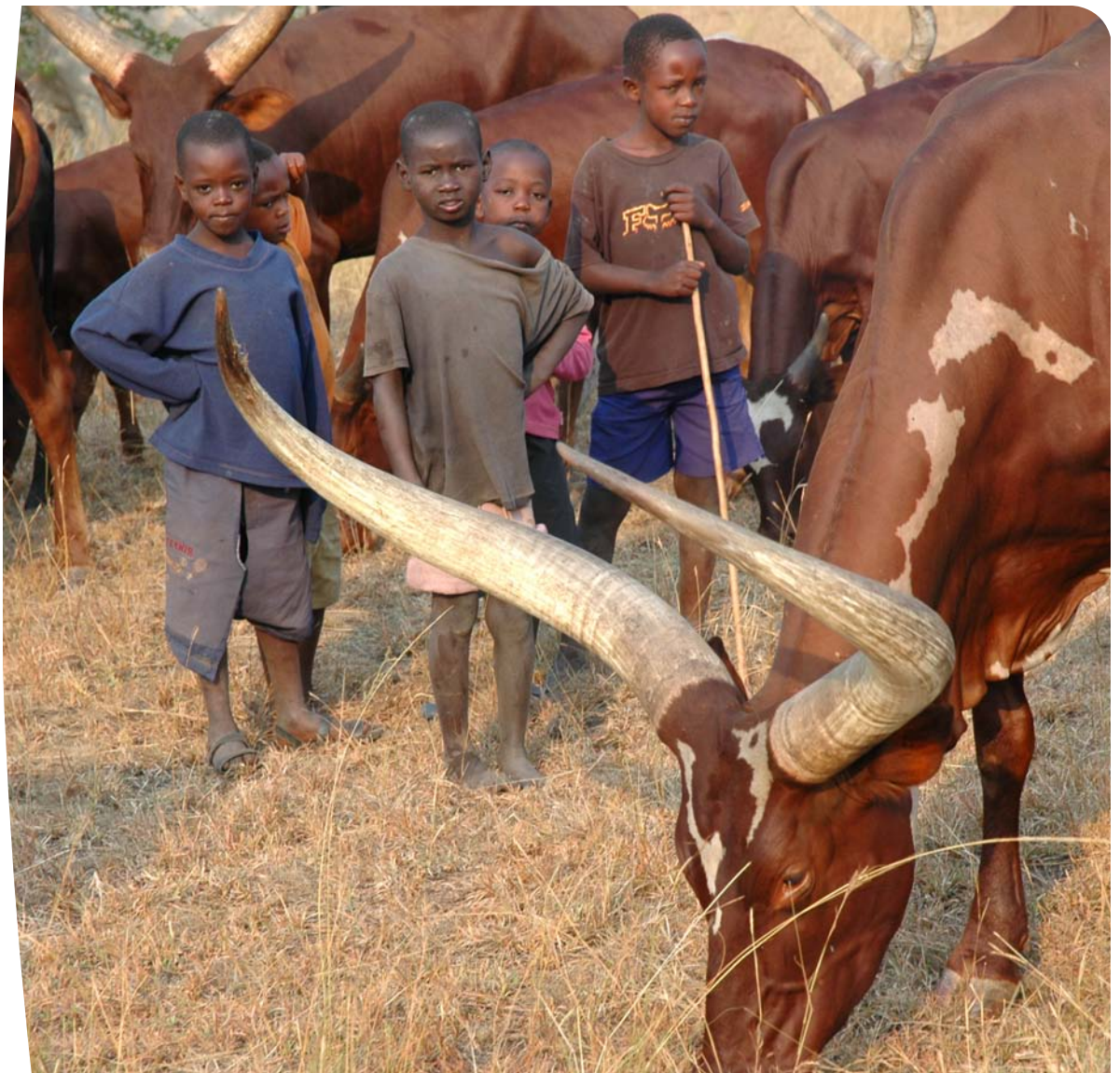




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## From Needs to Rights

Lessons learned from the application of rights based approaches to natural resource governance in Ghana, Uganda and Nepal



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The mission of the Rights and Resources Initiative is to promote greater global action on pro-poor forest policy and market reforms to increase household and community ownership, control, and benefits from forests and trees. RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington D.C. For more information, visit [www.rightsandresources.org](http://www.rightsandresources.org).

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*Photo: Basangora Pastoralists who have faced continued conflicts with the Queen Elizabeth Protected Area management authority regarding access to the park for grazing of cattle. Photo credit: Jacob Holdt*

# **From Needs to Rights**

**Lessons learned from the application of rights based approaches to natural resource governance in Ghana, Uganda and Nepal**

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Rights and Resources Initiative  
*Washington DC*

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## EXECUTIVE SUMMARY

As one of the world's largest non-profit agencies working in international development, CARE International has over 50 years' experience with poverty reduction across over 60 countries in the South. Following a fundamental review of their overall programme approach CARE made a commitment in 2002 to apply a Rights based Approach (RBA) across the organisation, and in particular with regard to its field based activities. This corresponded with a fundamental rethink of CARE's overall vision and mission that aims to address the underlying causes of poverty and social injustice.

CARE Danmark, as one of the members of the wider CARE International family, has since its inception developed a strong programme focus around a single sector: Agriculture and Natural Resources (ANR). This contrasts with other CARE International members who have tended to engage in a range of sectors across the development-relief continuum.

This paper provides a retrospective review of how this new RBA-centred approach has been applied in practice, particularly in three countries: namely Uganda, Ghana and Nepal. In contrast to many international NGOs working with RBA, CARE has chosen to focus on the application of procedural rights—rather than a more confrontational approach to the adoption of substantive rights. An approach that promotes procedural rights is seen as a useful entry point to issues of power, governance and equity, within the broader framework of sustainable natural resources management.

In **Ghana**, CARE has adopted a rights based approach by addressing issues relating to illegal logging and unsustainable natural resource use as well as inequalities in the sharing of forest harvesting benefits. Working with local civil society partners, and in particular Forest Watch Ghana (FWG), CARE supports platforms at community, district, regional and national levels through which effective claims over land and natural resource tenure can be made to local and national government duty bearers. Together with FWG, CARE is working increasingly closely with duty bearers at the national level (such as the Forestry Commission) as well as international levels (the European Union) with a view to addressing some of the structural issues relating to forest governance.

In **Uganda**, CARE has worked particularly in supporting the rights of rural people living around protected areas in south-western Uganda who have been negatively impacted by national and international conservation efforts and have been unable to capture the benefits of tourism at the local level. One of the key target groups of the programme is ethnic minorities, such as the *Batwa*, *Basongora* and *Banyabatumbi*, all of whom hold traditional claims to land now enclosed within national parks located in the south-western part of the country.

In **Nepal**, CARE has been supporting improved governance in participatory (community) forest management in a range of poor and remote rural areas. This study focuses on 3 districts in the mid-west of Nepal, which are in the Terai area (plains immediately at the base of foothills): Banke, Bardia and Kailali. The forest in this area has high value hardwood species like *Shorea robusta* (*Sal*) and thus more economic value than most forest in hills and mountain regions. Since 1996, CARE has focused on measures designed to make the forest management process more internally accountable and pro-poor to avoid the widespread tendency towards elite capture. At a national level, CARE works with the Federation of Community Forestry Users, Nepal (FECOFUN) with a view to holding government line agencies increasingly accountable to their own stated policy goals and with the objective of reducing the risk of policy “backsliding”.

The case studies presented in this paper illustrate how the application and pursuit of procedural rights can provide an important entry point for addressing substantive human rights, such as property rights,



*Basangora Pastoralists who have faced continued conflicts with the Queen Elizabeth Protected Area management authority regarding access to the park for grazing of cattle. Photo credit: Jacob Holdt*

as well as rights to a clean and healthy environment. Drawing heavily on previous studies and policy research undertaken elsewhere, and focusing heavily on the application of the three procedural rights<sup>1</sup>, a framework is presented in this paper to characterise and analyse progress made in Ghana, Uganda and Nepal with regard to the adoption of a RBA. The framework recognises three broad principles:

- Supporting rights holders to make effective claims
- Recognising diversity and explicitly targeting marginalised groups
- Supporting duty bearers to more effectively fulfill their responsibilities

The report provides conclusions at two overall levels. Firstly, it assesses in practical terms the implications of fundamentally transforming a field programme from

one that was characterised by helping poor and vulnerable households meet their needs, to one that supported rights holders to make claims on duty bearers. Secondly, the report synthesises some of the lessons that have been learned at the organisational level, in terms of undertaking institutional change and transformation around RBA. The report details some of the obstacles as well as drivers of change and provides insights to other peer organisations working in rural development that are undergoing, or are considering, a major change process of this kind.

At the field level, the report concludes that:

- Supporting rights holders to make claims is a step-wise process that can only work following a period of raising awareness and capacity building in legal literacy. For rights holders to effectively articulate their claims, it is imperative that they first understand the foundation and legal basis for their claim; that the duty bearers charged with upholding these rights are identified; and that the responsibilities that duty bearers are required to fulfil under law are fully understood.
- Empowering poor and marginalised groups will necessarily result in changes in the balance of power and may well lead to unanticipated negative impacts and conflict. A case study presented from Uganda shows that strengthening institutions with the aim of giving greater voice to marginalised groups increased tension from neighbouring majority ethnic groups. Given that much of the simmering conflict in south-western Uganda is defined around ethnic grounds, great care must be taken in increasing ethnic identity and visibility. Perhaps a less risky approach could involve defining the conflict in terms of interests or positions, rather than ethnicity. Furthermore, empowerment alone, without a longer term commitment to support conflict resolution processes and dialogues within a moderated environment may violate the principle of “do no harm” —leading ultimately to re-opening simmering conflict between competing groups. Clearly, organizations like CARE, engaging in the empowerment of marginalized groups, have a responsibility, as duty bearers, to anticipate and mitigate such potential conflicts.
- When supporting duty bearers to more effectively fulfil their responsibilities, external facilitators such as CARE must be prepared to adjust their strategy and approach rapidly. Experiences from CARE, FECOFUN and Forest Watch Ghana show how activities initially focused on robust advocacy strategies (sometimes called a “violations approach”) directed towards national government agencies with a view to holding these

<sup>1</sup> The right to information, the right to participation in decision making and the right to remedy in discriminatory treatment



agencies accountable to their own stated policies. However, once some level of change has been realised, there was a need to rapidly change focus and approach—and work on a more supportive level, (sometimes called a “promotional approach”) with a view to assist in developing practical mechanisms whereby these policies could be realised. These examples help show how governments with limited budgets and capacity can be supported to progressively prioritise and realise rights obligations. Furthermore, they illustrate some of the challenges for CARE in terms of appropriate skills and capacity when shifting from one form of advocacy to another – requiring quite different sets of skills.

At the organizational level the study points to a number of lessons of relevance to other organizations seeking to re-orient their approach to be more rights based. A number of key factors that appear to impact (either positively or negatively) upon this change are outlined below:

- Tensions between deliberate moves to re-orient CARE country programmes towards RBA through a strategic planning process, and the availability and type of funding with which to support the move, were a key factor. As many institutional donors continued to move towards increased support to government (through sector wide approaches and general budget support modalities) and funds to NGOs dropped, this necessitated a rethink of funding and fund raising. A number of those donors who continued to support NGOs such as CARE tended to be highly prescriptive in defining “hard” programme outcomes (such as trees planted or terraces constructed) and goals and were rarely interested in “softer” goals (such as empowerment, accountability and good governance) to which RBA applies most directly.
- Management systems and structures within the country office, designed for one particular mode of operation (namely larger, service delivery, needs-based projects) were not found to be amenable to an approach based more on partnerships with emerging civil society organizations built around less clearly defined outputs. Traditionally, as an organization that is somewhat risk-averse— due to concerns over loss

of programme quality or financial accountability—there were many within the organization that became increasingly apprehensive about the shift in approach and their role in it.

- A fear was expressed by some CARE staff that while the adoption of a RBA presented many exciting opportunities for addressing “upstream” structural issues relating to marginalisation, exclusion and discrimination, there was a need to dovetail this with more traditional approaches that worked on improving the human condition—or more specifically, addressed the immediate concerns of the poor. The danger was expressed that if the RBA pendulum was left to swing too far, the core target group (the rural poor) would be left unsupported when it comes to address their immediate needs like improving their farms, adopting new agricultural practises, launching new income generating activities, and managing their natural resources more sustainably and profitably.

Examples from Uganda and Ghana illustrates the challenges of working around competing but legitimate claims over land, and the need for a coherent and consistent institutional position at the organisational level when supporting conflict resolution. CARE Danmark’s own mission statement reflects the need to balance environment with development for long term and sustainable development. But in situations where legitimate rights and interests at the national and local levels are in direct conflict (such as national interests for protected areas versus local rights for a secure livelihood) who negotiates these trade-offs and which is more legitimate? Rights purists may argue that



A woman from the Batwa community.  
Photo credit: Jacob Holdt

rights may never be compromised, but CARE's experience would point to the fact that trade-offs are needed if lasting solutions are to be found.

Despite the challenges encountered in applying RBA to CARE's Natural Resource Management programmes, a number of positive outcomes have been realised. Firstly, RBA has fundamentally changed the way in which CARE and partners now work in NRM and conservation work. CARE's NRM programmes now include an explicit focus on governance, recognise power, and promote the empowerment of marginalised groups. Further benefits include the development of stronger Civil Society Organisations (and networks) in developing countries and increased accountability between the state and its citizens, and between NGOs and their constituents.

## 1

## RIGHTS-BASED APPROACHES TO DEVELOPMENT

A number of international development organisations (both governmental and non-governmental) have in recent years made explicit moves towards adopting Rights based Approaches (RBA) in their programming strategies. As the name suggests, the approach is derived from international human rights and provides a clearly defined framework that builds on existing obligations. Human rights, through a series of international conventions provide a series of universally accepted benchmarks, norms or standards against which states can be held accountable. The explicit benefits of a RBA are that:

- ***It is empowering.*** Rather than people having a need for a clean and healthy environment (and consequently waiting for officials to provide this) a right means that people can claim it, demand it and have a right to it.
- ***It is defined, precise and widely accepted.*** Rights provide a measurable, verifiable standard against which progress can be measured—rather than broader objectives such as “poverty reduction” which may be defined differently by states and citizens.
- ***It protects individuals,*** rather than more general notions of sustainable development which aim at global or national improvements that might not benefit everyone. Rights provide a measure for the minimum conditions of wellbeing that everyone needs to enjoy.
- ***It builds on existing obligations*** and provides a mechanism for holding states and other service providers accountable.

A key element of a human rights approach is that the rights implicitly trigger responsibilities both for the state and for citizens. Using the language of rights based approaches, “rights holders” (those who claim rights and entitlements) interact with “duty bearers” (those who have the obligation to protect and fulfil human rights). Typically, states (central or local governments) are duty bearers while the poor are rights holders.

Rights based Approaches therefore differ quite clearly from the more traditional, needs based approaches. Table 1, provides a summary and overview of how these two approaches contrast at different levels:

Rights based approaches have been operationalised in a variety of forms. In some cases, where rights are clearly defined and have a high profile (such as with rights of the child, rights not to be tortured and so on), a strict legalistic approach is adopted, and development agencies support processes that lobby government to meet their obligations around specific substantive rights. Within the natural resource arena, a number of international NGOs have chosen this path and emphasise property rights (land, forests) as a way to advance the RBA agenda. In many cases, international law, such as UN ILO Convention 169 on Indigenous and Tribal Peoples.

A more common approach (and one adopted by CARE) is one that emphasises and operationalises human rights principles—the three most common are listed below (after Lutrell, 2005):

- ***Participation in decision making.*** This principle supports rights holders to make effective

TABLE 1. HOW RIGHTS BASED AND NEEDS BASED APPROACHES DIFFER IN PRACTICAL TERMS.

Needs based approaches...	Rights based approaches....
Vulnerability viewed as a symptom of poverty	Vulnerability viewed as a structural issue and an underlying cause of poverty
Focus on poverty reduction or alleviation	Focus on poverty eradication and social justice
Programme interventions rarely take account of power and even if it is recognised, no remedial action is taken	Programme interventions specifically acknowledge power, its unequal distribution and seek ways to redress the balance, or level the “playing field”
Poor are seen as victims, who are there to be helped and to accept assistance as and when it is provided	RBA supports the transformation of the poor person from a passive receiver to one participating in decision making and asserting rights
Extension focuses on technical solutions/innovations to address poverty (such as new agricultural practises)	In addition to technical solutions/innovations, extension focuses on helping the poor to claim their rights through supporting legal literacy
Gender: Focus tends to be on addressing the symptoms of discrimination (such as encouraging attendance in meetings, but not supporting meaningful participation)	Gender: Focus tends to be on challenging discrimination and social, cultural and institutional norms related to exclusion
Partner selection driven by track record in service delivery	Partner selection driven by a commitment to rights and empowerment
Monitoring measures success in the form of tangible outputs (farmers trained, new agricultural practises adopted, etc.)	Monitoring measures success in the form of process indicators (empowerment, increased rights and greater accountability)
Accountability flows from the implementing agency to the funding agency	New lines of accountability are explored, such as to government and to target group, and links between these two

Adapted from Luttrell et al, 2005.

claims on duty bearers. Decision making is seen as an explicitly political process and it recognises that everyone has a right to take part.

■ **Equality and non-discrimination.** This principle recognises that power is unequally distributed and certain sectors of the population (the poor, women, pastoralist or indigenous groups) are systematically excluded from the development process. Exclusion, rather than being a symptom of poverty, is seen as the root cause. Consequently a rights based approach recognises that without external assistance, the poorest and most marginalised will generally lack the capacity to negotiate for their rights.

■ **Accountability.** This principle supports duty bearers to be accountable for their actions through a variety of channels: legal, political and social.

These three human rights principles have close linkages to three key procedural rights, rights that are used to enforce other “harder” (or substantive) rights. These three rights, all found in the Universal Declaration of Rights are as follows:

- **Article 19:** The right to information
- **Article 21:** The right to participation in decision making
- **Article 8:** The right to remedy in discriminatory treatment

Approaches which emphasise a more legalistic interpretation of rights stress the use of legal frameworks and the use of legal recourse. Others, however, have argued that an over-emphasis on law can be misleading and counterproductive. In most developing countries, the law is not universally

applied, known or enforced. Moreover, claims and cultural norms enforced by traditional or customary law often play a more important role with regard to conflict resolution and dispute settlement, particularly in rural areas. In many countries, the formal legal system does not recognise such practises and processes. Following this argument, a range of actors (including CARE) have sought to broaden the definition of a rights based approach to include working within traditional and cultural norms and supporting the poor and marginalised to both realise rights and make legitimate claims against non-state duty bearers, such as traditional authorities. In weak states, rather than working on an approach that provides legal challenges to rights violations, an approach is adopted that promotes rights enforcement through capacity building and social change.

A further potential limitation of the more purist (and legalistic) approaches to RBA is the high level of emphasis on state-citizen relationships as the basis for fostering accountability and obligation. In an environment of weak (or in some cases collapsing) states, the use of global rights frameworks may have little relevance with regard to poverty reduction. This rather linear view of rights and rights enforcement also runs the risk of neglecting other duty bearers, such as private sector organisations, development agencies (including NGOs), and

local institutions at village or local government level. It is institutions such as these (and rarely organs of central government) that interface directly with poor rural people and where perhaps most impact can be achieved. Finally, an over-emphasis on states as duty bearers may lead to the role of individuals, groups, and communities as agents of development being underestimated.

Moser and Norton (2001) developed a framework for human rights and sustainable livelihoods that demonstrated how a RBA could be used at three distinct levels:

- **Normative:** This provides the basis and foundation for the rights based approach, through specific substantive and procedural rights and human rights principles.
- **Analytical:** This allows organisations planning development activities to frame the causes and drivers of poverty within a framework of rights, responsibilities, rights holders and duty bearers. It assesses how power is distributed and identifies channels through which claims can be contested at different levels.
- **Operational:** This provides a suite of interventions that can support groups to make key claims on services and rights, and ways in which duty bearers can be made more accountable.

Much of the literature reviewed in this study pointed to the first two arenas, the normative and analytical frameworks for realising a Rights based Approach. Less emphasis has been given to the third, but perhaps most important, level: that of operationalising RBA in the field. This study, it is hoped, may go some way to addressing this apparent gap.

Rights based Approaches can be used both in the planning of interventions and during direct implementation. When preparing and planning a new programme, RBA can be valuable in terms of strengthening and improving *situation and context analysis*. Using the RBA lens, the underlying causes of poverty are assessed, and issues such as the distribution and holders of power are studied, with a view to developing appropriate interventions that can shift or alter power relations in more equitable means. Using rights as benchmarks al-



Women from the Banyabatumbi ethnic minority who were evicted from the Queen Elizabeth Protected Area in SW Uganda. Photo credit: Jacob Holdt



*A Dalit woman of the Devasthan Community Forest User Group, in Lamjung District in north central Nepal. Photo Tom Blomley*

lows power gains made by marginalised groups to be anchored to prevent backsliding.

Also applying a RBA during programme design allows for the identification of **multiple entry points**. A RBA automatically triggers the identification of rights holders and duty bearers and can point to ways in which linkages between these two stakeholders can be strengthened – something that may be less likely using a more traditional household livelihood security assessment.

Finally, the adoption of a RBA implies that changes are made in terms of outcome monitoring. HLS (Household Livelihood Security) projects tended to track impact outcomes at the level of individual or household level (in terms of increased assets, income or capital and the reduction in risk or vulnerability). With the adoption of a RBA, this monitoring expands to capture whether interventions have led to:

- empowering rights holders to claim their rights (in ways that reduce their poverty),
- strengthened capacity and increased accountability of duty bearers to meet their obligations,
- reduced discrimination and increased empowerment for marginalised groups.

The recent increase in interest from more mainstream development organisations (such as Danida, World Bank, DFID as well as a range of NGOs) in the application of rights based approaches has resulted in a growing interest in measuring and assessing progress towards wider concerns of governance reforms in developing countries. This is exemplified by surveys such as the “Afrobarometer” survey conducted by the Inter-University Consortium for Political and Social Research ([www.afrobarometer.org](http://www.afrobarometer.org)) and the Bribe Payers Index conducted by Transparency International.

However, a broader controversy remains; that is, whether the adoption of a RBA contributes to more effective poverty reduction. In other words, do the added costs and complexities of implementing a RBA, while addressing household and individual livelihood concerns lead to a more lasting and significant change? An inter-agency report undertaken in 2005 and including CARE (Crawford and Lagu, 2005) compared outcome and impact of RBA and non-RBA projects in addressing poverty and realising the Millennium Development Goals. The results were inconclusive due to the lack of an adequate baseline data across the different projects reviewed. However, it did conclude that RBA projects appear more likely to lead to sustained change as they have more far-reaching impacts touching on practice, policy, institutions, norms and values.

## 2

## ORGANISATIONAL MOVES TOWARD A RIGHTS-BASED APPROACH

CARE International adopted a rights based approach in 1999 and with it came a fundamental review of the organisation’s mission and vision. After fifty years of working on addressing poverty, there was a widespread realisation that addressing needs alone would not bring about the transformation required, and that instead a more radical and overtly political response was needed: one that would challenge the underlying causes of poverty, inequity and social injustice (Burden, 2007).

CARE International defines a RBA as:

*“An approach that deliberately and explicitly focuses on people achieving the minimum condition for living with dignity (i.e. achieving their human rights). It does so by exposing the roots of vulnerability and marginalization and expanding the range of responses. It empowers people to claim their rights and fulfil their responsibilities. A rights based approach recognizes poor, displaced and war-affected people as having inherent rights essential to livelihood security rights that are validated by international law” (Burden, 2007)*

CARE International has developed six programme principles, to guide overall implementation at the organisational level (Box 1). These are also strongly rights based and in general tend to be focused mostly towards the application of procedural, rather than substantial, rights. This stands in sharp contrast with a number of other international NGOs

working on environment and development issues—particularly those with a more overt activist focus—such as Forest Peoples Programme, Global Forests Coalition, Survival International, and Greenpeace. In general such organisations work towards the application of substantive rights (such as property and land rights) and tend to use a more legalistic approach towards their promotion (such as the UN Convention 169 on Indigenous and Tribal Peoples).

Since the RBA approach was adopted, CARE has further refined its overall programme strategy through its “Unifying Framework for Poverty Eradication, Social Justice and the Underlying Causes of Poverty” (McCaston, 2005). This stresses the need to continue to work on the “human condition” (social and economic wellbeing of poor and marginalised groups), while working in tandem to bring around a change in the “enabling environment”—the broader institutional or political structures that impact upon people’s lives—and to support people to improve their “social position” (to address inequality and discrimination to enable the most marginalised to

### BOX 1. CARE PROGRAMME PRINCIPLES

- To promote empowerment;
- To work in partnership with others;
- To ensure accountability and promote responsibility;
- To oppose discrimination;
- To oppose violence; and
- To seek sustainable results



*Batwa household squatting on the perimeter of the Bwindi Impenetrable National Park in SW Uganda. The Batwa were traditional users of the forest and have suffered badly since the park's formation and their subsequent eviction. Photo: Jacob Holdt*

claim their rights). People are poor, it is argued, not *only* because they lack assets and skills, but also because they suffer from social exclusion, marginalization, and discrimination. The unifying framework seeks to link the Household Livelihood Security (HLS) framework with the general principles of RBA into a single overarching approach to fighting poverty.

CARE Danmark, as a member of CARE International, has fully embraced the new organisational mission, vision and programme principles and has explicitly recognised the need to move towards a rights based approach to development. (CARE Danmark, 2007).



# 3

## WHAT IS SPECIAL ABOUT RIGHTS IN NATURAL RESOURCES MANAGEMENT?

While there has been a significant amount of literature written on the subject of applying a RBA to development work in general, there has been much less analysis relating to the challenges of applying RBA in the field of natural

resources management – the core focus of CARE Danmark programming. This section explores some of the particular challenges faced when applying RBA within the natural resources management sector.

### 3.1 ENVIRONMENTAL RIGHTS – SUBSTANTIVE OR PROCEDURAL RIGHTS?

Human rights law provides for two main categories of rights: substantive and procedural rights. Substantive rights define rights to the “substance” of human wellbeing (such as rights to life, housing, water and a healthy environment), while procedural rights define procedures that protect and fulfill substantive rights. These include the means to claim substantive rights, such as access to information, participation in and influence on decision-making, and access to legal redress.

Within the context of applying a RBA to natural resources management, two main approaches have been used. The first involves raising environmental rights to the level of substantive rights (discussed in more detail below), while the second involves pursuing procedural rights as a means of claiming substantive rights, such as rights to property. Within the context of the case studies presented in the following chapters of this report, the emphasis of CARE has primarily been to pursue the latter strategy. Procedural rights have been used as an

entry point for addressing substantive human rights. Furthermore, procedural rights provide a framework for making claims on environmental managers (duty bearers) at higher levels and ensuring that any benefits that arise from this management are distributed in an equitable manner. In a number of the cases presented, the local environment is largely “clean and healthy”, but conservation or natural resource management activities designed to achieve this are impacting on and undermining other substantive rights (such as the rights to food from crop raiding). These and other examples are discussed in more depth in Chapter 4.

Environmental rights have not until recently been accorded the same level of priority as others relating to the human condition (such as rights to education, health, freedom of speech and so on). The Universal Bill of Rights<sup>2</sup> does not recognise

<sup>2</sup> Constituted by the Universal Declaration of Human Rights (1948), the Covenant of Economic, Social and Cultural Rights (1966) and the Covenant of Civil and Political Rights

environmental rights and it was not until the Stockholm Declaration in 1970, that this link was made. Its lower level of prioritisation, however, coupled with differing notions of what constitutes a “clean and healthy environment”, has meant that enforcement mechanisms have been weak. Some authors have argued that the way in which this right is formulated shows a considerable northern bias (with clear linkages to issues such as industrial pollution and environmental protection) (Cullet, 2005). Given that the bulk of the world’s poor live in rural areas, urban environmental issues may be less of a priority than concerns over their access, security and benefits from renewable natural resources such as land, forests, lakes and wildlife. This is a key area that is explored in both the Ghana and Uganda case studies. A further complication regarding environmental rights is the question of right holders. Do the holders of this right include future (i.e. unborn) generations? Is the right held individually (as with other mainstream rights) or collectively (which in turn presents additional challenges, as discussed in Section 2)? In addition, there are a range of definitional, or assessment, issues that arise due to the vagueness of the phrase “clean and healthy environment”. Finally, deep ecologists have argued that the phrasing of this and other agreements tend to emphasise the anthropocentric nature of the environment. As an example, biodiversity in

Antarctica and other ecosystems would indeed be protected only insofar as their preservation is necessary, or desirable, for the protection of human lives and health or for the realisation of human interests (e.g. the protection of natural landscape or the promotion of tourism) (Sensi, 2007). Others have argued that the failure to agree upon a common definition and corresponding duties for states regarding a substantive environmental right is not the result of the limitations expressed above, but of a more general lack of political will to commit.

A rights based approach to environmental protection recognises that the protection of the environment represents a pre-condition for the effective enjoyment of a number of human rights—including the rights to life, security, health, food, clean water, adequate housing, property, private and family life, and culture—and that, conversely, damage to the environment can impair and undermine the realisation of these rights. Using existing procedural human rights as tools to protect the natural environment presents several advantages with regard to the creation of a new substantive right to a healthy environment. Perhaps in recognition of the difficulties associated with enforcing environmental rights as fully-fledged substantive rights, recent moves in human rights development have tended to focus more on using procedural rights for the promotion of environmental protection.

### 3.2 INDIVIDUAL OR COLLECTIVE RIGHTS?

While a strict legalistic interpretation of human rights emphasises the individual nature of how rights and responsibilities are held, natural resource management often involves collective action around natural assets that are held in common. One of the fundamental aims of community based natural resource management processes is the devolution of management authority and responsibility from the state (usually central

government) to forest user groups, village natural resource committees or other mandated local institutions. In many cases these institutions are customary and informal, and may not have protection under prevailing legal systems. However, in many countries such institutions are increasingly being recognised or mandated with legal rights regarding the use, management, and control over natural resources.

### 3.3 RIGHTS HOLDERS AND DUTY BEARERS

Using a traditional approach to human rights tends to emphasise national governments as the primary duty bearers when it comes to discharging responsibilities for its citizens to claim rights. Under decentralised natural resource management, and in particular community based natural resources management, in many cases the primary duty bearer is a village natural resource committee, a community institution, or a traditional structure such as a chieftaincy, elders' group or religious order. When working within such situations, it is important to maintain a more flexible approach to the application of human rights and recognise other duty bearers beyond the state. Furthermore, the inclusion of the private sector within definitions of duty bearers is also important, particularly in areas such as Ghana, where forest resources are

being harvested by large and established logging companies (both local and international).

RBA can assist in the development of such programmes by assisting the rights holders (individuals who are the primary resource managers and users) to hold duty bearers (such as village committees) accountable for their actions, ensuring an equitable flow of benefits from the management and utilisation of natural resources, and ensuring that more marginalised voices (ethnic minorities, caste groups, women) are given more voice. In addition, RBA allows a sharper focus when considering means to support community groups to defend their rights to local natural resources, or negotiate transfer of rights over the management of natural resource assets from higher level government agencies to the community level.

### 3.4 COMPETING PROPERTY RIGHTS

One of the key features regarding rights over natural resources is the issue of competing but legitimate claims. In an arena of increasing scarcity, different interest groups and resource users face growing polarisation. This is often manifested by conflict over resident resource users at a particular point (such as water points in the Sahel being contested by different pastoralist groups and conflicting locally with resident agriculturalists), conflict for the same resource by users at different levels of scale (local residents' demands for forest produce being contested by governments' demands for biodiversity conservation and water catchments), and conflicts between present and future generations (typified by the current debate on emissions and climate change). Sustainable development, a much overused term, has recently been redefined

and sharpened within the language of rights as development that "promotes the rights of people in the present without compromising the rights of future generations".

Valuable natural resources such as high biodiversity forests, national parks and other protected areas are unique in the extent that external actors (often from outside the country) claim a right to intervene in their management (Brown et al (2005). Despite these global values, in practical terms the burden of responsibility for management tends to fall on the respective national governments, although often supported by international duty bearers such as international NGOs, or international bodies with responsibility for supporting multilateral environmental conventions and agreements. Given the weakness of many



*A woman from the Devasthan Community Forest User Group in Lamjung District in north central Nepal. Photo credit: Tom Blomley*

sovereign governments in areas where much of the world's biodiversity is concentrated, national duty bearers are often unable to discharge their responsibilities in the management of these forest areas, and consequently many of the costs of this poor management falls on communities living adjacent to these protected areas. Some of these failures are covered well in the Uganda example

where problems of animal control, crop raiding, and inefficiencies in revenue sharing are placing undue costs on front-line communities. Under such circumstances, with conflicting and competing claims on property rights within such protected areas, whose rights take priority and how can they be reconciled using a RBA approach?

A similar problem is encountered when applying an RBA "lens" to Community Based Natural Resource Management (CBNRM). Much of the CBNRM (or common pool resource management) literature focuses on what institutional, ecological and social conditions are needed to support sustainable and effective management of natural resources by rural communities. Implicit within much of this is the assumption that households and communities living nearest to the natural resource are necessarily the same people who will manage the resource and obtain greatest benefit from it. Through CBNRM programmes, communities are vested with rights (to use, manage and benefit from a defined area of natural resources) in return for responsibili-

ties (sustainable management practises). When applying a RBA perspective, however, questions arise about the rights of close and distant forest users. In some cases, users with a legitimate claim over natural resources find that their rights become subjugated by those living close to the resource, who effectively privatise the resource at the expense of others. This can be particularly acute in areas with nomadic or semi-nomadic pastoralist groups, who move through certain areas at certain times of the year. Experience from countries such as Tanzania has been that in many cases, seasonal residents (who depend on and have an important stake in the natural resources) are often alienated and are unable to claim legitimate rights over forest resources. Another manifestation of this arises due to the uneven distribution of natural resources. Is it fair to say that those who happen to live close to areas well endowed with natural resources (such as fish, wildlife or forests) have greater rights over their use than others less fortunate? Similarly, when a single and continuous natural resource (a lake, forest, wetland) is shared by different government authorities (villages or districts), but unevenly distributed between these entities, complex questions arise as to how the rights to use and benefit from that resource are shared as well as how this differential endowment manifests itself in terms of individual responsibilities and management costs. The problem is further compounded by temporal dimensions. Some would argue that indigenous people (itself a difficult legal term) by virtue of their historical association with land and natural resources have greater rights than more recent arrivals. The Ugandan Wildlife Statute, for example, explicitly includes special provisions for peoples with traditional, cultural or historical links to land before it was gazetted as national parks.

A rights based approach can be helpful in beginning to unpack these competing but legitimate claims and to open a process that empowers those with weak bargaining power to negotiate a lasting and equitable solution with duty bearers at higher levels.

### 3.5 PROPERTY RIGHTS WITHIN A CONTEXT OF FINITE OR DECLINING NATURAL RESOURCES

Natural resources are by nature not infinite and inexhaustible. Applying the principle of universality within the context of natural resources places rather unique challenges when the natural resources are in a state of crisis or decline, or are limited in some way. A useful example to illustrate this comes from South Africa where the government has embraced a rights based approach to water supply, and committed itself to providing a basic supply of 25 litres of safe drinking water per day per person, free of charge. While this has clearly resulted in welfare improvements such as improved supplies, better sanitation and reduced time to collect water, the physical availability of water in many areas has meant that this benchmark is not always being met. Also, the right to free water only refers to a basic supply for personal and domestic consumption. It does not include a right to agricultural production, or for watering cattle, both of which have the potential to generate significant livelihood benefits, but both of which exceed

the national specified minimum (Foresti et al, 2007). This problem is particularly acute in other areas of Africa such as the Sahel, where competition for water for domestic, irrigation, and livestock/pastoralism is fierce and intense and has resulted in frequent localised conflict. Similar problems are encountered with renewable natural resources such as forests. Communities living around a forest area may have a right to collect household forest produce such as timber, poles and firewood, but the physical state of this resource, due to overuse and degradation, means that the only sustainable solution involves subjugating current rights for those of the future.

In such cases, the application of a rights based approach requires an understanding not only of interest groups, the distribution of power, and a negotiation of legitimate claims, but a solid understanding of the ability of the resource, both now and in the future, to provide goods and services for a range of potential users.

## 4

## TOWARDS A FRAMEWORK FOR OPERATIONALISING PROCEDURAL RIGHTS AT THE PROGRAMME LEVEL

Rights based approaches have been operationalised in a variety of forms. In some cases, where rights are clearly defined and have a high profile (such as with rights of the child, rights not to be tortured and so on), a strict legalistic approach is adopted, and development agencies support processes that lobby government to meet their obligations around specific rights. However, a more common approach is one that emphasises and operationalises human rights principles, the three most common listed below (after Lutrell, 2005):

- **Participation in decision making.** This principle supports rights holders to make effective claims on duty bearers. Decision making is seen as an explicitly political process and it recognises that everyone has a right to take part.

- **Equality and non-discrimination.** This principle recognises that power is unequally distributed and certain sectors of the population (the poor, women, pastoralist or indigenous groups) are systematically excluded from the development process. Exclusion, rather than being a symptom of poverty, is seen as the root cause. Consequently a rights based approach recognises that without external assistance, the poorest and most marginalised will generally lack the capacity to negotiate for their rights.

- **Accountability.** This principle supports duty bearers to be accountable for their actions through a variety of channels: legal, political and social.

These three human rights principles have close linkages to three key procedural rights – rights that are used to enforce substantive rights. These three rights, all found in the Universal Declaration of Rights are as follows:

- **Article 19:** The right to information
- **Article 21:** The right to participation in decision making
- **Article 8:** The right to remedy in discriminatory treatment

CARE Danmark has designed a framework for linking the three procedural rights with rights principles in ways that can be operationalised at the field level and through partners (Table 1). The framework was developed in response to growing calls from the field to provide such practical guidance. The framework provides for three overall RBA principles and then goes on to list some more concrete approaches that can be applied for each



Batwa women who live in southern highlands of Uganda on the perimeter of the Bwindi Impenetrable National Park in SW Uganda. Photo credit: Jacob Holdt

TABLE 2. A FRAMEWORK FOR LINKING RIGHTS PRINCIPLES WITH SPECIFIC PROGRAMME APPROACHES COMMONLY ADOPTED IN A RBA

RBA Principle	Specific approach adopted	Related Procedural Right	Related CARE Programme Principle
Supporting rights holders to make effective claims	Providing linkages from lower level organisations to higher level ones to increase reach and amplify voice	Right to participate in decision making	Promoting empowerment
	Legal literacy and raising awareness on the underlying causes of poverty	Right to Information	Promoting empowerment
	Creating, facilitating and institutionalising spaces/platforms for claims to be made	Right to participate in decision making	Promoting empowerment
	Pursuing public Interest Litigation when rights are abused	Right to remedy in discriminatory treatment	Promoting empowerment
	Selecting partners with track record of empowerment and promotion of the rights of vulnerable groups.	Right to participate in decision making	Working in partnership
Recognising diversity and explicitly targeting marginalised groups	Working on mechanisms that institutionalise inclusion of marginalised and vulnerable groups (such as women, migrants, indigenous groups, and the poor)	Right to participate in decision making	Opposing discrimination
	Strengthening representative institutions to give greater voice to marginalised groups	Right to participate in decision making	Promoting empowerment
	Recognising uneven distribution of power and making efforts to balance the “playing field”	Right to participate in decision making	Promoting empowerment and opposing discrimination
	Specific activities targeted to vulnerable and marginalised groups (pro-poor activities)	Right to participate in decision making	Promoting empowerment
Supporting duty bearers to more effectively fulfil their responsibilities	Advocacy programmes and press releases targeting governance reforms	Right to information	Ensure accountability and promote responsibility
	Helping government reform and develop new models of working	Right to participate in decision making	Seeking sustainable results
	Strengthening accountability mechanisms between the state and citizens	Right to information	Ensure accountability and promote responsibility
	Selecting partners with track record in advocacy and engagement with government at high levels	Right to information and to participate in decision making	Working in partnership

principle. Each specific approach in column two has been traced back to a specific procedural right (Column 3) and linked to CARE’s overall programme principles (Column 4) to demonstrate consistency with its overall mission statement.

This framework is used in the following section to review the application of RBA in CARE programmes in Ghana, Uganda and Nepal, much of which is implemented through partnerships with local NGOs and civil society networks.

# 5

## EXPERIENCES FROM THE FIELD

This chapter analyses some of the more practical aspects of translating the three RBA principles into practice on the ground in ongoing field level activities. Examples are drawn from the three countries of Ghana, Uganda and Nepal, where CARE has

had a strong presence for a number of years in the implementation of natural resources management field programmes and works together with local partners such as Forest Watch Ghana and FECOFUN (Nepal).

### 5.1

#### AN OVERVIEW OF THE THREE COUNTRY PROGRAMMES

In **Ghana**, CARE has adopted a rights based approach by addressing issues relating to illegal logging and unsustainable resource extraction as well as inequalities in the sharing of forest harvesting benefits. Working with local civil society partners, it supports platforms at community, district, regional, and national levels through which effective claims over land and natural resource tenure can be made to local and national government duty bearers. Together with local partners such as Forest Watch Ghana (FWG), the CARE programme is working increasingly closely with duty bearers at the national level (such as the Forestry Commission) as well as international levels (such as the European Union) with a view to addressing some of the structural issues relating to forest governance and trade.

In **Uganda**, CARE has worked particularly in supporting the rights of rural people living around protected areas in south western Uganda, who have been negatively impacted by national and

international conservation efforts and have been unable to capture the benefits of tourism at the local level. One of the key target groups of the programme is ethnic minorities, such as the *Batwa*, *Basongora* and *Banyabatumbi*, all of whom hold traditional claims to land now enclosed within national parks.

In **Nepal**, CARE has been supporting improved governance in participatory (community) forest management in a range of poor and remote rural areas. This study focuses on 3 districts in the mid west of Nepal, which are in the Terai area (plains immediately at the base of foothills): Banke, Bardia and Kailali. The forest in this area has high value hardwood species like *Shorea robusta* (*Sal*) and thus more economic value than most forests in hills and mountain regions. Since 1996, CARE has focused on measures designed to make the forest management process more internally accountable and pro-poor to avoid the widespread tendency towards elite capture. At



a national level, CARE supports the Federation of Community Forestry Users, Nepal (FECOFUN) in ways that hold government line agencies

increasingly accountable to their own stated policy goals and seeks to reduce the risk of policy “backsliding”.

## 5.2 SUPPORTING RIGHTS HOLDERS TO MAKE EFFECTIVE CLAIMS

In Ghana, CARE (with funding from DFID) has supported a local NGO, Forest Watch Ghana (FWG) to establish Forest Forums in 13 districts and in 6 regions with the objective of disseminating information on forest policy, access rights and entitlements, and providing platforms for civil society to engage directly with government over issues of forest governance. Specific training has been provided to member organisations with regard to advocacy and communication.

The western region is the one part of the country with significant forest resources with high commercial value, much of it found outside forest reserves and on community land. Due to the complex land and natural resource tenure laws in Ghana, while farmers have the right to use land, trees which occur naturally on their land belong to the state and may be given out to timber companies for harvesting. Under such arrangements, the law provides for benefit sharing with traditional chiefs and the local communities under “Social

Responsibility Agreements”. Knowledge of these provisions is not widely known at the community levels. Working through partner organisations, such as Rural Environmental Care (RECA), communities have been educated about their rights and how timber companies are required to compensate communities and traditional institutions. Working at district level, RECA has facilitated the establishment of District Forest Forums (DFF) in many of the districts in the region. This provides a platform for local government staff, Forest Commission, and local communities to meet and discuss conflicts over forest governance. A number of important victories have been realised through these forums (see Box 2). After a difficult start, there is growing ownership of these forums by district assemblies and local communities. In Wassa Amenfi East District, the DFF has now been formally “adopted” by the district assembly and institutionalised through the Agriculture and Natural Resource Sub Committee of the District Assembly. In other districts there is growing interest in these forums and increased signs of assuming responsibility and ownership, suggesting that longer term sustainability may be assured.

In Uganda, CARE has worked through a range of ways that empower rights holders to make effective claims. A lesson learned in this regard is the need for raising awareness of rights and entitlements before moving to the stage of articulating claims. Through the Rights and Equity around Protected Areas (REPA) programme, CARE has supported local NGOs to provide information and awareness materials to communities living around protected areas, relating to their rights regarding

### BOX 2: AFOKO VILLAGE MAKES EFFECTIVE CLAIM OVER TIMBER COMPANY

Afoko village in Wassa West District, Western Region of Ghana still has large amounts of off-reserve timber, much of it on farms and found between planted cocoa trees. WVLC, a Ghanaian Timber company started cutting trees on community lands, destroying large numbers of cocoa plants and making no local payments to the community or traditional chief. The community contacted RECA, an NGO supported by CARE’s forest programme. RECA explained to them what they were due in terms of benefits from the timber company, and then Afoko took the case to the District Forest Forum. The timber company was summoned by the district assembly and ordered to pay the community full compensation and entitlements.

## BOX 3: COMMUNITIES AROUND BWINDI NATIONAL PARK FIGHT FOR LAND

In 2003 and 2004 Uganda Wildlife Authority (UWA) undertook a programme to assess, map and gazette boundaries of all protected areas. During the process in Bwindi Impenetrable National Park, in SW Uganda land that was owned and occupied by communities was erroneously included within the protected area, and this was subsequently gazetted by parliament along with all other boundaries in the country. Only after this was passed, did the community fully appreciate that a significant portion of their land was now officially within the park. ACODE, a partner of CARE, worked together with the affected communities to raise the matter with UWA. A policy brief was prepared by ACODE working with local representatives and forwarded to UWA. UWA accepted their mistake, but made it clear that for this to be reversed, it must be “de-gazetted” by parliament. ACODE and local partners lobbied parliament and at the time of writing a parliamentary committee had just visited the park and agreed in principle that they would recommend to parliament the reversal of this mistake. The problem is complicated by the fact that land is increasingly a political issue, and other claims to de-gazette national parks are on the increase. Consequently parliament is concerned about setting a precedent that will strengthen other maybe less legitimate claims.

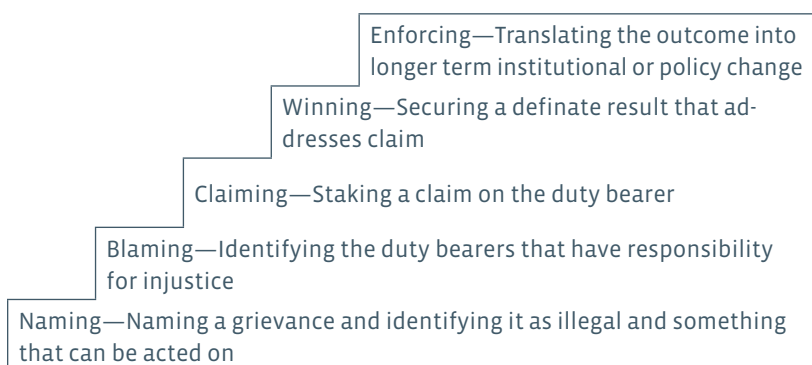
the sharing of revenues from national park gate fees (currently set at 20% of gate fees). Having raised awareness, CARE has deliberately supported processes that link local community groups, to local or national NGOs, as a way of extending their reach and amplifying their voice (Box 3). The role of the national NGOs has been varied. In some cases, it has involved the gathering of information and data and this has been followed by the preparation of case studies or policy briefs that have been used to present to policy makers such as parliament, standing committees, or international forums (like the World Social Forum held in Nairobi in 2005). In other cases, the relationship has involved helping these organisations articulate their claims face to face with higher level duty bearers.

In Nepal, CARE is supporting Community Forest User Groups (CFUGs) to manage forests in ways that provide tangible benefits for some of the poorest members of the rural population. At the national level, they work closely with FECOFUN, the Federation of Community Forest Users Nepal, who have been successful in representing CFUGs across the country in the face of a number of policy threats. One such example was when the state attempted to raise new taxes from the growing trade in forest products. FECOFUN was supported by CARE to mount a legal challenge to this ruling, and as a result it was effectively overturned. An example that illustrates how rights holders have been supported to make effective claims at the local level comes from Bardiya District (see Box 4). Furthermore, the exam-

## BOX 4: COMMUNITY FOREST MANAGERS MAKE EFFECTIVE CLAIMS ON LOCAL DISTRICT FOREST OFFICE

The Shree Ganesh Shiva CFUG in Bardia district, Nepal manages 153 hectares of riverine forest. When it was handed over to them in 2003, it was highly degraded with less than 10% crown cover. The forest is now well managed and has recovered well. The CFUG has its own office, with an executive committee, and employs local people with preference for poorer groups, Dalits (lower caste), women and marginalized ethnic groups. Facing resistance from the district offices and a lack of willingness to hand the forest over to the CFUG, CARE provided training in advocacy skills as well as being given a thorough legal training on their rights and entitlements under the prevailing legislation. These skills they then put into action, culminating in a large demonstration which took place outside the District Forest offices. Following pressure from the community, the district finally agreed to the handover in 2003

FIGURE 1: STEPS TO CLAIMING RIGHTS



From *Theis* (2005)

ple shows how improvements in forest governance at the user group level can act as an entry point for broader governance changes at the community level (including greater participation by women, marginalised groups and lower caste members).

Experiences from all three countries show that there are a number of steps that must be undertaken before poor and marginalised commu-

nities are able to effectively make claims for their rights. In Ghana, there was a need to first provide education and awareness to forest-dependent communities on the true value of the forest resources on their land, the mechanisms by which timber harvesting permits are issued by government, and then the ways in which communities must be compensated for damage to their crops and the share of the timber fees that are shared with traditional authorities and community members. In Nepal, community members were trained on legal rights as well as effective advocacy before they began to make their claim on the local government offices. In Uganda, an effective claim was made only after community interests formed a partnership with a national legal rights organisation with experience in legal litigation processes. This points to a key lesson, and that is the stepwise way in which claims can be made. This has been well illustrated by *Theis* (2005) as shown in Figure 1, who lists five steps in claiming rights from “naming” through to “enforcing” long term solutions.

### 5.3 RECOGNISING DIVERSITY AND EXPLICITLY TARGETING MARGINALISED GROUPS



Sada Shiva Community Forest User Group members, Bardiya District, Nepal.  
Photo credit: Tom Blomley

Land tenure in Ghana is complicated, much of it governed by traditional chiefs. No land is owned in the strict sense of the word, but individual tenure can be granted through local chiefs on customary land. However, certain groups are less likely to be granted such tenure, depending on whether they are resident or migrant farmers, or if they are male or female. In addition, various forms of usufruct rights can be granted: from ownership (or long term granted freehold tenure), leasehold (where a tenant rents from an owner) and finally share cropping (where one farmer plants crops on a tenant/owners land and does not pay rent, but a share of the produce). Due to increasing land scarcity, conflicts between different groups and between owners, tenants, and share croppers

## BOX 5: WOMEN OBTAIN SECURE LAND TENURE IN UPPER EAST REGION

Women from Boya Community in Bawku West District, like many others in northern Ghana, have faced severe discrimination with regard to obtaining secure land tenure. This is particularly the case for female headed households who often face a double discrimination. Following discussions facilitated by CARE and partners, taboos governing female access to land have been openly discussed for the first time. Following slow but deliberate negotiations, women have now brokered an agreement that allows women (and other vulnerable members of the community) to obtain secure title to land for between 25 – 50 years. This has resulted in reduced vulnerability for widows and single women. Similarly, high value land (such as that close to the home), once the preserve of men only, has been opened for dialogue regarding the role of women's access and tenure

quickly arise and there are few mechanisms to assess claims over tenure.

CARE, working through its partners in the Western Region, has developed a community based land administration (CBLA) system that raises awareness among communities on land laws and regulations, develops local solutions (or bylaws) to solve some of the most common disputes, and ensures that land allocations and leases are recorded and formalised. The programme has made particular efforts to work with different land users, firstly by holding separate meetings with different groups (including the more marginalised, such as tenants or share croppers) before facilitating inter-group platforms where solutions can be developed that are equitable and take account of marginalised groups (See Box 5). In the same component, there have been concerted efforts to understand some of the taboos that prevent women from obtaining secure access to land. One such taboo illustrates how unwritten norms play a hidden rule in perpetuating discrimination. In northern Ghana, every land owner is required to pay tribute to the land god by performing a simple sacrifice. However, the land god will only accept such sacrifices when they are made by men. Under such circumstances, women are unable to own land, as they are unable to perform this ritual effectively. Other taboos discouraged women from talking publicly on land issues—this was seen as “grumbling” and could bring considerable misfortune on those who did so. Through a long process of working with rights holders (and also duty bearers) the programme has

facilitated the opening of spaces where women feel confident enough to break through these invisible taboos and talk openly about their legitimate claims to land. Through the Civil Society Coalition on Land (CICOL) these voices are being increasingly heard through national forums and reaching the attention of policy makers and decision makers in both customary and formal institutions.

South western Uganda is home to a number of small and marginalised ethnic groups, many of which have been displaced by ethnic unrest in the mid 1960s and others who traditionally inhabited the area where the parks are now located, and who used the areas as either grazing, hunting or subsistence areas. What are now gazetted as national parks, in the early 1990s, were previously forest reserves established under colonial administration in the 1930s. Almost two decades after the official establishment of the national parks, these communities continue to live in wretched conditions and face extreme marginalisation and discrimination from majority ethnic groups and local government services. One such group, the Batwa, a forest-dwelling society that formerly occupied the forested areas of south western Uganda, have been living as squatters on the fringes of national parks or on land purchased for them by charitable organisations. Another group, the Basongora, a cattle-herding group that lives on the eastern and southern slopes of the Rwenzori Mountains, has been displaced to a few enclaves inside the Queen Elizabeth National Park and have been displaced from other areas by ethnic conflict. Since its move

towards RBA in 2003, CARE has developed a sharp focus on working with, supporting, and empowering these groups. This has been done through a range of approaches, including assisting them to negotiate resource use agreements for products that they require in the two national parks, supporting them with broader economic activities (crafts, theatre, savings groups), and finally on supporting the formation and strengthening of representative institutions that can act as focal points for championing their interests at higher levels when interfacing with duty bearers. Particular issues that CARE has addressed with regard to marginalisation of ethnic minorities are the issues of land alienation, access to services, participation in decision making processes, and gender.

With regard to the development of representative institutions that can generate a louder and more consistent voice on behalf of its membership, CARE and partners have gained some important experience in this area. In the case of the Basongora, where a certain level of organisation existed, a process of strengthening and unifying these voices was facilitated. In the case of more marginalised groups, such as the Banyabindi, who had an absolute minimum amount of organisational capacity before CARE began to support them, the returns from such support have been realised at a slower pace. Furthermore, the same community pointed

to the fact that the very people that they had expected would be their champions—namely highly-placed civil servants within the local government—all too often shielded their true identity as a coping mechanism for working in institutions where the ethnic composition was largely from a different ethnic group.

Before an explicit focus on RBA, CARE activities in support of community forestry in Nepal focused mostly on the mechanics of facilitating the handover of forest areas to Community Forest User Groups. This involves the development of operational forest management plans, the formation of user groups, capacity building of local institutions, and preparations of their constitutions. However, a number of studies undertaken in both Nepal and India began to point to a growing trend, that benefits arising from the implementation of community forestry were increasingly being captured by richer members of the community. Following this, CARE embarked on a series of activities designed to make community forestry more equitable. Some concrete examples of how this approach changed in practical terms come from the Gijara CFUG in Banke District (See Box 6).

While a strong focus on marginalised groups has delivered clear tangible results, this change in approach has not been without its challenges, due to the inevitable shift in power relations which

#### BOX 6: MAKING COMMUNITY FORESTRY MORE EQUITABLE IN NEPAL.

Following CARE's move towards RBA, a participatory well-being ranking was undertaken, in which members of the CFUG were categorised by wealth. Ultra-poor households were then targeted with specific livelihood improvement activities such as goat rearing, tile making and improved cook-stoves. All of these activities were developed to ensure acceptability and utility for this target group. Fees for forest products were also priced on a sliding scale with those from the rich wealth group paying 75% of the price, middle wealth group paying 70% and the poor paying 65%. Outsiders are charged 100%.

Fifty poor women were provided with governance literacy training over a 16 week period, which resulted in a number of positive impacts such as an increased number of women on the CFUG executive committee, increasing demands for the allocation of benefits to activities favoured by women and preferential access to certain forest products by women. Through the use of a tool developed by CARE – public hearing and public auditing (PHPA) - all CFUG members meet on an annual basis and the executive committee is required to give a full account of their activities, expenditure and forward plans. Members review plans and where necessary have the power to adjust planned investments to ensure that they are in line with their interests.

generates local conflict. At the community level, conflict has been generated across a range of dimensions:

- Within households, as men object to women asserting their rights as a result of governance literacy training and increased awareness
- Within communities, where elites object to the pro-poor affirmative action that has been promoted under community forestry
- Within communities, where higher caste groups object to affirmative action in favour of *Dalits* and/or Indigenous Peoples.
- More generally, where disempowered groups who have become more empowered through the CF programme assert other rights, notably landless people asserting land rights.

A certain level of conflict is not necessarily a problem and in fact may be an unavoidable consequence of achieving social change, but it is clearly important that a programme that directly addresses rights and power considers potential conflict impacts and develop, where necessary, appropriate mitigation strategies.

The Ugandan and Nepali examples points to some of the very real challenges of working on issues that seek to empower one group who have previously been marginalised. By challenging the status quo and the existing balance of power, it is important to be prepared to deal with emerging conflicts on a pro-active basis. In Uganda, the very act of strengthening institutions with the aim of

giving greater voice to marginalised groups has been shown to lead to increased tension from neighbouring majority ethnic groups. Given that much of the simmering conflict in south western Uganda is defined along ethnic grounds, great care must be taken in increasing ethnic identity and visibility. However, empowerment alone, without a longer term commitment to support conflict resolution processes and dialogues within a moderated environment may all too easily violate the principle of “do no harm” – leading ultimately to re-opening simmering conflict between ethnic groups. This is exemplified by the recent death of a local farmer in the area where CARE was working in Uganda, who was squatting on land allocated to the Basongora herders following the park occupation and beaten to death by herders. This example shows that supporting the empowerment of ethnic minorities triggers a longer term responsibility on the part of CARE (and other duty bearers) to facilitate a process of reconciliation and conflict resolution. It also highlights the point that supporting those with little or no power requires CARE to engage with both the powerless and the powerful—rights holders as well as duty bearers. The first CARE International Programme Principle (See Box 1), “promoting empowerment”, is weak on the issue of power. It speaks to ‘empowering’ people but does not recognise or address ‘unequal power relations’, or in fact working with the ‘powerful’ to enable them to ‘give power’ to others.

## 5.4

### SUPPORTING DUTY BEARERS TO MORE EFFECTIVELY FULFILL THEIR RESPONSIBILITIES

Many authors have pointed to the importance of working with both rights holders (the traditional target group of NGOs) and duty bearers (usually host governments, although CARE is increasingly recognising non-state duty bearers such as traditional authorities). While most of the work of Forest Watch Ghana and CARE has been working with

rights holders, efforts have been directed towards engaging directly with government (most notably the Forestry Commission, but also private sector forestry interests) with a view to making them more open, accountable, and transparent.

Forest Watch Ghana has worked on a range of issues that relate to increasing access to and ben-

#### BOX 7: FOREST WATCH GHANA SUPPORTS FORESTRY COMMISSION TO NEGOTIATE VOLUNTARY PARTNERSHIP AGREEMENT WITH THE EUROPEAN UNION

After a long period of lobbying the Forestry Commission (FC) to implement forest laws regarding licensing of private timber companies, with little success, FWG started engaging with EU regarding the establishment of a VPA on forest trade, following provisions in the Forest Law Enforcement and Governance and Trade agreement (FLEGT). Given the high profile of the EU and the high level commitment to such multi-lateral trade agreements, FWG is optimistic that the VPA may have the potential to address a range of issues relating to community empowerment, the development of laws that favour sustainable livelihoods, greater transparency, reduced illegality and effective enforcement of existing forest regulations. The VPA was signed in September 2008 and ratified by the government of Ghana in June 2009

efits from rural communities with regard to forest resources. Advocacy achievements credited to the work of FWG include getting the Forestry Commission to agree to cease issuing Timber Utilisation Permits to Private Corporations (a practise that the Forestry Commission had been doing, outside the framework of the law between 2001 and 2005). Most of the advocacy work undertaken to date has centred on holding government accountable to its own policy commitments which appear to be flouted regularly. More recently, however, FWG have entered a new arena, by engaging directly with FC and other forest sector stakeholders by playing a lead role in the preparations for the planned Voluntary Partnership Agreement (VPA) regarding the sale of timber to European Union member states. (See Box 7)

This has not been without challenges, however. For many CARE staff, moving away from traditional service delivery projects meant redefining what had been a passive and relatively easy relationship to one that was more confrontational. In some cases, this quickly moved to the opposite end of the scale, with a wide gulf developing between CARE and partners on one side and government on the other. NGOs quickly stereotyped government as monolithic, intransigent, corrupt and incompetent, while government viewed NGOs with suspicion and mistrust. Over time, however, this relationship

changed again to a more nuanced one. Government could see the benefits of working with NGOs, and as the space for dialogue began to open, NGOs began to identify allies within government—key persons with an integrity and willingness to move forward on progressive agendas. Government departments were no longer seen as static and uniform, but as more complex institutions made of individuals with differing agendas and objectives. Forest Watch Ghana has moved significantly in its relationship with government from a rather distant and confrontational one to a higher level, whereby it has facilitated the creation of a platform at which challenges such as the VPA can be explored and discussed. This is perhaps one of the most significant impacts of the work of FWG in recent years: the development of an institutionalised mechanism whereby conflicts between civil society, the forest industry, and the forestry commission can be aired and discussed.

Working with duty bearers has not been without problems, however, and this case study perhaps illustrates one of the key challenges faced by many organisations wishing to adopt a RBA, namely trying to work with duty bearers who appear to be impervious to lobbying, pressure, external influence and concerted campaigns by civil society. FWG has reported the specific challenges of trying to get FC to move on key agendas, and the frequent problem of government agreeing to do something, following this with a public statement, but after a short while resorting to business as usual. Clearly, holding government accountable to its own stated commitments has proved to be a challenging task. As indicated above, time has played an important role in helping change this: over time FWG has identified important allies within government, and government in turn has recognised that the benefits of engaging with civil society outweigh the costs in the long term. Secondly, recruiting the support of international stakeholders, such as the European Union (who in the VPA discussions had even greater significance as both major development partners, and regulators of trade terms for private sector agencies).

Given the focus of CARE's activities in Uganda on protected areas, one of the primary targets of advocacy campaigns has not surprisingly been Uganda Wildlife Authority (UWA). UWA is a relatively new institution that is struggling to come to terms with its responsibility to manage a network of protected areas across the country, many of which are being impacted by encroachment and increasing numbers of claims for degazettement. Oil reserves recently discovered in the Albertine Rift pose a range of threats to key protected areas such as Murchisson Falls, Kibale, Semiliki, and Queen Elizabeth National Parks.

One of the key advocacy goals of CARE is to hold UWA accountable to its own legal obligation to share 20% of its park entry fees with local communities (an initiative that has become known as revenue sharing). The Uganda Wildlife Statute of 1996 provided for this in recognition of the fact that frontline communities shoulder a disproportionate burden of the costs associated with the conservation of the protected areas. In 2000, UWA prepared guidelines for revenue sharing that described in more detail the specific modalities by which revenues would be shared. Following pressure from a range of institutions such as CARE, but with increasing pressure from local governments surrounding these parks that were becoming increasingly aware

of lost income, UWA finally began a regular process of accumulating and disbursing this revenue in 2005. Following this significant achievement, the role of CARE and partners has changed significantly towards supporting its implementation, and developing models that maximise efficiency and transparency and ensure that its primary goal of resolving park-people conflicts is maximised. Interestingly, after a protracted advocacy campaign to persuade UWA to start revenue sharing, the goals of CARE and UWA are now very similar and call for a different level and type of engagement.

In the gorilla parks of Bwindi and Mgahinga to the south, the bulk of revenue comes not from park entry fees, but from gorilla tracking licenses (which has now increased to USD 500 per person per day, compared with USD 35 for entry fees). In recognition of this fact, and following lobbying by CARE and the International Gorilla Conservation Programme, UWA agreed to take USD 5 from the overall fees as a "gorilla levy" that would be used to compliment revenue sharing. This fund has now increased significantly, and now is around USD 200,000. CARE has been strongly advocating that these funds should not be disbursed to district governments (where they risk getting "lost" with other general funds), but that they should be targeted directly towards frontline communities. Interestingly, following the introduction of this programme, the main focus of advocacy has now shifted to local governments. One concern is that following the introduction of revenue sharing, some local governments appear to be reducing investments in the sub counties and parishes surrounding the protected areas, as there is a perception that the funds from UWA are sufficiently supporting the infrastructure needs of these areas. In other words, as duty bearers, they feel that their responsibilities to these communities have been reduced or are insignificant. The danger therefore is that UWA then is seen as "filling the gap" left by the district councils and frontline communities realise a zero-sum gain. The objective of revenue sharing is that additional funds should be made available to these communities in recognition of the additional

#### BOX 8: COMMUNITY BASED MONITORS CHALLENGE LOCAL CONTRACTORS TO DELIVER QUALITY CONSTRUCTION SERVICES

Hamukungu village is an enclave community on the shores of Lake George and surrounded by Queen Elizabeth National Park. Revenue sharing funds, allocated from the park and identified by the community to support the construction of part of the secondary school were disbursed to the district council. A contractor was selected by the district tender board and started work. Community Based Monitors from the village obtained the plans and bill of quantities from the district council and noticed that the construction of the foundations was not according to specified requirements. KADDENET was informed, who challenged the district engineer. He visited the site, and confirmed the findings of the monitor. The contractor was instructed to redo the construction, to the required standard and at his own cost.





*Batwa household squatting on the perimeter of the Bwindi Impenetrable National Park in SW Uganda. The Batwa were traditional users of the forest and have suffered badly since the parks formation. Photo credit: Tom Blomley*

and unique costs that they bear from conservation. This highlights the need for CARE to look beyond the realisation of goals and outputs, highlighted in log frames and programme documents, to possible unintended impacts and to the assumptions that underlie programme objectives.

Following a prolonged period of targeted advocacy directed at national and local government, CARE had to rapidly adjust its overall strategy once general agreement on revenue sharing had been made. This necessitated a move away from confronting duty bearers to supporting them, particularly in the development of mechanisms to make revenue sharing more effective and accountable. One example of this change in approach comes from the establishment of Community Based Monitors supported by CARE and partners. This involves the selection of community volunteers who are trained in tracking the performance of specific investments being funded by government and reporting back to both rights holders and duty bearers on specific outcomes (Box 8).

In the Nepal Community Forestry Programme being supported by CARE, the primary duty bearers are local governments, and in particular the district forest officers. In 2003, CARE began to extend its governance training to district level offices of the Department of Forestry. In recognition of the fact that

many staff at these levels had limited knowledge regarding RBA, policy advocacy and governance, training was provided on a number of legal documents such as Right to Information Act, Governance Act as well as Acts, Policies and regulations of the Department of Forestry. The Department of Forestry was reviewed using a tool developed by CARE called Participatory Governance Assessment (PGA).

PGA was extended to Banke District Forest Office, where it was met with a very positive reception. Some of the positive results that emerged from this process included the development of a Citizen's Charter, which details services to be provided by the DFO, fees to be charged, and complaints procedures. This Citizen's Charter was published and disseminated among CFUGs within the district and provided an important tool for improving downward accountability. Furthermore, the District Forest Office (DFO) agreed to improve their own internal procedures through the development of regular monthly staff meetings and the development of monthly action plans with specific commitments to achieve outputs that were of benefit to CFUGs in the district. These plans were made available for public scrutiny. Furthermore, DFOs from other districts began to take a much greater interest in the introduction of Public Hearing and Public Auditing processes at the village level, following their own governance training.

At the national level, moves towards a RBA by CARE were initially regarded with significant suspicion. The Forest Department expressed a clear reluctance to participate actively in the program when CARE began to explicitly empower communities to assert their rights and make government (as a duty bearer) more accountable. CARE staff were summoned to the ministry to explain. However, over time (as in Ghana), the change in approach has been internalised at the national and local government levels, and is increasingly being recognised as an important and legitimate strategy.

Nepal in general and FECOFUN in particular have a history of activism and more confrontational approaches to effecting change. The RBA training offered to FECOFUN staff offered different

models of advocacy, including the more confrontational “violations” approach, and the “promotional” approach that focuses on constructive engagement with duty bearers. FECOFUN enthusiastically embraced the more confrontational approaches to RBA which justified their robust advocacy approach, reinforced by the fact that many of their trainers had an activist background. On reflection and in hindsight, however, FECOFUN now feels that this approach was not that productive and more recently FECOFUN has switched its advocacy approach more to one of constructive engagement with government, making confrontation an option of last resort. With the change in government to one that has strong Maoist representation, approaches such as RBA have tended to be more acceptable due to their strong focus on poverty and empowerment of marginalised groups.

Given the reciprocal nature of rights and responsibilities, CARE has increasingly recognised the importance of working with duty bearers to increase their capacity to respond to demands from below. This has been an understandably harder task, as one begins to engage with institutional inertia, vested interests and weak governance. The experiences of Forest Watch Ghana have highlighted the challenges of trying to engage with an institution (Forestry Commission) that has little interest in doing so, and has shown little change despite sustained pressure and lobbying from an increasingly wide base of Ghanaian civil society. FWG has reported a number of occasions where the Forestry Commission has been held to task regarding its own adherence to its own regulations and policies. After what seems like a major breakthrough from the government—an admission of wrong doing and a commitment to change—the period of change is short-lived and within a short time, once the pressure reduces, practises return to business as usual. Within such a difficult environment, how can CARE and partners begin to engage to break through to a higher level of engagement and impact? Ghana and Nepal provide us with two useful pointers:

■ **Identifying allies outside the organisation.**

Engaging with the European Union in Ghana on issues of illegal logging under the framework of the FLEGT process provided an important shift in strategy. The EU, holding a dual role of development partner and regulator of international trade, is an important player and one that the government took notice of.

■ **Identifying allies within the organisation.** By recognising that institutions such as the Ghanaian Forestry Commission and Nepali local governments were not uniform and homogenous, but made up individuals with different views—some more and some less progressive—CARE, FWG and FECOFUN have been able to recruit internal allies within the organisation they were seeking to change. These individuals became agents for change and were able to pave the way for other, more sceptical individuals to become involved.

The study has shown, however, how relationships with duty bearers necessarily change over time. In both Uganda and Ghana, strong pressure has been exerted on national government duty bearers (the Forestry Commission in Ghana and Uganda Wildlife Authority in Uganda), and in both cases, emphasis was placed on measures designed to hold these agencies accountable to their own policies (revenue sharing in the case of UWA and compliance to licensing and compensation procedures in the case of FC, Ghana). However, once some level of change has been realised, there is a need to rapidly change focus and approach, and to work on a more supportive level with a view to assisting develop practical mechanisms whereby these policies could be realised. In Nepal, CARE’s engagement and relationships with local government has evolved over the past decade. From a more confrontational approach, where communities were supported to engage in robust advocacy strategies with a view to demanding the fulfilment of rights, the approach has gradually shifted to governance training and working closely with duty bearers to improve their internal systems and operations in ways that make them more accountable and effective.

## 6

## MAKING CHANGE HAPPEN AT THE COUNTRY LEVEL

The application of RBA in mainstream NRM development programming has profound organisational implications. Some of the key changes that a move towards RBA necessitates are summarised below and presented in greater detail in Annex 1.

This chapter assesses how the radical changes in approach described in Box 9, were institutionalised and mainstreamed within one country programme. CARE International is constituted of a confederation of members who work through unified country programmes that operate in a highly decentralized manner, with the Country Director having an overriding say over management decisions, programme directions and fund raising. In line with this, the process of making a change from a traditional needs based approach to one that was built on rights, entitlements, and addressing the underlying causes of poverty was quite different

from one country office to another. The process of developing the mission, vision, and overall strategy was undertaken internationally, and then passed downwards for imple-

mentation within each country programme. One country programme that invested considerable management time and resources in making the change process effective was CARE Uganda, and much of what follows is taken from a paper written by the then-country director who was charged with institutionalising RBA at an organisational level between 2001 and 2003 (Vernon, 2002).

Within the country programme, there were conflicting views on how the transition towards a RBA should be effected. On one hand, there are those who suggest that a radical change requires directive leadership, led by a clear vision and direction. Others however felt it more prudent to move slowly, as more and more staff became acquainted with the new model of working and a more participatory management style was called for. Similarly, there were those who felt a strong sense of entitlement to participate in decision making while there were those who articulated a desire for strong leadership to point the way forward more clearly. From an organisational level, there was little dialogue on how best to deal with change in practical terms, and the decentralised structure of CARE provided little space for guidance on finding the right balance between participatory and directive leadership. It is perhaps rather ironic that an organisation whose core business is the promotion and management of social change appeared relatively unprepared to plan for, support, and manage a radical process of internal change management.

Viewed in hindsight, the change process within CARE Uganda country programme appeared



*A woman from the Devasthan Community Forest User Group, in Lamjung District in north central Nepal. Photo credit: Tom Blomley*

## BOX 9: SOME IMPLICATIONS OF RBA FOR NRM PROJECTS/PROGRAMMES

**ANALYSIS**

- Holistic analysis of conditions and their root causes
- Relating root causes to the actions/inactions of people (i.e. actor-orientated analysis)
- More thorough risk assessment and development of mitigation strategies – ensuring that the principle of “do no harm” is adhered to
- More thorough assessment of the legal and policy framework and its impact on rights
- Institutional analysis at multiple levels to identify appropriate intervention points

**STRATEGIES AND APPROACHES**

- Support and develop legitimate coalitions for a stronger voice
- Projects must tackle constraints of policy/law and political will to implement. It is no longer possible to include these as external assumptions over which projects have no influence.
- Projects and programmes must place more emphasis on:
  - issues of governance: participation, representation, transparency, accountability
  - civil society strengthening (especially representative organizations)
  - civic education – providing information, understanding the law
  - tenure/property rights and their formalization
  - legal status/legal recognition of marginalized communities

**MONITORING AND EVALUATION**

- More emphasis on position and process, less emphasis on condition
- Monitoring governance status of civil society organizations (for example through public auditing)
- More emphasis on tracking responsibilities/accountability (including our own)
- Disaggregation of M&E information so as to be able to highlight marginalized groups

to go through four distinct stages as illustrated in Figure 2 (Vernon, 2002). Although there appeared to be general agreement on the direction of change, there was considerable confusion and disagreement on how change should be operationalised. Some of the enabling factors that supported the change process included:

- A general decline in availability of funds from key institutional donors such as DFID (who at that time were increasingly channelling funding to government either through sector wide approaches of general budget support) meant that the country programme was forced to change as business as usual was no longer a viable option.
- The change in the organisational mission and vision coincided with the end of a five year strategic

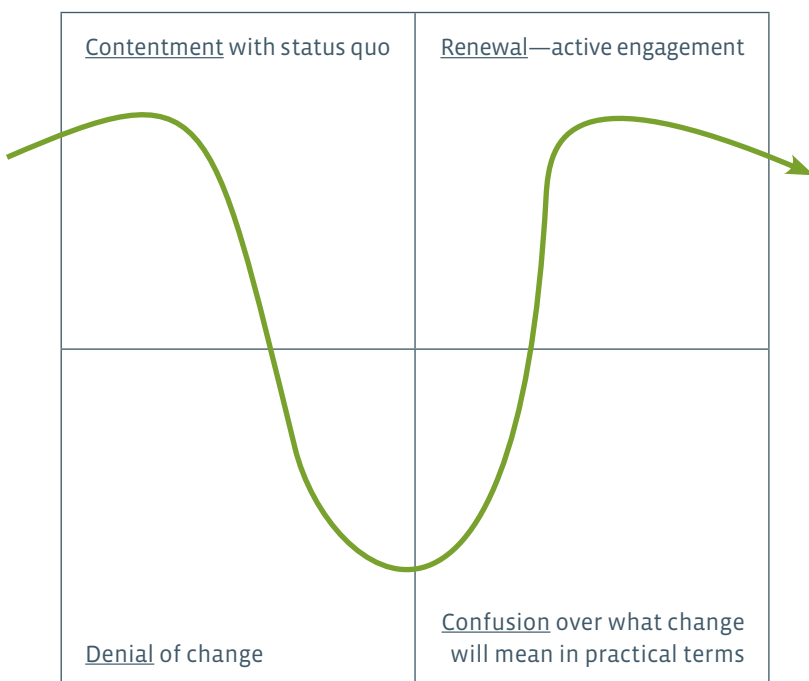
planning cycle for the country office. This meant that the new five year strategic plan could be centred on adjusting the programme and administrative support structures to match the change in approach

- One funding stream—from CARE Denmark—was conditional upon moving towards a rights based approach. These funds were used strategically as a platform for pushing the change agenda ahead in the field.

Some of the obstacles to change, and in particular the adoption of RBA, included:

- Apart from the funding stream from CARE Denmark, other donors still supporting international NGOs such as CARE tended to be very prescriptive in defining deliverables. In many cases, funding availability was linked to large pre-designed com-

FIGURE 2: THE CHANGE CURVE



From Vernon (2002)

mercial contracts that were competitively tendered. More often than not these were traditional service delivery programmes. Some members of CARE International placed pressure on the country office to bid for these large contracts as they provided opportunities to cover headquarters costs.

- The organisational culture of CARE is somewhat risk averse. Employees are often wary of their “professional” reputation being affected and overly sensitive to donors’ programming priorities. There is often a reluctance to confront donors and challenge them to change their approach

- Systems of internal accountability within CARE International were studied by an independent consultant by interviewing over 100 staff worldwide. Many staff felt that they were being held accountable to many things which contradicted the vision and mission statements of the organisation as a whole, while a greater proportion felt that they were being held accountable to performance measures which were “vision neutral” (Vernon, 2003).

- Institutional uncertainties about the direction and nature of change at the country office and organisational level meant that CARE Uganda was

a relatively poor advocate of change to donors and other partners. This uncertainty—acting as a multiplier—enhanced the obstacles outlined above.

A fear was expressed by some CARE staff that while the adoption of a RBA presented many exciting opportunities for addressing “upstream” structural issues relating to marginalisation, exclusion and discrimination, there was a need to integrate this with more traditional approaches that worked on improving the human condition—or more specifically, addressed the immediate concerns of the poor. The danger was expressed that if the RBA pendulum was left to swing too far, the core target group (the rural poor) would be left unsupported when it comes to addressing their immediate needs like improving their farms, adopting new agricultural practises, launching new income generating activities, and managing their natural resources more sustainably and profitably.

This is particularly the case, now that CARE has adopted an approach that specifically targets some of the poorest and most marginalised members of the community (such as the *Batwa* in south-western Uganda). For such people, where life is a daily struggle, empowerment and rights without a roof over the head and food on the table may seem irrelevant. CARE Uganda’s commitment to change its overall approach towards a RBA in line with its new Long Range Strategic Plan was laudable, but the speed of change left communities (who had previously been project beneficiaries but were suddenly rights holders) and local/national government staff (who were previously project partners but were suddenly duty bearers) confused. A similar situation unfolded in Nepal within the context of the community forestry programme—and, in the early stages at least, there was strong resistance to moves towards a RBA from local government staff and senior project staff alike.

This concern has been recognised by CARE International, and the strong moves towards adoption of RBA have been slightly modified through the publication of “The Unifying Framework for Poverty Eradication, Social Justice and Underlying Causes of Poverty” (see McCaston, 2005). This framework, which links the Household

Livelihood Strategy (HLS) with RBA, states that it is necessary to work in several different dimensions to address poverty: on the human condition, the social position, and the wider enabling environment. Furthermore, service delivery may provide an important entry point for a wider discussion on rights, as found by Oxfam in their study of RBA. (Brouwer & Pena, 2006)

As indicated earlier in this report, claims over natural resources such as land are often both competing but legitimate. This is exemplified well by both the Uganda and Ghana studies. In Uganda, the *Basongora* and *Batwa* communities are groups who have and maintain ancestral claims over land that was subsequently converted into national parks. In Ghana, farmers have legitimate claims over land that they occupy and the protection of the crops they have planted. The use and harvest of timber on the same area of land by external agents raises competing claims that cause conflict. Organisations with a strong focus on rights of indigenous peoples may argue forcibly that land traditionally occupied by indigenous groups be returned to them and protected areas degazetted. Similarly they may argue that the state's claims for timber are entirely illegitimate and all timber rights should be devolved to those occupying the land. But in a world that is built on compromises, where the interests of the state and local communities need to be balanced, how realistic are these positions in the short and long term? CARE Denmark's own mission statement reflects the need to balance environment with development for sustainable development. But in situations where compromise is clearly necessary, who negotiates these tradeoffs? By supporting the *Basongora's* claim to land, CARE indicated that it recognised this as a legitimate claim. But in the case of the *Batwa*, CARE has not advocated for degazettement of the park that dispossessed the *Batwa* of their ancestral lands and thus it may appear that CARE has implicitly rejected the *Batwa's* ancestral claim and any case for compensation from government, opting instead for land purchase supported by other (non-Ugandan) duty bearers. Clearly, these are complex issues with no single answer or solu-

tion, but this example serves to highlight the need to maintain a clear, consistent and considered position when engaging in conflicts such as these.

This discussion points towards two important conclusions relating to the different potential positions that organisations such as CARE may choose to take in any given conflict.

- In certain situations, where the rights of poor and marginalised groups are clearly being compromised and threatened, it may not be enough to simply “support” capacity building and empowerment, but it will be necessary to develop a clear and consistent institutional position with regard to the legitimacy of competing claims over land and natural resources, and to provide active support to these groups. This strategy was taken by CARE over the issue of claims to land and grazing by the *Basongora* in Queen Elizabeth National Park by the issuing of a position statement by CARE in the national press in support of their claim. Clearly, under such circumstances, CARE cannot claim to be an independent or neutral facilitator.

- In more complex situations, where competing claims appear to be equally legitimate, external facilitators such as CARE may choose to adopt a more value-neutral stance—and not take an explicit position with regard to any one side to the conflict. In such situations, international organisations such as CARE may have a useful role to play by helping people and institutions understand that the landscape of rights is littered with trade-offs and an array of potential future outcomes. Organisations such as CARE can play an important role in helping the different parties frame their claims in ways that respect the need for trade-offs and helps find some common ground on which to build lasting solutions to the conflict. This can be done by promoting mutual understanding of the perspectives and interests of different stakeholders and the need to accept compromise and trade-offs. In many countries, this role is effectively played by politicians. However, in weak states where political institutions are unable to undertake this function, it might emerge as a useful and legitimate area for NGOs such as CARE.

## 7

## CONCLUSIONS

In the early 2000s, CARE International underwent a radical change in programme direction with the development of a new vision and mission statement, new programme principles, and a commitment towards the promotion of rights, social justice and supporting the most marginalised members of societies in the poorest countries of the world. The move towards a Rights based Approach (RBA) has been shown to provide a number of benefits as compared to the more traditional Needs Based Approaches that characterised the 1980s and 1990s. RBA offers a new lens with which to analyse, understand and frame the context in which CARE works. RBA provides a coherent framework for understanding the distribution of concentration of power—and a framework for people to seek social justice—at village, local government or national level. Furthermore, working with RBA necessarily leads to a greater appreciation and recognition of social justice, marginalisation, governance variables and the wider structural causes of poverty.

CARE Denmark, a member of the wider CARE International family, embraced the moves towards RBA within the context of a strong programme focus on agriculture and natural resources management. Three of the countries in which CARE Denmark operates, namely Nepal, Uganda and Ghana, have worked towards the operationalisation of RBA at the field level, together with local partners such as FECOFUN and Forest Watch Ghana. In general terms, the move has been undertaken by supporting the implementation of three procedural rights—the right to information, the right to

participation in decision making, and the right to remedy in discriminatory treatment. Procedural rights provide the basis and mechanism for people to understand, claim, and fulfil substantive rights. This approach contrasts to a number of more “activist” environmental NGOs who have tended to concentrate on supporting substantive rights—such as the rights to property—illustrated by the growing movement in support of indigenous people’s claim to forest and land in countries such as Indonesia, Brazil, Congo, Cameroon and Gabon.

CARE’s support to procedural rights has been achieved through the implementation of three main strategies:

- Supporting rights holders to make effective claims
- Recognising diversity and explicitly targeting marginalised groups
- Supporting duty bearers to more effectively fulfill their responsibilities

With regard to supporting rights holders to make effective claims, the case studies from the three countries suggest that if this strategy is to be effective, a number of preparatory steps must be taken. This includes helping rights holders to first understand and articulate their claim and how their claim fits within the prevailing legal framework. Furthermore, training on legal rights as well as advocacy has proven to be an important tool that allows rights holders to stake claims. Finally, examples from all three countries suggest that this process can be effectively supported by the forging of links between rights holders at the local level

and national NGOs with strong political linkages, as well as capacity in advocacy and policy processes.

Recognizing and targeting marginalised groups, particularly at the community level, has been a second approach that many RBA-focused programmes have adopted. This has been particularly strong in Nepal, where CARE's community forestry projects have taken very overt steps to identify and support some of the most marginalised and vulnerable groups, namely the *Dalit* (lowest caste) groups and single mothers. Experience from Nepal, but also Uganda, suggests that empowering one particular group is not without its risks as it will automatically lead to a realignment of power relations—and in some cases may threaten the position of those who traditionally have been power holders. Organisations such as CARE, who deliberately seek to facilitate the empowerment of marginalised groups at both community and societal levels, must be prepared to support the mitigation and resolution of conflicts that will inevitably emerge. With this in mind, the case studies also suggest that for an effective and lasting solution, it is necessary for external change agents to engage and support not only with the powerless but also the powerful.

When supporting duty bearers to effectively fulfil their responsibilities, the case studies from all three countries have shown the importance of

maintaining a flexible and responsive approach in response to changing external conditions. Forest Watch Ghana adopted a confrontational approach to lobbying for change for many years, with a somewhat limited success. However, with seizing the opportunity of the VPA process, they were able to readjust their strategy and role to that of negotiator, facilitator and active participant. Undertaking this transition—and, most importantly, identifying the need for this radical change in approach—is a challenge for many organisations and requires new skills and capacities. Forest Watch Ghana illustrates that a key strategy in making this change is the identification of allies, both within and outside the institution targeted for change. FECOFUN in Nepal has also successfully managed this transition, moving from an organisation that previously undertook a confrontational stance to the Nepali Forest Department, but has increasingly begun to engage in policy processes that are of direct relevance to its membership.

The study has also demonstrated how working with procedural rights may provide an important entry point for addressing substantive rights (Franks, 2007). In Uganda, by providing access to information on legal entitlements from protected area revenue sharing schemes, poor communities have been able to make effective claims on their legitimate claims for compensation. In Ghana, by supporting procedural rights in the Voluntary Partnership Agreement that allows for increased involvement of communities in decision making processes relating to timber harvesting, equity in the sharing of financial benefits from natural resource harvesting may be achieved.

At the organisational level, a fear was expressed by some CARE staff that while the adoption of a RBA presented many exciting opportunities for addressing “upstream” structural issues relating to marginalisation, exclusion and discrimination, there was a need to dovetail such approaches to more traditional approaches that worked on improving the human condition—or, more specifically, addressed the immediate concerns of the poor. CARE must ensure that in its enthusiasm to embrace a RBA, the *pendulum does not swing too far*, leaving its core



Young woman from Devasthan village, Lanjung district, Nepal.  
Photo credit: Tom Blomley





Poor Dalit member of the Devishthan Community Forest User Group, in Lamjung Distict in north central Nepal. Photo credit: Tom Blomley

target group (the rural poor) unsupported when it comes to improving their farms, adopting new agricultural practises, launching new income generating activities, and managing their natural resources more sustainably and profitably. This is particularly the case now that CARE has adopted an approach that specifically targets some of the poorest and most marginalised members of the community (such as the Batwa in south-western Uganda). For such people, where life is a daily struggle, empowerment and rights without a roof over the head and food on the table is largely irrelevant. CARE Uganda's commitment to change its overall approach towards a RBA in line with its new Long Range Strategic Plan was laudable, but the speed of change left communities (who had previously been project beneficiaries but were suddenly rights holders) and local/national government staff (who were previously project partners but were suddenly duty bearers) confused.

This concern has been recognised by CARE International and the strong moves towards adoption of RBA have been slightly modified through the publication of "The Unifying Framework for Poverty Eradication, Social Justice and Underlying Causes of Poverty" (see McCaston, 2005). This framework, which attempts to link the Household Livelihood Strategy (HLS) with RBA, states that it is necessary to work at many levels to address poverty: on

the human condition, the social position and the wider enabling environment. Furthermore, service delivery may provide an important entry point for a wider discussion on rights, as found by Oxfam in their recent study of RBA (Brouwer & Pena, 2006)

Chapter 3 outlined some of the challenges relating to competing but legitimate claims over land. This is exemplified well by both the Uganda and Ghana studies. In Uganda, the *Basongora* and *Batwa* communities are groups who have and maintain ancestral claims over land that was subsequently converted into national parks. In Ghana, farmers have legitimate claims over land that they occupy and the protection of the crops they have planted. The use and harvest of timber on the same area of land by external agents, raises competing claims that cause conflict. Organisations with a strong focus on human rights may argue forcibly that land belonging to indigenous groups be returned to them and protected areas degazetted. Similarly they may argue that the state's claims for timber are entirely illegitimate and all timber resources devolved to those occupying the land. But in a world that is built on compromises, where the interests of the state and local communities need to be balanced, how realistic are these positions in the short and long term? In such situations, two potential approaches may be adopted.

Firstly, and as exemplified by the example of the Basongora's claim to grazing and land in Queen Elizabeth Protected Area, Uganda, CARE was unable to maintain a value-neutral position, and at the organisational level felt the need to make a stand and communicate its position to both rights holders and duty bearers. In this case, it was felt that the claim by the Basongora was more legitimate than that of the government. However, in other cases, it may be less easy to assess which claim is more legitimate. In such scenarios, the role of external change agents such as CARE may be that of a facilitator: helping the different parties to a given conflict appreciate and understand the legitimacy of opposing positions and interests, reviewing different scenarios as well as the inevitable trade-offs that follow any one given pathway.

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## ANNEX

### EXAMPLES FROM GHANA, UGANDA AND NEPAL ON HOW RIGHTS PRINCIPLES HAVE BEEN OPERATIONALISED

#### ANNEX 1.1 SUPPORTING RIGHTS HOLDERS TO MAKE EFFECTIVE CLAIMS

Specific approach adopted	Concrete examples from country programmes in Nepal, Ghana and Uganda
Providing linkages from lower level organisations to higher level ones to increase reach and amplify voice	In Nepal and Uganda, Community Forestry User groups are linked to national associations that advocate for pro-poor community forestry. In turn, strengthened linkages between lower and upper levels of the networks ensures that the national associations are more accountable to their base.
Increasing legal literacy and raising awareness on the underlying causes of poverty	In Ghana, Forest Watch Ghana has been holding awareness raising meetings at community level on forest rights, harvesting and benefit sharing procedures to remote communities. In addition, they have been preparing and disseminating simple “plain language” guides on forest rights, often in local languages, for local communities
Creating, facilitating and institutionalising spaces / platforms for claims to be made	In Uganda, the participation of Community Based Monitors across Kasese, Kanungu, Rukungiri and Kisoro districts have been incorporated into sub-county technical planning committees so that reports on poor performance of contractors can be reported and addressed  In Ghana, CARE has supported the establishment of District, Regional and National Forest Forums where forest users can claim rights and engage directly with government duty bearers.
Pursuing public Interest Litigation when rights are abused	Interestingly, there is relatively little experience from either CARE or partners in the three countries for legal recourse and public litigation.
Selecting partners with track record of empowerment and promotion of the rights of vulnerable groups	In Nepal, CARE has an established relationship with FE-COFAN, which has a long track record of lobbying government on issues relating to increased equity in community forestry.

## ANNEX 1.2: RECOGNISING DIVERSITY AND EXPLICITLY TARGETING MARGINALISED GROUPS

Specific approach adopted	Concrete examples from country programmes in Nepal, Ghana and Uganda
Working on mechanisms that institutionalise inclusion of marginalised and vulnerable groups (such as women, migrants, indigenous groups, and the poor)	<p>In Uganda, CARE and partners have successfully lobbied the Bwindi Forest Conservation Trust to incorporate a Batwa representative in its Local Community Steering Committee. In addition, CARE and partners have successfully lobbied local governments in the region, particularly at Sub County level, to get minority ethnic groups included as co-opted members of sub county planning committees</p> <p>In Nepal, CARE has supported reforms in the membership of CFUG executive committees to include greater membership from poor and marginalized forest users.</p>
Strengthening representative institutions to give greater voice to marginalised groups	In Uganda, CARE has engaged and supported the formation of institutions that represent the interests of the Banyabatumbi and Banyabindi and building the capacity of existing ones for the Batwa and Basongora
Recognising uneven distribution of power and making efforts to balance the “playing field”	<p>In Uganda, CARE has provided training to marginalised ethnic groups on advocacy – which includes identification and presentation of specific advocacy issues of concern. This has been followed by facilitating forums between local government and marginalised ethnic groups where duty bearers have been able to recognise and understand issues underlying marginalisation</p> <p>In Nepal, CARE has developed a participatory well-being ranking tool with which to identify poor and marginalised groups and their interests in forest management, so as to ensure their participation and representation in forest management negotiations.</p>
Specific activities targeted to vulnerable and marginalised groups (pro-poor activities)	<p>In Ghana, CARE and partners have promoted interventions such as agricultural processing, supporting poultry farming (particularly guinea fowl) and small livestock (sheep and goats) - all of which are core activities for women and therefore likely to have high participation rates from women farmers</p> <p>In Uganda, resource use agreements in Queen Elizabeth National Park have deliberately targeted protected area resources that are requested by women and marginalised ethnic minority groups (such as certain grasses used for craft making and weaving)</p>

### ANNEX 1.3: SUPPORTING DUTY BEARERS TO MORE EFFECTIVELY FULFIL THEIR RESPONSIBILITIES

Specific approach adopted	Concrete examples from country programmes in Nepal, Ghana and Uganda
<p>Advocacy programmes targeting governance reforms</p>	<p>In Ghana, Forest Watch Ghana worked on holding the Forestry Commission responsible for stated policy commitments regarding collection of royalties from timber concessions and the issuing of licenses for felling on community lands</p> <p>In Uganda, CARE supported a loose coalition of players (including local governments) to lobby Uganda Wildlife Authority to fulfil its responsibilities with regard to sharing revenues from national parks in line with stated government policy. This has been effective since 2004 and now disburses annually.</p> <p>In Nepal, FECOFUN has been supported to conduct advocacy programmes at national level on Community Forestry regulations and prices for non timber forest products</p>
<p>Helping duty bearers reform and develop new models of working</p>	<p>In Ghana, Forest Watch Ghana has worked with the Forestry Commission, the European Union and the Private Sector on VPA process that have the potential to transform forest policies, curb illegal logging, improve enforcement of existing laws and increase benefits to rural communities</p> <p>In Uganda, local NGO partners have supported Uganda Wildlife Authority and Local Governments develop accountable and transparent modalities for disbursing and accounting for revenue sharing funds</p> <p>In Nepal, training support has been provided to District Forestry Officers on governance training and conducting governance assessment at the community level.</p>
<p>Strengthening accountability mechanisms between the state and citizens</p>	<p>In Ghana, Forest Forums established at district level provide a mechanism for citizens to gain a voice, present grievances and claim rights from duty holders in governmental and private sectors</p> <p>In Uganda, Community Based Monitors work closely with sub county and district staff to point out weaknesses in service delivery and provide suggestions for improvement, particularly with regard to increased accountability in revenue sharing funds</p> <p>In Nepal, the introduction of Public Hearing and Public Auditing at the CFUG level has provided an opportunity for members to hold their executive committees accountable. The use of this tool has now spread to other arms of government at the community level</p>

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