereignty is increasingly porous for weak states, while on the other hand for strong states it is increasingly free from international legal constraints. When state sovereignty is seen simply as a cover for human rights abuse and, as a result, sovereignty is trumped by human rights, this, Chandler argues, is the unpalatable out-come (2002: 120–56). He asserts, further, that a human rights-driven world of external interventions (such as aid conditionality and UN protectorates), discredited UN consensus politics, new hierarchical international relations governed by power, and policy and political arenas colonized by lawyers and NGOs, constitute an attack on popular democracy and democratic accountability, and a 'retreat from political equality', at both the domestic and international levels (pp. 192–219).

Many critics concur that turning aid on and off on the basis of how it might contribute to the protection and promotion of human rights undermines sovereignty, and deepens interventions, through new forms of conditionality. Chandler identifies as a key differentiating attribute of rights-based humanitarianism 'the end of the strict separation between strategic ends-based state assistance, which was often highly selective and conditional on certain economic and political policy choices, and needs-based NGO humanitarian activism, which was based on unconditional need' (2002: 26–7). This blurs the difference between 'Politics' and 'politics'. Such conditionality can subordinate people's needs to the imperatives of human rights, holding people hostage to the good behaviour of states. It undermines the humanitarian principles of universalism, neutrality and impartiality, and clearly increases the political nature of development and humanitarian assistance. Some are appalled at the ethics of such calcula-tions and conditionality in the interests of wider interests, or the long term – by the instrumentalization of aid – and, indeed, of the couching of strategic and policy choices in ethical rather than more honestly political terms:

> The politicization of humanitarian aid has led to even greater leverage over non-Western societies as NGOs and international institutions increasingly assume the right to make judgements about what is right and just, about whose capacities are built and which local groups are favoured. Where humanitarian aid started out as an expression of empathy with common humanity it has been transformed through the discourse of 'human rights and human wrongs' into a lever for strategic aims drawn up and acted upon by external agencies. (ibid., p. 47)

A further set of political critiques question the nexus between the twin universalisms of neo-liberalism and human rights, asking whether it side-lines non-market alternatives to development while privileging individual rights at the expense of structural change: 'At the root of RBD is a liberal belief that development is a matter of personal choice and effort, but that this is tempered by the prevailing social and political conditions,' state Mohan and Holland (2001: 183), followed later by this judgement: 'we do not believe that the rights-based development agenda, as currently constructed, will challenge the structures which create underdevelopment' (p. 195).

Critics also argue that the politicization of aid set in motion a susceptibil-ity to the ultimate logic of taking sides and pursuing strategic, political ends under a moral banner, humanitarian war: 'no version of the intermingling of humanitarianism and human rights makes sense except in the context of a world order in which humanitarian military intervention, or at least its credible threat, is one standard response (it need not, however, be frequent) to a so-called humanitarian crisis' (Rieff 2002: 320). The central issue, link-ing back to concerns about cooption, can be stated simply: can, or should, war be used to secure human rights or humanitarian ends?

The argument that linking humanitarianism to human rights has milit-arized humanitarianism is made by Rieff and Chandler. From having been 'used' by states in the interests of doing too little in Bosnia and Rwanda, arguably humanitarianism opened itself up to be 'used' to do too much in Kosovo, Afghanistan and Iraq. Concepts such as humanitarianism and human rights have such wide appeal, in part, because they sugar-coat the unpalatable (an argument that could also be applied to increased aid condi-tionalities): 'It was as if war had become impossible for a modern Western country to wage without describing it to some extent in humanitarian

terms' (ibid., p. 240). Unsurprisingly, this set of linkages and outcomes, this redefinition and depoliticization of war and claiming of a higher moral agenda, has proved highly controversial. In Rieff's view 'a humanitarianism that supports the idea of war carried out in its name is unworthy of that name' (p. 258), while Chandler states even more provocatively: 'Through human rights discourse, humanitarian action has become transformed from relying on empathy with suffering victims, in support of emergency aid, to mobilising misanthropy to legitimise the politics of international condemnation, sanctions and bombings' (Chandler 2002: 51). Rieff is not anti-war, per se, but disputes the humanitarian pretext and cover, arguing that the use of a moral argument seeks to put war beyond debate. Again, the reality of power relations in such collaborations means interventions will be more military and less humanitarian. NATO in Kosovo, for example, was a belligerent in the conflict, but sought to control both military and humanitarian agendas.

As a result of militarization and forceful interventions, particularly in the post-9/11 era, humanitarianism and human rights have become bound up in the 'war against terror', and agendas and accusations of empire. In Ignatieff's nation-building as 'empire lite' – the new imperial project of 'consolidating zones of stability in areas of vital national interest' – he argues that there are some problems (state failure/collapse) for which there are only forceful, imperial solutions. Some nations cannot heal their own wounds, imperialism has become a precondition of democratic self-government (Ignatieff 2003: 24, 125). Chandler argues that the pursuit of human rights and 'international justice', with the framework of international law either overridden or selectively applied, institutionalizes global political inequalities and heralds a return to the power politics, interventions and motives of an earlier imperial age (Chandler 2002: 120–56). While such dynamics arguably have a long history – Rieff also traces to European colonialism the long association between charity (initially missionaries, faith-based), intervention/invasion and empire, between the alleviation of suffering and the agendas of power (Rieff 2002: 57–89) – these are none the less challenging associations.

It is important to stress that the militarization of humanitarianism does not solely mean war. It can involve, for example, military protection, by actors as diverse as NATO and armed militias, for the distribution of relief; negotiations over access; and interactions in the context of UN peace-keeping or the policing of peace agreements. One price of this increased protection for humanitarian agencies is, perversely, increased insecurity through association. In this volume, O'Brien (CARE Afghanistan) provides an interesting discussion of the civil–military dilemma, in the form of the

mingling of military and humanitarian/ reconstruction agendas in the Provincial Reconstruction Teams (PRTs) in Afghanistan. It is also important to tease out the role of NGOs in bringing about militarization, and especially war in humanitarianism's name. Rieff and Chandler paint a picture of general NGO support for and acquiescence to militarized humanitarianism. There are important distinctions to be made between particular agencies (human rights and humanitarian) and conflicts, and on the continuum between directly calling for or supporting, overtly or tacitly, armed intervention, creating the climate for or seeming to invite such acts of aggression (Rieff's argument that a transformed humanitarianism 'readily lent *itself* to this official interpretation ... [i]t had all but begged for the chance to be used as a moral warrant for warfare' [2002: 20, emphasis in original]), and taking no position on or opposing intervention. There is also the issue of the use of human rights reporting to justify military interventions and questions about NGO responsibility and accountability that this raises.

A more nuanced analysis of this issue is provided in an International Council on Human Rights Policy report entitled *Human Rights Crises: NGO Responses to Military Interventions* (2002). This report engages with many of the challenges detailed above, including the strong disagreements and lively debate within NGOs and the NGO community. It also recognizes that calls for action take many forms, e.g. prevention; the need to engage with international *and* national NGOs as well as perspectives in countries where intervention has occurred and those in which it has not; and the difficulties of developing a coherent, unified position on the issue.

A lack of genuine political engagement by states with solving global problems, preferring the extremes of neglect, neo-liberalism and war, provides the backdrop to the politicization of NGO work in development, humanitarian and conflict scenarios, and the introduction of human rights to direct this process. This backdrop has generated contested new governance and rights regimes. Hence, a second series of questions:

- In what ways do human rights politicize NGO work, and is such work too political or not political enough?
- As a dimension of both overreach and politicization, are human rights a new form of imperialism, used to provide an increasingly intrusive attack on sovereignty, democracy and political debate/processes?
- Does the rights-based approach seek a radical transformation of the prevailing economic and political order, a mere seizure of power within the existing order, to provide alternatives (to neo-liberalism, empire), or is it hopelessly compromised by complicity and cooption?
- To what extent is 'force' – in forms ranging from aid conditionality to

war – a characteristic of the rights-based approach? Is this use of 'force' legitimate?

*False hope* A final challenge is the charge that human rights constitute an 'offer of false hope' (Rieff 2002: 12). Like many critics of human rights, Rieff takes an exclusively legalistic view of rights. The 'judicialization of the world' (p. 10) view of human rights is not the vision of human rights that informs this book. Rieff's assumptions lead him to argue that basic rights require a legally administered cosmopolitan society, thereby confining their achievements and immediate potential to the West, and an international community, the existence of which he repeatedly denies. He slams the human rights norms culture as a utopianism adrift from reality.

> [T]o me it remains not just an open question, but a question that desperately needs to be asked, what [an improvement in human rights norms] has actually accomplished for people in need of justice, or aid, or mercy, or bread, and whether it has actually kept a single jackboot out of a single human face ... every state paid lip service to the new norms, but when those who had the power to kill thought it was time to start killing, these laws and conventions saved not a single life. (ibid., pp. 15, 71–2)

Affirming this point, Chandler, under the heading of 'rhetoric without responsibility', argues that the success of human rights resides in its capacity to provide 'legitimacy without accountability' (2002: 69). In the international arena this potentially applies to all relevant actors – states, militaries, international institutions, NGOs – raising critical questions about who is accountable to whom, the challenge of selectivity, and the gap between rhetoric and reality. Chandler champions what he sees as real political rights secured within the state, formal democracy, and by the empowered, equal, self-governing subject/citizen, contrasting them unfavourably to the diminished, disempowered subject/victim of universal human rights, dependent on external assistance/intervention and liberal elites, offered rights without adequate means/agents of implementation, enforcement and accountability (pp. 89–119).

While this world-view smacks of a bygone age, and of a rather naïve faith in states and democracy, it also articulates a very different vision of human rights from that contained in this volume. Chandler sees human rights as a legal and moral/ethical discourse that constitutes an attack on the traditional sphere of politics and the agency of the human subject. Rights are predominantly a top-down stick with which to beat non-Western governments and a means of ethically sanctioning elitist, external interventions and regulation. There is little sense here of non-legal manifestations

of rights, Southern people and organizations claiming their own rights, or of agencies using rights in collaborative and constructive relationships with power holders. Even within a top-down paradigm, Cornwall and Nyamy-Musembi's comments about the uneven and contradictory nature of the colonial project are pertinent: 'The paradox of the ways instrumentalist intervention was actively transformed by people into something that they could make use of in securing freedoms has considerable contemporary resonance' (2004: 1,421).

More persuasively, Uvin (2002) looks at the implications of incorporating human rights into the development enterprise for relations of power and inequalities, internally and externally. In short, do human rights really change anything, and if so, what? Uvin, in a manner reminiscent of Nguyen (2002), takes us through three levels of integration. At one end of the continuum is 'rhetorical, feel-good change' (p. 1), 'little more than thinly disguised repackaging of old wine in new bottles' (p. 2), which alters terminology, but rather than challenging traditional development discourse simply elevates it to a higher moral ground. A re-description of development as, always or in a new guise, promoting human rights, in reality rationalizes the status quo. Duffield concurs with this view: '[r]ather than actually changing what aid agencies do, the rights based approach appears linked to the need to reinvent a new identity periodically in an increasingly competitive and sceptical world' (2001: 223). At the second level, human rights objectives are added to the goals and criteria for agencies, allowing for new programmes with specific human rights aims, e.g. the World Bank focus on good governance. This level can also constitute a form of appropriation, as in the case of good governance which is used to blame Southern governments for their own underdevelopment.

The third and most radical level redefines the mandate of development, in part at least, in human rights terms, with a potential for bringing about a fundamental rethinking of the development paradigm. The two approaches become linked agents of social change. Uvin cites Sen's *Development as Freedom* (1999) favourably, as the bible of this new paradigm, but critiques Sen for providing 'no politically grounded analysis of what stands in the way' of what is an approach with a considerable history (Uvin 2002: 8). Secondly, he argues that Sen does not go beyond 'broad paradigmatic insight' (ibid.), meaning that agencies which convert 'remain committed to little more than improved discourse' (ibid.). And so we are back to levels i and ii, characterized by the search for the high moral ground, competition for donor funds, blaming others, visions and conceptual formulations, 'but zero practical guidelines or obligations ... adopting [Sen's thinking] costs nothing' (ibid.).

Ultimately, Duffield advocates greater engagement with rights. Building on his call for a real political engagement, he decries a version of rights-based work that focuses only on economic and social rights and avoids the more complex problems found in the 'sensitive' civil and political sphere (2001: 223). This restricted application of rights is in effect business as usual for the NGO community: *'it is the aid agency reforming its concept of human rights to bring it into line with the work that it already does'* (p. 222, emphasis in original). While agencies may work with the aim of social transformation, it is argued that unless political and legal issues are addressed directly through demands for civil and political rights, that aim will not only fail to be met, the dominant social structures will be reinforced (pp. 248, 250). Thus, the rights-based approach in its current form 'holds out little hope' of impacting on the pervasive violence of abusive regimes (p. 224). Duffield ultimately presents another version of the call for rights to be understood as indivisible and interdependent.

Mohan and Holland argue that 'the balance sheet in favour of rights-based development, as it is currently conceived, is relatively empty' (2001: 193), while a recent IDS Policy Briefing states: 'The full implications of putting a rights-based approach into practice remain to be tested' (IDS 2003: 1). The challenge, and one engaged with directly by this book and the questions below, is whether there can be, and indeed has been, movement along Uvin's continuum; whether ideals, discourse and policy formulations can be and are being translated into effective political strategy, real obligations, and concrete social and political change.

- Is the adoption of rights-based approaches more than rhetoric and repackaging? If so, what are the obligations and value added?
- If social contracts are creating new circuits of rights and responsibilities, and reinterpreting rights indivisibility, how are these rights being made real?
- Is the balance sheet in favour of rights-based development still relatively empty?
- From the practical experience of applying rights-based approaches so far, what lessons can be learnt and what challenges remain?

## Notes

1 Contributors to this edited collection are cited in the Introduction in this manner (name, organizational affiliation). The latter refers to affiliations at the time of writing, or to the organizational experiences written about.

2 See the Sphere Project: Humanitarian Charter and Minimum Standards in Disaster Response at <www.sphereproject.org> (Geneva 2004).

3 See Humanitarian Accountability Partnership International <www.hapinternational.org/en> (Geneva 2004).

4 It can also be argued, however, that macro social contracts such as Sphere will remain largely unenforced and unenforceable unless and until they are politicized. Rights ideally need to be secured through normative/legal and political/economic processes with failure exacting a price on both counts. The need for political contracts is particularly urgent when, as across the humanitarian system, the normative/legal framework is weak/uneven. This rationale can apply to all relevant actors within this system, including NGOs (Gready 2004).

5 There is healthy disagreement about the coherence, appropriateness and effectiveness of Sphere – see for example a recent special issue of *Disasters*, 2004, 28 (2) – and there are a range of other, related initiatives in the humanitarian field. It should also be noted that some of those who have signed up to Sphere have embraced its technical standards and sidelined its rights-based dimension. The main point being made here is that initiatives like this provide vital fora for debate and the working through of issues at the heart of the second human rights revolution.

6 The development organizations surveyed are: UNDP, UNICEF, UNIFEM, WHO, World Bank, UNAIDS, AusAid, CIDA, DANIDA, DFID, European Commission, JICA, NORAD, SIDA, CARE, CRS, Oxfam GB, Save the Children Sweden.

7 Rieff (2002: 91–120) argues that humanitarianism became a 'saving idea', the 'reigning utopia', in the Western imagination as the twentieth century drew to a close. Its rise coincided with the rise of neo-liberalism and the decline of communism, development and liberation politics/Third Worldism. Humanitarianism was at once an anti-political bolt-hole for the Left and more generally provided a form of sentimental engagement for the socially concerned, enabling people to feeling better while leaving the status quo intact. Exemplifying this context were humanitarianism's fixation with market share and media coverage. This contradicts the idea of humanitarianism as a force for significant change.

8 Critics of human rights-based humanitarianism do not agree in their classification of MSF. In contrast to Rieff, Chandler describes MSF as 'the leading advocate of the new human rights-based humanitarianism' (2002: 43).

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ONE | **Case studies: Africa**

# 1 | A human rights-based approach to programming

URBAN JONSSON

Up until the early 1990s there was very limited contact and exchange between people working with human development and people working with human rights. The development people focused on effective and goal-oriented transfers of resources and increased social well-being. The aim was to meet people's basic needs in a sustainable and sustained manner. They worked primarily in the area of social and economic development. People working with human rights, on the other hand, worked on strengthening international human rights norms and institutions and protecting recognized human rights. Most of them focused on civil and political rights and targeted governments (Nelson and Dorsay 2003) Two trends in the 1990s contributed to a gradual convergence of the two approaches (Sano 2000): (i) developing countries increasingly demanded international assistance as an entitlement. Development assistance was increasingly seen as a right rather than an instrument of solidarity. And (ii) developed countries increasingly demanded good governance and the democratization of developing countries as a condition for assistance.

The Vienna Declaration states that, 'development exists within a human rights framework ... Development should rightly be seen as an integral part of human rights.'[1] In other words, human development is a necessary but not sufficient condition for human rights realization. The Social Development Summit in Copenhagen states that human rights are an 'integral element of the development agenda'.[2] The rule of law, access to justice and so on are necessary conditions for human development. In other words, the realization of human rights is a necessary but not sufficient condition for human development.

A similar convergence took place between human rights groups and human development groups. This was very much the result of human rights NGOs becoming increasingly interested in social, economic and cultural rights (for example, Amnesty International and Human Rights Watch). At the same time the development NGOs became more interested in the links between development and the protection of civil and political rights. The cooperation between the two types of NGOs has increased tremendously during the last decade. Many of them are now struggling to

operationalize a human rights-based approach to programming or a human development approach to human rights. On a larger scale some of the new social movements (e.g. the women's movement, the green movement and the indigenous peoples' movement) combine human development and human rights (Stammers 1999).

In spite of the fact that human rights constitute the very foundation of the United Nations, through the UN Charter and Universal Declaration of Human Rights, the organization did not take a lead in promoting human rights during the first forty years of its existence. The major reason for this was the very different positions held by member states during the Cold War. Immediately after the end of the Cold War a dramatic change took place, to a large extent because of the commitment and work of UN Secretary General Kofi Annan. In 1997 he launched a programme of UN reform with a clear emphasis on human rights. In a statement to the Commission on Human Rights two years later he explained: 'As the Secretary-General of the United Nations I have made human rights a priority in every programme the United Nations launches and in every mission we embark on. I have done so because the promotion and defense of human rights is at the heart of every aspect of our work and every article of our Charter.'[3]

In September 2000 the largest-ever number of heads of state and government gathered at a summit in New York, which ended successfully with the adoption of the Millennium Declaration,[4] a powerful document outlining the crucial aspects of a desirable future world. Unfortunately, most organizations have reduced the Millennium Declaration to the two (out of thirty) paragraphs identifying a set of Millennium Development Goals (MDGs). This is very problematic, because the MDGs must be seen in the broader context of the Declaration. And the broader context includes the fundamental role of human rights. The respect for all internationally recognized human rights and fundamental freedoms, including the right to development, forms the normative basis for the Declaration.

## A human rights-based approach to programming (HRBAP)

*A definition of human rights* Development requires the satisfaction of at least two conditions: the achievement of a desirable outcome and the establishment of an adequate process to achieve and sustain that outcome. Most of the health, education and nutrition goals in the Millennium Declaration, for example, represent specific, desirable outcomes. Effective human development demands a high-quality process to achieve such outcomes. Participation, local ownership, empowerment and sustainability are essential characteristics of a high-quality process. In an HRBAP the required process qualities are set by human rights principles.
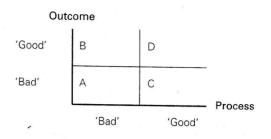


FIGURE 1.1 Outcome and process

Level of outcome and quality of process define a two-dimensional space for social action, as illustrated in Figure 1.1. Most development starts at A, and the ideal, final stage is D. Unfortunately, many development programmes move into one of the two areas represented by B or C. The former represents a good outcome at the expense of, for example, sustainability (an aspect of a good process), and is as ineffective as C, a good process without a significant outcome. Some Unicef-supported immunization programmes in the 1990s had rapidly moved into B but proved unsustainable, while some NGO-supported community-oriented programmes had moved into C but proved impossible to move to scale (Jonsson 1997a).

While monitoring of the achievement of human development outcomes has improved considerably during the past ten years, far less progress has been achieved in monitoring the quality of processes – largely because good process has seldom been defined.

Human rights standards define benchmarks for desirable outcomes, while human rights principles represent conditions for the process. There is some confusion about the difference between standards and principles. Basically, a human rights standard defines the minimum acceptable level of an outcome or results, while a human rights principle specifies the criteria for an acceptable process to achieve an outcome (minimum level of conduct, values). A list of the most important human rights principles has been proposed by UNDP (2003a) as shown below:

- universality and indivisibility
- equality and non-discrimination
- participation and inclusion
- accountability and rule of law

A human rights approach requires equal attention to outcome and process. This has been particularly emphasized in the discussion on the right to development (Sengupta 2003).

An easy way to define human rights would be to say that human rights

are those entitlements codified in human rights covenants and conventions. Such a definition, however, is too dogmatic and not very useful for an HRBAP. It would also miss the point that human rights are human constructs, which means that new rights will be constructed, gradually codified in conventions and accepted by ratification.

The relationship between rights holders and duty bearers also constitutes a core component of a human rights approach, but most scholars in the area of international human rights law recognize obligations only on the part of the state. There is a need to extend the claim–duty relationships to include all relevant subjects and objects at subnational, community and household levels. It is interesting to note that the Preambles of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) support such an interpretation, stating: 'Realising that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.' Similarly, Article 29 of the Universal Declaration on Human Rights states that human rights are not limited to the relations between citizens and the state (ICHRP 1999).

Claim holders and duty bearers are not labels applied to specific individuals, but roles that individuals may perform. It is important to recognize that most individuals enter into the roles of both claim holder and duty bearer at the same time, but in relation to actors at different levels of society. It is equally important to realize that an individual very often cannot meet his/her duties, because he/she has some of his/her own rights violated. Parents, for example, have a duty to provide food for their children, but may fail to do so due to lack of a job or cultivable land. In such cases parents cannot be held accountable for not providing food for their children.

This system of claim–duty relationships is called the pattern of rights. This pattern must be understood in an HRBAP.

*Towards a common understanding* Many UN agencies have made serious efforts to operationalize an HRBAP. UNDP and Unicef have been in the forefront. A UN informal working group has been active during the last few years on this issue. Meetings were arranged in Princeton in 2002 (UNDP 2001) and in Stamford in 2003 (UNDP 2003b). At the Stamford meeting an agreement was reached by most participating agencies on a Common Understanding of a HRBAP, which contains the following three principles:

1 All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other 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 capacities of duty bearers to meet their obligations and/or of right holders to claim their rights.

Based on these three principles the meeting agreed on the following unique and specific characteristics for a programme adopting HRBAP:

1 Assessment and analysis in order to identify the human rights claims of rights holders and the corresponding human rights obligations of duty bearers as well as the immediate, underlying and structural causes of the non-realization of rights.
2 Programmes assess the capacity of rights holders to claim their rights and of duty bearers to fulfil their obligations. They then develop strategies to build these capacities.
3 Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
4 Programming is informed by the recommendations of international human rights bodies and mechanisms.

During the development of HRBAP (both in theory and practice) it became increasingly clear that the number of good programming practices from years of learning become obligatory rather than optional in HRBAP.[5] It is important, however, to recognize that the application of good programming practices does not by itself constitute an HRBAP. They are necessary, but not sufficient, conditions.

*Implications of the common understanding for programming* Internal reviews and country case studies of the adoption and use of a human rights-based approach to programming in Unicef country programmes of cooperation has clearly shown that there have been a wide variety of interpretations of the meaning of HRBAP. The situation almost reflects the philosophy of anarchy that 'anything goes'. Many country offices refer to one or several of the following in reporting on the adoption of HRBAP: (i) the Convention on the Rights of the Child (CRC) and the Convention on

the Elimination of all Forms of Discrimination Against Women (CEDAW) are explicitly recognized as the foundation for the Unicef Country Programme of Cooperation; (ii) goals and objectives are formulated in human rights language; (iii) human rights principles are explicitly referred to as guiding planning and implementation; (iv) support is given to the development of human rights institutions; and (v) offices engage in advocacy for and information gathering about human rights. None of these, however, would qualify for HRBAP according to the criteria proposed by the Stamford meeting.

Similarly, in other agencies there is a plethora of concepts that are very seldom explained, including 'human rights approach to development', 'rights-based approach to development', 'programming in a human rights perspective', 'CRC/CEDAW programming' and 'programming through a human rights lens'. This confusion is to a large extent a result of different understandings of the relationships between human rights and (human) development. There is, therefore, a need to be clearer about criteria that must be met in order to qualify for an HRBAP. The Common Understanding provides such criteria in its three principles.

The first criterion in the Common Understanding requires that all programmes should contribute to the realization of human rights. This is a necessary, but not sufficient, condition. Most Unicef-supported programmes and projects in the past have contributed to the realization of children's and women's rights by achieving desirable and human rights relevant outcomes. Currently, many Unicef-supported programmes and projects define the objectives in human rights language, while the actual programming is done as usual.

The second criterion, that human rights standards and principles should guide all programming in all sectors and all phases of the programming process, is very often adopted in rather vague forms. The ambiguity of the term 'guide' has resulted in a number of different interpretations, as mentioned earlier. The simple fact is that programming cannot just be guided by standards and principles, because these are not precise enough to inform concretely the operations of programming. But programming can be assisted by recognizing that human rights standards determine the outcomes while human rights principles define the conditions of the process. The third criterion specifies the objectives of 'guiding'. It states that programming should contribute to the development of the capacity of claim holders to claim their rights and of duty bearers to meet their duties.

In conclusion, each of the three conditions is necessary, but not sufficient in isolation. Sufficiency requires that all three conditions are met at the same time.

## A method for applying HRBAP

Based on the first two principles of HRBAP detailed above, a method has been developed on how to apply an HRBAP in practice. This method has been adopted by Unicef and is being applied in a large number of Country Programmes of Cooperation. The method consists of five consecutive steps logically linked and with some new tools to manage information.

*Step 1: Causality analysis* The first step is to identify the immediate, underlying and basic causes of the problem. Without a reasonable consensus on causality, there is not likely to be consensus on solutions. Identification and analysis of the causes of a problem is facilitated by the use of an explicit conceptual framework (Jonsson 1997b). In this causality analysis the problems identified are understood to reflect human rights violations (disease, malnutrition, lack of basic education, exploitation, discrimination). This is an example of a situation in which human development analysis assists and adds value to human rights analysis. The causality analysis will result in *a list of rights that are either being violated or are at risk of being violated*, together with the major causes of these violations and the key actors involved.

*Step 2: Pattern analysis* Pattern analysis aims to identify key claim–duty relationships in a particular societal context. First, key actors – those who are likely to enter the roles of claim holders and duty bearers in relation to a specific right – should be identified. This will be based on the causality analysis. As already mentioned, the same individual or group of individuals often may enter the roles of both claim holder and duty bearer. A teacher may have a duty to parents to provide good teaching, but may at the same time have a claim against the government to receive a salary. Teachers, however, do not just have duties to parents. They may also have valid claims on parents, for example, that parents bring girls to school. This is illustrated in Table 1.1, which includes examples of claim–duty relationships in relation to the right to basic education. Most often the key claim–duty relationships cluster around the diagonal of the matrix, i.e. the parents/teachers, teachers/district and district/national government relationships, reflecting a bottom-up chain of claims at the lower level, create claims at higher levels. In reverse, a top-down chain reflects the fact that higher-level duties create duties at lower levels.

*Step 3: Capacity gap analysis* After the key claim–duty relationships for a specific right have been identified, the next step is to analyse why the right is not realized. A basic assumption underlying the approach proposed here

TABLE 1.1 Pattern analysis of the right to basic education

| Claim holders | Children | Parents | Teachers | District | National government |
|---|---|---|---|---|---|
| **Duty bearers** | | | | | |
| Parents | Allow girls to go to school | | Allow time for homework | | |
| Teachers | Provide good-quality teaching | Establish parent-teachers associations | | Participate in training workshops | Follow established curricula |
| District | Stop all recruitment of child labourers | Provide material for classroom construction | Retrain teachers | Assist in construction of classrooms | Use funds correctly |
| National government | Legislate free and compulsory basic education | Policy on exemption from school fees for poor parents | Ensure adequate salaries for teachers | Allocate adequate funds for education | |

TABLE 1.2 Capacity gaps of teachers to meet their duties to parents

| Responsibility | Do not feel that parent–teacher associations (PTAs) are of any importance; teachers know what is best for the school |
|---|---|
| Authority | Establishment of a PTA requires approval from the district authorities |
| Resources | Lack of funds to make PTA meetings attractive for participants |
| Decision-making capability | Do not feel that the views of parents are useful for the management of the school |
| Communication | Do not speak the local language well |

is that rights are not realized because claim holders lack the capacity to claim the right and/or duty bearers lack the capacity to meet their duties. The analysis of capacity gaps is called capacity analysis.

Capacity is defined in a broader sense, including the following five components:

- Responsibility/motivation/commitment/leadership: referring to the acknowledgement by an individual that he/she *should* do something about a specific problem. It means acceptance and internalization of a duty, and is often justified in legal or moral terms.
- Authority: this refers to the legitimacy of an action, when an individual or group feels or knows that they *may* take action, that it is permissible to take action. Laws, formal and informal norms and rules, tradition and culture largely determine what is or is not permissible. The structure of authority in a society reflects its power relations.
- Access and control of resources: if an individual accepts that he/she *should* do something and *may* do it, it may still be impossible to act because the person lacks resources. Capacity must therefore also mean that the person is in a position to act, or *can* act. The resources available to individuals, households, organizations and society as a whole may generally be classified into the following three types: (i) human resources, (ii) economic resources and (iii) organizational resources.
- Communication capability: the ability to communicate and to access information and communication systems is crucial for individuals and groups of individuals in their efforts to claim their rights or meet their duties. Communication is also important in connecting various key actors in the social fabric into functional networks able to address critical development issues.

A human rights-based approach

- Capability for rational decision-making and learning: rational decision-making requires evidence-based assessment and a logical analysis of the causes of a problem. Actions should be based on decisions informed by the analysis. After action has been taken, a reassessment of the result and impact will lead to improved analysis and better action in the next round. Such interactive learning-by-doing relies heavily on the ability to communicate (Jonsson 1993).

Each dual claim–duty relationship generates five lists of capacity gaps. An example is illustrated in Table 1.2.

*Step 4: Identification of candidate actions* These are not the finally selected actions, just candidates for them. To summarize the method so far, causality analysis results in the identification of a set of rights that are being violated or at risk of being violated. Role/pattern analysis identifies key claim holder–duty bearer relationships for each specific right. Capacity analysis defines the capacity gaps of claim holders to claim their rights and of duty bearers to meet their duties. A programmatic response aimed at the realization of rights must contribute to narrowing or closing these capacity gaps.

Candidate actions are those actions likely to contribute to reducing or closing the capacity gaps of claim holders and duty bearers. Such actions should aim to increase responsibility, authority, resources and the decision-making and communication capabilities of claim holders and duty bearers. An example of candidate actions to close the capacity gaps of teachers to be able to meet their duties to parents is illustrated in Table 1.3. A similar process is required to show the candidate action for closing the capacity gaps of teachers to claim their own rights.

TABLE 1.3 Candidate actions to close the capacity gaps of teachers to meet their duties to parents

| Responsibility | Launch a campaign among teachers about the importance of PTAs |
|---|---|
| Authority | Convince the district authorities that teachers may decide on PTAs |
| Resources | Use community funds for providing tea at every PTA meeting |
| Decision-making capability | Arrange meetings between teachers, parents and children to discuss the management of the school |
| Communication | Provide training of teachers in the local language |

*Step 5: Programme design* The priority actions or activities selected should be aggregated into projects and programmes. This is the reverse of most current programming practices, which disaggregate programmes into projects, and projects into activities. Activities can be clustered, or aggregated, according to the level of society in which claim holders and duty bearers operate. At each level some activities will aim at developing the capacities of individuals as claim holders, while others will aim at developing the capacities of individuals as duty bearers. Some activities will do both, sometimes even in relation to more than one right. For example, the development of teachers' communication skills will strengthen teachers both to meet their duties to children and to claim their rights in relation to the Ministry of Education.

The selection of priority activities and the division of labour among UN agencies should take place within the UN Development Assistance Framework (UNDAF) of a given country and the ongoing preparation of Poverty Reduction Strategy Papers (PRSPs). A clear division of labour for supporting the government should be agreed upon, including UN agencies, bilateral agencies and NGOs.

## Practical experiences with the adoption of HRBAP

In January 1996, the Unicef Executive Board adopted a first-ever Mission Statement in which the human rights of children and women, as enshrined in the CRC and CEDAW, were recognized as the foundation of Unicef's cooperation. In April 1998 Unicef issued an Executive Directive to all field-offices, Guidelines for Human Rights-based Programming Approach, in order to reorient country-level programming towards HRBAP (Unicef 1998). The principles contained in the May 2003 Common Understanding had been promoted in Unicef Eastern and Southern Africa region since 1998.[6] It was therefore possible to evaluate some of the Unicef Country Programmes of Cooperation by 2003. The experience from Mozambique and Uganda will be briefly discussed, followed by some findings in a recent global review of the adoption of HRBAP by Unicef in the field.

*Mozambique* An external evaluation of the Mozambique programme (2002–04) was undertaken in 2004 to 'identify lessons learned about both successes and constraints in the process of applying HRBAP' in the implementation of the cross-cutting HIV/AIDS programme (Häusermann 2004).

The evaluation found that the preparation of the programme had met all four unique characteristics defined in the Common Understanding. The adoption of an HRBAP had significantly changed the design and strategies

in the Country Programme. A strategic focus was given to capacity development, particularly of communities. The design of the programme was influenced by the strong participation of children and young people. In a survey, about 60 per cent of rights holders were satisfied with their involvement in the causality analysis, although many of them admitted that they lacked basic knowledge about human rights. Most rights holders also thought that they had developed their capacity to claim their rights. There was a strong agreement that HRBAP had developed capacities at all levels of society to respect, protect and fulfil rights.

The adoption of HRBAP had meant that most good programming principles had been adopted, including the recognition of poor people as key actors in their own development, a focus on empowerment, local ownership, reducing inequalities and more clear accountabilities. Insufficient attention, however, had been paid to gender analysis and the economic and socio-cultural causes of HIV infection.

A common complaint among duty bearers was that they wanted to know more about their own rights in order to be able to claim these rights and as a result be more able to meet their duties as duty bearers. This reflects a serious problem in the programme, where rights holders and duty bearers are labels attached to certain people, rather than roles that most people may perform. An interesting finding was that most participants agreed that Unicef project staff should be accountable to rights holders. This is, indeed, a significant change from past practice.

In conclusion, the Mozambique programme successfully adopted HRBAP, but much more training is required, together with better monitoring of the process.

*Uganda* The adoption of HRBAP in the Uganda Country Programme of Cooperation (2001–05) was reviewed as a part of the mid-term review in 2002 (Unicef 2003). Similarly to Mozambique, the adoption of HRBAP required significant changes in programme content and practice.

The use of HRBAP had increased the ability to address exclusion and disparities. For example, 80 per cent immunization coverage, praised just a few years ago, was no longer acceptable. The 20 per cent excluded must be reached. Children and young people participated much more than before at both strategic and operational levels. Adults started to recognize their roles as duty bearers and appreciated the contributions of young people to the programme. Throughout the implementation a deliberate effort had been made to address both outcome and process. The Early Childhood Development (ECD) project had been most successful in finding the right balance.[7]

HRBAP led to a district-focused approach, aiming at the development of the capacities of duty bearers, the development of partnerships and strengthening communities to address issues that affected them. The programme had been successful in the few areas selected for implementation, but it had been difficult to expand the programme due to resource constraints (both economic and human resources).

Similar to the case of Mozambique, it was found that most duty bearers were not aware of their own rights and did not have sufficient capacity to claim their rights. Again, a more complete pattern analysis would have avoided this problem.

Local government District Implementation teams play a crucial role in rural development in Uganda. A major challenge for successful implementation is the fact that the strength of the team depends on a few individuals. Poor delegation and weak supervision by district heads of departments are additional challenges that must be overcome in order to expand the adoption of HRBAP to larger areas of the country.

*Global review* In 2004 an organization-wide review was made to find out the experiences with the adoption of HRBAP in Unicef (Raphael 2004). It was found that about 20 per cent had used HRBAP to guide programme implementation and that about the same percentage of staff had understood the approach. The adoption of HRBAP, however, is very uneven among the regions, with countries in the Latin American and Eastern and Southern African regions representing more than 70 per cent of those countries that had adopted HRBAP.

The review concluded that much more training is required, both of Unicef staff and partners. A special effort should be made to engage UN Country Teams to promote HRBAP in the preparation of the Common Country Assessment (CCA)/UNDAF and PRSPs. There is also a need for more clear guidance from headquarters.

## Conclusions

There is an emerging consensus that HRBAP has significant advantages compared to basic needs and human development approaches to programming. The most important are summarized below:

1. Increased accountability as a result of explicitly defined claim–duty relationships. These are different from entitlements which do not identify any specific duty bearer. A duty is also different from a promise or an interest.
2. HRBAP makes most good programming practice obligatory, and not

just optional. Human rights-based programmes are therefore effective even when measured by traditional development criteria.

3. HRBAP offers better protection of people who are poor by ruling out trade-offs that are harmful to them. The most common trade-offs promoted in development work are: (i) the needs trade-off: relatively high levels of poverty should be accepted in order to maximize investment and future economic growth; (ii) the equality trade-off: initially economic growth will create inequalities that should be accepted; and (iii) the liberty trade-off: civil and political rights must be temporarily suspended in order to allow for economic growth (Donnelly 1989: 164–5). HRBAP, therefore, pays more attention to exclusion, discrimination, disparities and injustice, and emphasizes basic causes.

4. HRBAP focuses on legal and institutional reform, and promotes the rule of law. When applying HRBAP, access to justice means the people's ability to seek and obtain remedy for grievances, through formal and informal justice mechanisms, and in conformity with basic human rights principles and standards. Currently, access to justice is most of the time limited to people's ability to use public and private justice services. In HRBAP, justice is seen as a social process, not just a legal one.

5. A human rights approach better protects people from power exertion and can be used to challenge power. HRBAP stimulates social movements and mobilizes civil society.

6. In a human rights approach to development, development assistance can no longer be based on charity or solidarity only; it will be a result of national and international obligations (including obligations on Unicef).

The United Nations has an obligation to respect, protect, facilitate and fulfil human rights in all development and humanitarian work. There is therefore a need for an operational HRBAP. UN agencies have moved fast in the process of agreeing on criteria for an HRBAP, manifested in the Stamford Inter-agency Consultation's Recommendation Towards a Common Understanding. There is, however, a significant gap between agreements at the UN agency headquarters level and the reality at the country level. Very few agencies, and in very few countries, have mainstreamed human rights in their work. Therefore, training of UN Country Teams should be a top priority for all agencies.

The current UN reform promotes stronger cooperation among UN agencies. HRBAP is new to all UN agencies and could therefore become an effective catalyst in the efforts to move towards a real UN team approach, including joint programming. Finally, the current strong focus on the

achievement of the MDGs must be balanced with a greater attention to the overall implementation of the Millennium Declaration, which provides the context in which the MDGs should be addressed.

## Notes

1 Vienna Declaration and Programme of Action (para. 25–26), United Nations World Conference on Human Rights, 1992.

2 The Copenhagen Declaration and Programme of Action, United Nations World Summit for Social Development, 1993.

3 Secretary General to the Commission on Human Rights:, 'I Have Made Human Rights a Priority in Every United Nations Programme', 7 April 1999.

4 General Assembly Resolution 55/2, United Nations Millennium Declaration, 18 September 2000; General Assembly Resolution 55/162, Follow-up to the Outcome of the Millennium Summit, 18 September 2000.

5 At the Stamford meeting the following good programming practices were identified:

- people are recognized as key actors in their own development, rather than as passive recipients of commodities and services
- participation is both a means and a goal
- strategies are empowering, not disempowering
- both outcomes and processes are monitored and evaluated
- analysis includes all stakeholders
- programmes focus on marginalized, disadvantaged and excluded groups
- the development process is locally owned
- programmes aim to reduce poverty
- top-down *and* bottom-up approaches are used in synergy
- situation analysis is used to identify immediate, underlying and basic causes of development problems
- measurable goals and targets are important in programming
- strategic partnerships are developed and sustained

6 During 1998–2000 a number of draft proposals and guidelines on a Human Rights Approach to Programming/Community Capacity Development were prepared by the Unicef Regional Office for Eastern and Southern Africa (ESARO).

7 The ECD project in Uganda is a community-based project implemented in three districts so far. The project was planned through a community dialogue and is multidisciplinary in addressing all the important causes of inadequate ECD for children below five years of age. Positive results have been achieved, increasing child survival and improving care and protection of the children at the critical early age. Plans are underway to expand the project to other districts.

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# 2 | The experiences of Oxfam International and its affiliates in rights-based programming and campaigning

MARJOLEIN BROUWER, HEATHER GRADY, VALERIE TRAORE AND DEREJE WORDOFA

Oxfam International (OI) was created in 1995 as a confederation of twelve independent non-government organizations dedicated to fighting poverty and injustice around the world. The affiliates share a global strategic plan and pursue joint efforts in campaigning and programming (both development and humanitarian), aiming to achieve greater impact through their collective efforts.[1] They support more than 3,000 counterparts in approximately 100 countries, committing their moral, human and financial resources to work with partners and allies as part of a global movement to promote economic and social justice.

Oxfam[2] starts from the premise that poverty is a state of powerlessness in which people are denied their human rights and the ability to control crucial aspects of their lives. In the experience of Oxfam's partners, poverty is a symptom of deeply rooted inequities and unequal power relationships, institutionalized through policies and practices at the levels of state, society and household. Moreover, although some forms of unequal power relationships are rooted in age-old injustices, new forms are being generated by economic globalization and by imbalances in negotiating power between rich and poor countries.

Faced with this changing context, and recognizing that its traditional ways of thinking and working were becoming less effective, Oxfam took the formal decision in late 2000 to adopt a rights-based approach (RBA) to the alleviation of poverty and the ending of exclusion and social injustice.[3] For Oxfam and many other agencies, embracing an RBA was a response to the limited success of previous approaches, which aimed to respond to basic needs or promote sustainable livelihoods, by giving greater emphasis to the impact of power inequalities in the development process. Decades of entrenched and chronic poverty around the world, compounded by conflict and insecurity, had left huge numbers of people unable to achieve the basic requirements for human development and a life of dignity. Their situation was exacerbated by increasing inequalities within and between societies, and the appropriation by elite groups of the resources required for development.

For a development and humanitarian agency such as Oxfam, the underlying purpose of a rights-based approach is to identify ways of transforming the self-perpetuating vicious cycle of poverty, disempowerment and conflict[4] into a virtuous cycle in which all people, as rights holders, can demand accountability from duty bearers, and where duty bearers have both the willingness and capacity to fulfil, protect and promote people's human rights. Oxfam implements universal standards in a practical and action-oriented way,[5] using a rights-based planning framework to challenge states and others to be accountable to their citizens and to promote non-discrimination and equality in order to redistribute resources and opportunities within and between societies. Oxfam's ability to reach global institutions such as the World Bank, IMF, the World Trade Organization (WTO) and multinational corporations enables it to promote links between local communities and global decision-makers in the struggle to achieve human rights. Furthermore, a rights-based approach enables Oxfam to target the two main factors seen to prevent the realization of human development and human rights: lack of political will, and insufficient capacities to claim and fulfil rights.

In addition, rejecting the notion that people living in poverty can meet their basic needs only as passive recipients of charity, Oxfam works with people around the world who are the active subjects of their own development, in their efforts to realize their rights.[6] This of course compels Oxfam and other rights-based agencies to 'raise the bar' on their own accountability, because civil society organizations (CSOs) themselves may unwittingly perpetuate outmoded notions of charity, overlook discrimination and exclusion, and even reinforce existing imbalances of power.

## Rights, aims and 'strategic change objectives'

For Oxfam, a key aspect of its rights-based approach is support for the fulfilment and protection of all human rights, including economic, social and cultural rights, civil and political rights, and rights in international humanitarian law. Just as human rights principles enshrine the indivisibility of rights, so Oxfam felt it important to incorporate this spectrum of human rights in the five 'aims' contained in the planning framework that was formalized in 2000. Thus, Oxfam programmes are designed to work with others to ensure that all people have the following entitlements:

- the right to a sustainable livelihood
- the right to basic services (in particular education, healthcare and water)
- the right to life and security

- the right to be heard (an aim which includes the promotion of civil and political rights, institutional accountability and global citizenship)
- the right to an identity (an aim including the promotion of gender equality and social and cultural diversity).

The general human rights documents that underpin this approach are the Charter of the United Nations and the Universal Declaration of Human Rights of 1948, which laid the framework for the promotion of the dignity and worth of all human beings, as well as conditions for justice, respect and social progress.[7] In addition, many treaties, conventions and declarations reflect the five rights-based aims of Oxfam. Under each of the five aims, Oxfam targets the achievement of specific 'strategic change objectives' (SCOs), identifying them jointly at the international and regional levels.[8] These SCOs explicitly state the rights to be exercised, supported by Oxfam programmes over an agreed time-frame. To achieve them, Oxfam delineates desired 'policy and practice changes' associated with each of the SCOs. In its recently developed 'toolbox' (Wilson-Grau 2003), Novib Oxfam Netherlands has begun to assess, together with partner organizations, which of their outcomes could contribute to achieving the policy and practice changes, and ultimately the SCOs and aims that Oxfam has identified.

Table 2.1 gives examples, aim by aim, of rights-based changes in policy and practice, both in the domain of laws and regulations and in 'beliefs' or public opinion (Wilson-Grau 2004: 3).

Oxfam has attracted some criticism for generating its own list of rights, which was viewed by some as a repackaging of the standard international framework. In its defence, Oxfam would claim to have pioneered a way to use international norms and standards to reinforce its existing programmes and campaigns, and to have implemented a rights-based approach in an innovative and organic way (because the new formulation was built on what already made sense to staff and partner organizations around the world). Others have appreciated Oxfam's genuine efforts to embed its 'own rights' within the existing international instruments (see for example Marks 2003).

While arguably the Oxfams have not gone far enough in helping all staff to understand human rights instruments and principles, the use of practical rights-based aims was an important move towards giving programmes an intrinsic focus on rights which both recognizes international norms and standards and translates them to related national constitutions and legislation. It is at the national and sub-national levels that Oxfam – and indeed many other international NGOs – can best support CSOs and the public at large to hold relevant duty bearers accountable for fulfilling, protecting and respecting human rights.

TABLE 2.1 Examples of rights-based changes in policies and practices

| Oxfam's five aims | Governmental and corporate laws and regulations and their adherence | | Religious, cultural and social beliefs and their observance | |
|---|---|---|---|---|
| | Changes in policy | Changes in practice | Changes in policy | Changes in practice |
| To a sustainable livelihood | Parliament passes a law mandating an agrarian reform | Ministry of Agriculture distributes land titles to landless peasants | Agro-industry recognizes the economic potential of farming without the intensive use of chemical fertilizers and pesticides | Commercial farmers adopt large-scale organic farming practices |
| To basic social services | Ministries of Health and Commerce rule that the importation and production of generic anti-viral medicines will be permitted | Pharmaceutical companies initiate local manufacture and sale of low-cost anti-virals | Roman Catholic archbishop modifies religious doctrine to permit the use of condoms | Religious faithful regularly use condoms to block the transmission of the AIDS virus |
| To life and security | Interior Ministry issues a decree prohibiting the public from carrying concealed weapons | Civilian population stop the carrying of concealed weapons in public | Families reject their belief that nothing can be done in the face of perennial flooding | Communities implement flood-preparedness plans |
| To be heard – social and political citizenship | Referendum and constitutional amendment requiring local government to consult citizens on budget planning and implementation | Citizens participate in the municipal budgeting process | Citizens' groups become convinced that government corruption must be combated | Civil society organizations act as watchdog on municipal officials |
| To an identity – gender and diversity | Managers' Association adapts corporate guideline prohibiting ethnic discrimination. | Members of minority groups file increasing numbers of formal charges for corporate harassment | Community elders declare every woman's right to be free of domination by men | Parents support girl students in denouncing sexual abuse by their male teachers |

## Raising awareness of rights at home and around the world

Most of the Oxfams devote significant efforts in their home countries to raising public awareness of the relationships between poverty and the denial of rights, for example through 'global citizenship' programmes.[9] Much of the campaigning work of Oxfams to Make Trade Fair, to Control Arms, and to Make Poverty History[10] is designed to spur their home-country citizens to hold their own governments accountable for economic, political and social policies that will reduce disparities between rich and poor, and curtail the self-interest of richer nations. Implicit in this is Oxfam's belief that all of the world's people bear responsibility for securing not just their own rights, but also the rights of others. Building an active citizenry and strengthening the relationship between citizens and the state is essential to this process,[11] as is working through collective, participatory action. Other key messages are the need to ensure that social justice is accorded at least equal priority with economic growth, and insistence on the fact that the prosperity of some must not be allowed to perpetuate the poverty of others. In all of this, alliance building, good partnership and working effectively with others in coalitions are crucial for the legitimacy of the process and to ensure good outcomes.

## Different Oxfams – a range of approaches

Different Oxfams may accord different emphases or priorities to the five rights-related aims, depending upon their national context and other factors, such as history and experience. Yet the principles that underlie the campaign for the realization of rights – equality, non-discrimination, participation and accountability – are at the heart of all of Oxfam's programmes and strategies.[12] The next section provides examples of how Oxfam puts a rights-based approach into practice. A number of Oxfams have programmes in each of the countries concerned, but each case study is written from the perspective of one affiliate.

*Responding to the impact of globalization on Sahelian cotton farmers* Creating more space for the representatives of Southern NGOs in international fora, in order to link local activists and global decision-makers more effectively, is one of the strategies pursued in the Oxfam International Campaign to Make Trade Fair. Often a long-term process of building capacity and trust precedes such linking. The case of Sahelian cotton farmers, who together with Oxfam International succeeded in voicing their views effectively at the WTO meeting in Cancún in 2003, is a good illustration of this process.

Hundreds of village-based farmers' associations were founded in the 1980s and 1990s in the Sahelian countries of West Africa. A number of Oxfams supported poverty-alleviation programmes, in addition to investing in work to build the organizational capacities of village associations through intermediary NGOs. The next step was to move from developing organizations to supporting lobbying and advocacy by and on behalf of people living in poverty. Realizing that local solutions are not always enough, the village-based organizations started creating regional organizations that were in a better position to influence policies. The NGOs adjusted their capacity-building programmes and adopted an approach of 'linking and learning' between village associations in various parts of the Sahel to support this process. As a result, farmers, cattle owners and fishermen and women in several areas formed national federations and regional unions.

Globalization has negative effects on weak economies and ultimately on rural households. The Sahelian farmers' organizations recognized globalization as a new challenge. The millions of farmers in the Sahel who produce cotton for export are directly affected by subsidies paid to domestic cotton farmers by the governments of the USA and other countries. The income of African producers dropped as the price of cotton fell on the world market. They responded by setting up ROPPA, a regional farmers' organization, in 2000.

At the WTO ministerial conference in Cancún in 2003, ROPPA successfully called attention to the plight of Sahelian cotton farmers. Oxfam contributed to research on the issues, provided advice to governments and farmers' representatives, and sponsored a media tour in the northern hemisphere for representatives of the groups affected. But such efforts on the global stage bring neither immediate nor permanent positive impacts, and CSOs must remain vigilant in the struggle for justice. Fortunately, following a subsequent complaint by Brazil in a similar case, a WTO dispute-settlement panel found that US cotton subsidies are contrary to WTO rules.[13] This decision was a major step forward in the fight against the dumping of subsidized products on world markets, and Oxfam is confident that the decision will strengthen the initiative taken by West African governments to end the European and American subsidies.

This case shows how an RBA requires consistent capacity building within the Oxfams and with partner organizations. Apart from the need for increased investment in education in citizenship and human rights,[14] there is an enormous need to continue to strengthen the capacity of people who want to claim their rights. Changes in policy and practice can be achieved only if the people whose rights are violated are able to express their views

about what should be changed. As one staff member of Oxfam observes: 'We recognize that lone social actors rarely can achieve policy and practice changes. Work is required on a significant scale in alliances with social actors working at all levels. We consider that in any country, it is local citizens, organized as civil-society actors, who know best what policy and practice changes are achievable and how to achieve them' (Wilson-Grau 2004: 3). In this context, the Oxfams play an important role by helping to influence the policies and practices of multilateral institutions and multinational corporations, in addition to funding local development actors working towards policy and practice changes of their choice.

*The right to sustainable livelihoods: the Ethiopia coffee crisis* One of Oxfam's aims is to support poor people to claim their right to sustainable livelihoods, but it goes further than typical development programmes that aim to increase income and productivity. Oxfam's work in support of this aim includes support for food and income security, natural-resource management and promotion of labour rights for those in waged employment. Within the context of social justice and the realization of human rights, promoting sustainable livelihoods is not concerned merely with access to resources, but also with increasing the capacity to secure one's livelihood. This takes into account the reality of poor communities: a livelihood that has sustainable human development as its outcome depends on other human rights, such as the right to be heard (addressing 'voice poverty'). Oxfam's rights-based approach also takes into account the imperative need to hold duty holders accountable for their responsibilities to marginalized communities.

Since the beginning of the coffee crisis in Ethiopia, Oxfam has supported Ethiopian coffee producers to overcome the disastrous blow to their country's economy and their livelihoods. Sixty per cent of Ethiopia's national earnings comes from coffee, so when world coffee prices fell to an unprecedented level a few years ago, the national economy, the coffee industry and coffee producers had to absorb the shock. Coupled with the international coffee crisis were Ethiopia's problematic domestic trade rules, which denied farmers and cooperatives access to international buyers, leaving farmers dependent on unfair prices and exploitation by exporters. In addition, coffee farmers were unaware of international coffee prices and of their role in the coffee market.

Oxfam played a key role in three ways: first, in developing relationships with all stakeholders, including producers, government officials and corporations; second, in strengthening the voice of producers through providing information, building capacity and promoting networking; and

third, bringing all stakeholders around the same table to find appropriate solutions to the crisis.

Given the fact that national policies were largely to blame for the producers' failure to recover from the damage done to their livelihoods, a large element of Oxfam's strategy was to hold the government of Ethiopia accountable for protecting producers from further marginalization. Lobbying of the government by Oxfam partners and staff eventually led to an official agreement to lift the restrictions on farmers and cooperatives, allowing them to sell coffee directly to international buyers. Although sceptics doubted the likely effectiveness of the government's decision, and the capacity of the cooperatives to take advantage of it, the reform represented a huge step towards reform of the coffee industry in Ethiopia.

What followed was active and extensive work to develop the trading capacity of the coffee cooperatives and ensure the highest quality of coffee, to match global quality standards for speciality coffee. Oxfam organized a national conference to address concerns about the deteriorating quality of Ethiopian coffee.

The achievements of one Oxfam partner, the Oromia Cooperative Union, speak for themselves. In 2001, one container of coffee was exported. In the next year, with the addition of volunteer staff, the cooperative sold ten containers. In 2003, sixty containers of coffee were sold on the international market. By May 2004, the Oromia Union had sold all of its 120 containers.

The changes in Ethiopia's coffee industry go beyond the increased sales to a full government endorsement of policies more favourable to farmers and cooperatives. Since 2001, when the campaign for reform began, the following results have been achieved:

- Coffee farmers who could not sell directly to international markets now have direct access to international buyers, with no intermediary, thus increasing their profits.
- Coffee farmers and cooperatives are now exempt from paying tax.
- National banks have begun giving farmers and cooperatives credits and loans which used to be restricted to exporters.
- Taxes on travel from coffee-producing regions to other regions have been lifted.

Cooperatives have stabilized the coffee market, and the removal of restrictions has eliminated the middlemen. In addition, the steady restoration of the coffee-based economy has meant that not only coffee farmers, but the chain of other industries and people that depend on coffee exports, are heading for financial stability.

*Promoting sustainable livelihoods in Malawi and Zambia through advocacy on institutional accountability* The following case study demonstrates work aligned between country, regional and global levels that pursues two of Oxfam's aims: the right to a sustainable livelihood and the right to be heard. This is a joint programme, managed by Oxfam GB with the support of several Oxfam affiliates.

In August 2002, Oxfam International produced a briefing paper entitled 'Death on the Doorstep of the Summit' for the World Summit on Sustainable Development in Johannesburg. The paper sought to link the food crisis in Southern Africa to the agricultural liberalization policies imposed on Zambia and Malawi at the behest of the World Bank and IMF. It demonstrated that by requiring these countries rapidly to dismantle state support for agriculture, the Bank and the Fund had gravely compromised the food security of poor women and men in the region, making them even more vulnerable to destitution.

The paper was accompanied by significant media work in Zambia, including a televised interview with the Minister of Agriculture, in which he questioned the policies of the World Bank and the IMF. This footage was compiled in collaboration with Oxfam staff and partners in Zambia, and was used both at the Johannesburg summit and in Zambia itself. In Malawi, further country-specific research was conducted, which contributed to the creation of a broad campaign involving civil society, media and parliamentarians. The campaign succeeded in getting assurances from donors and government ministers that they would not privatize the state marketing board ADMARC, given that it had a clear social role to play as the source of cheap agricultural inputs and farm produce for poor people in rural areas.

The immediate outcome of this work was to highlight the link between agricultural liberalization and increased food insecurity in the region, and the role of the World Bank and IMF in promoting liberalization policies. The campaign's longer-term impact on poor people has been twofold, in terms of livelihood and in terms of increased accountability. In Malawi and Zambia it contributed to a reversal of donors' policy on agriculture. In Zambia, the government has reintroduced a certain level of subsidy on maize, with the tacit support of the IMF. In Malawi, the World Bank recognized that ADMARC has a key social role to play in keeping open unprofitable markets in distant rural areas, which on pure economic criteria were losing the government support that was key to the survival of poor communities. In both countries there has been or will be a direct effect on the lives of poor women and men, as evidence developed by the World Bank itself shows that per capita consumption by poor families in

rural areas with access to the state ADMARC markets is as much as 20 per cent higher than the average.

In terms of the right to be heard, in Malawi poor rural women and men actively engaged in a series of radio debates, broadcast nationally from villages in Mulanje where Oxfam works. The debates focused on the role of ADMARC in supporting the livelihoods of the poor. In Malawi and Zambia, Oxfam's campaign and policy work stimulated national debates about agricultural policy, engaging civil society and parliamentarians, and increasing public discussion of poverty-related issues. There has also been a shift in donor policy on this issue in Zambia and Malawi, although it is still necessary to maintain pressure on the policy-makers.

Other rights-related topics were opened up; for example, women became involved in radio debates about gender equity; discussions included gender-related aspects of food security, for example the frequently ignored situation of female-headed households. And civil society partners active in both countries became more actively engaged in advocacy and strengthened their advocacy capacity. This experience of campaigning and lobbying helped to build a broad alliance for change, and the base for a long-term movement of civil society actors around this issue.

As is the case with other policy work, the gains made could easily be reversed; for this reason CSOs must continue to monitor privatization conditions on World Bank loans in Malawi, for example. Nevertheless, this case study illustrates the effectiveness of joined-up programming by the Oxfams for advocacy at national, regional and global levels. This instance was prompted by a reaction to a region-wide crisis, but it has clear national and global implications.

*Capacity building in a stateless society*: Somalia Oxfam believes that promoting responsible citizenship, through supporting the work of local autonomous partner organizations, is a crucial step towards improving the capacity of people to claim their rights and towards seeking the accountability of those in power.

Somalia is a war-torn country that has not had a functioning government for twelve years. Its social fabric has been all but destroyed. Warlords have ruled through fear and the silencing of people. In response to their worsening plight, some courageous individuals began implementing development projects. A number of Oxfams work in Somalia and this case study is based on an experience of Novib Oxfam Netherlands who began to support these initiatives in 1995. What began as development work has slowly expanded into an engagement in public debates and advocacy for peace and human rights. In 2002, Novib Oxfam Netherlands was invited by the European Commission to launch a project called 'Strengthening Somali Civil Society'. At the start, Somali researchers mapped civil society throughout the country (identifying NGOs, religious leaders, elders, community-based organizations, the media, professional organizations, and artists) and studied donors' policies to understand why they were not investing in Somalia and Somaliland. This led to the Civil Society Symposium in the city of Hargeisa in February 2003, where 400 representatives of civil society came together to review the findings. They impressed upon the attendant donors the need to invest in education, but also to start thinking in terms of partnerships with local organizations.

Meanwhile, a Code of Conduct was developed by Somali civil society, prescribing standards to which civil society aspires to adhere. Somali networks have subscribed to the Code and set up a monitoring mechanism. Furthermore, ten human rights organizations were trained in investigation, documentation, monitoring and advocacy, with the aim of systematically documenting abuses of human rights and addressing violations that are not visible to the international community. Cases were presented to the UN Human Rights Commission in Geneva, and the support of Amnesty International was obtained to protect defenders of human rights. Finally, a newsletter and a website were developed to promote the work of Somali groups. Somalis can now communicate with fellow Somalis, both within the country and in the diaspora. The work and the debates have made it possible for civil society actors to contribute to reconciliation. Two campaigns in particular, Civil Society in Action and the Hadrawi Peace March, have raised hopes that people can regain power over their own lives.

## Oxfams – the advantages of difference

Each of the Oxfam affiliates is working on the commitments made in the strategic plan of 2000, including the incorporation of a rights-based approach. Yet differences remain, not surprisingly in view of the fact that the confederation was formally established less than ten years ago. For Oxfam International, narrowing some differences, and accepting others, is an ongoing process, informed by a lively debate among partners, allies, and critics in other institutions. While consistency is important, the differences provide comparative analysis of effectiveness and impact among peers, and give sufficient 'room for manoeuvre' for innovation.

Two examples illustrate the breadth of this 'room for manoeuvre'. One concerns the efforts of Oxfam GB to build capacity on both sides of the human rights equation. While much of Oxfam GB's support for civil society is similar to that of other Oxfam affiliates, it is distinctive in that it explicitly seeks to improve the capacity of duty bearers to respond to the demands of

citizens and civil society organizations. This is due primarily to its history of operational programmes, whereby Oxfam GB teams in country programmes work in direct collaboration with government, as well as with civil society. While this area of work is clearly important (Tomás 2003: 11–16), Oxfam is mindful that where governments are not genuinely interested in justice and promoting rights, a commitment to capacity building must not provide a façade to deflect criticism and action.

By contrast, Novib Oxfam Netherlands has consistently worked to strengthen the capacity of autonomous partner organizations and NGOs in particular, both at an internal/micro level (organizational development) and at an external/macro level (institutional development). Over time, this institutional development has deepened into alliance-building, lobbying and advocacy, and building citizenship, which is well illustrated in the Somali case study presented above. In a recent policy paper (Novib 2004), this standing policy has been reaffirmed: a strong civil society is crucial in order to create a system of checks and balances between the agency, the government and the private sector.

## A common language and a coordinated approach

As this chapter has demonstrated, a variety of methods to promote the fulfilment of human rights has emerged from the adoption of a rights-based approach across the Oxfams and in different national contexts. Although the emphasis and *modus operandi* of particular Oxfams may differ, common to all are the shifts that occurred when they redefined their work according to five rights-based aims and related strategic change objectives, and when programme and campaigning work focused on well-defined targets for holding institutions accountable for their policies and practices. Despite some differences in their ways of working, the Oxfams have demonstrated how a rights-based approach can be implemented in programmes and campaigns to transform a spiral of poverty and human rights abuses into a virtuous circle, in which rights holders benefit, and duty bearers fulfil human rights. This can take place at regional, national and international levels, or indeed – and most powerfully – at multiple levels combined.

The examples presented here illustrate efforts by one or more Oxfams to develop their rights-based approach further. One way is to assess the outcomes of partner organizations' work against rights-based aims and strategic change objectives. Another is to improve the awareness and capacity of duty bearers, either the state or multinational corporations, to meet their obligations to respect human rights. A third is to strengthen the voice of local actors through capacity building and multi-level advocacy

and media work. A fourth is to ensure that the full continuum of rights is addressed, whether by Oxfam or others.

While the implementation of a rights-based approach in terms of institutional accountability has become a significant feature across the work of the Oxfams, there has been less discussion and collaboration on an equally important component of the RBA: that of incorporating human rights principles throughout Oxfam's practice. These principles are of course enshrined in Oxfam's stated intent; but ensuring that they are consistently put into practice, not merely enshrined in institutional rhetoric, is a continuing challenge.

The extent to which Oxfam staff practise these principles in their day-to-day work depends on a whole host of factors, including levels of awareness, capacity and willingness to uphold the standards through programme and campaign cycles. It also depends on how well staff and their counterparts are supported to uphold these standards in the face of other organizational demands.[15] Arguably, Oxfam struggles with translating theory and good intent into good practice no more or less than the typical international NGO. But because of its increasingly high profile, it is particularly important for Oxfam to be mindful of its responsibilities when it describes itself as an agency with a rights-based approach at its core. A focus on global-level campaigning must not lead Oxfam to overlook the real situation of local communities, and Oxfam must meaningfully evaluate whether global successes are being translated into improvements for the world's most marginalized people. Rights such as the freedom of information, expression and assembly must be exercised everywhere, or short-term gains will be lost. Indeed, the requirements of broad-based campaigning and the increasing demands on CSOs for sophisticated planning and reporting mechanisms are in some ways competing with this imperative for attention and resources. Nevertheless, it is evident that mainstreaming the principles of human rights will be an increasing aspect of Oxfam discussions, both internally and externally with counterparts and other stakeholders, in the coming years.

Oxfam faces other challenges in implementing a rights-based approach. Many people are not aware of their rights, so awareness-raising will be a lengthy process. Some governments are not committed to protecting and promoting rights; even in cases where they express commitment, they may lack the necessary resources. And at times, Oxfam refrains from pressuring governments about specific violations, for fear of risking legitimacy or of creating future risks to staff and programmes.

Despite these challenges, the universal language of rights has helped the Oxfam affiliates and their partners to speak a common language, and

to express in authoritative and internationally accepted terminology the essential elements for achieving human development and global justice. The unequal power relations that constrain human development can be confronted more forcefully when international principles and instruments of human rights can be brought to bear on national legislation, and in turn citizens can draw on both levels to demand their rights. Rights-based development programmes and campaigns are an important complement to the longer-established activities of organizations dedicated to the protection of human rights. Working on these issues from the local level upwards, building the awareness and capacity to promote human rights, and joining forces and linking different actors and different levels are strategies that, when done well, give expression to Oxfam's quest for global equity.

## Notes

1 For more information, see Oxfam International (2000); available at <www.oxfam.org/eng/about_strat.htm> Hereinafter, references to programme or campaigns encompass both development and humanitarian goals and activities.

2 In this chapter, 'Oxfam' is used when it is applicable to the twelve affiliates of Oxfam International, rather than any specific affiliate.

3 When adopting the OI Strategic Plan 'Towards Global Equity' (2000), the RBA was one feature of the OI profile, the other three being 'humanitarian response and development action'; 'action, advocacy and learning'; and 'working with autonomous, local partners'.

4 For more on this vicious circle, see Williams (1995).

5 For an excellent overview of how an analysis of rights holders versus duty bearers is intrinsically linked to the action-oriented character of rights, and human rights in particular, see the contribution of Bas de Gaay Fortman in Boerefijn et al. (2001: 49).

6 Through claiming respect for and protection and fulfilment of rights. The legitimacy of development actors to contribute to fulfilling rights is described in an analysis of Henry Shue's work on the trinity of obligations (Brouwer 2001: 18).

7 The Millennium Declaration, adopted by the UN General Assembly in 2000, which has generated the Millennium Development Goals as specific targets for 2015, can be seen as a reaffirmation of the UN Charter.

8 The twelve Oxfams have organized their work globally into twelve 'regions' that form units for coordination and joint action.

9 For example, Oxfam GB's Global Citizenship programme has had a significant impact on the development of global citizenship studies within the UK National Curriculum.

10 Make Poverty History represents a shift in Oxfam's Education Now campaign towards a broader alliance and the goal of persuading governments and donors to achieve the Millennium Development Goals.

11 For more on this relational character of rights, see Lund-Madsen 2001: 3–4.

12 Interestingly, these are classified as elements of 'the human rights approach', 'the responsibilities approach' and, to a lesser extent, 'the human rights education approach' (Marks 2003: 5–6, 16–22 and 23–6).

13 The WTO panel found that $3.2 billion in US cotton subsidies and $1.6 billion in exports credits (for cotton and other commodities) contravene WTO rules. This represents almost all cotton subsidies and close to 50 per cent of all export credits used by the USA in 2002.

14 This emerged as a key priority during consultations conducted among the staff by Oxfam America and Novib Oxfam Netherlands on implementing an RBA. A comparison of the outcomes of those consultations may be obtained from the OI secretariat (Brouwer 2003).

15 For example, by taking advantage of opportunities for policy dialogue that do not permit thorough consultation with affected communities.

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