



**ASSESSMENT OF LAND RIGHTS AND GENDER BASED
VIOLENCE FOR WOMEN WITH DISABILITIES IN
SOUTHERN AND EASTERN
AFRICA**

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Background and Acknowledgements

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This assessment gives an overview of how rural women with disabilities are affected by land rights. Through this assessment report, it will better inform government, programmers and M&E to design gender and disability inclusive initiatives and be accountable to women and girls with disabilities on land rights and address Gender Based Violence (GBV).

DIWA believes that this study will be crucial in the implementation of the Leveraging Intersectionality to Empower Rural Women in Southern Africa Project (Funded by SALC). We also believe that these study will act as a guidance tool in our future regional initiatives.

Abstract

Rural women with disabilities in Southern and Eastern Africa face multiple forms of discrimination that limit their access to land and resources. These include both direct and indirect discrimination, as well as GBV. The lack of data and information on this population makes it difficult to develop effective strategies to address their needs. This desk research aims to fill this gap by providing an overview of the situation of rural women with disabilities in these regions, with a particular focus on their access to land and experiences of GBV. The research also seeks to identify promising practices and policy recommendations for improving the situation.

TABLE OF CONTENT

Background and Acknowledgements.....	3
Abstract.....	4
Introduction.....	2
Objectives.....	8
Justification of the study.....	9
Methodology.....	9
Findings.....	9
Southern Region.....	15
1. Malawi	
2. Zambia	
3. Republic of South Africa	
4. Mozambique	
5. Zimbabwe	
Eastern Region.....	36
1. Kenya	
2. Uganda	
3. Rwanda	
4. Burundi	
Conclusion and Recommendations.....	48
References.....	51

INTRODUCTION

In Africa, land is very crucial to people living in rural areas for various reasons that encompass their livelihoods, cultural identity and social structure. 90 % of rural women with disabilities earn their living through agricultural activities and land plays a pivotal role in their lives. Upon recognizing the critical importance of land in the development and well-being of African nations in 2006, Land Policy Initiative was established as a joint program of the tripartite consortium constituted by the African Union Commission (AUC), the United Nations Economic Commission for Africa (ECA) and the African Development Bank (AFDB). The *Framework and guideline on land policy* were developed in collaboration with the Regional Economic Communities (RECs) through a highly consultative process and a rigorous roadmap of activities, including regional assessments and multi-stakeholder consultation workshops in order to facilitate land policy development, implementation and monitoring. It is evident that among those who were consulted, persons with disabilities were not included hence issues of disabilities were not incorporated.

FAO report, on the gender gap in land rights reported that across Africa many women tell a similar tale: they till the land, produce the food, yet lack secure rights to land, including being denied equal inheritance rights¹. They also discovered that women with disabilities face more gender-based violence and discrimination than other women without disability. Rural women with disability access, use and control over land are directly linked to the protection of their human rights, such as the rights to life, housing, food, and health.

In addition, the regional Assessment Studies on Land Policy conducted for Central, Eastern, North, Southern and West Africa by the LPI between 2007/2008 highlighted challenges women face such as sexual abuse, emotional touchers, and economic violence. The condition is worse for

¹ FAO, (2018). The Gender Gap in Land Rights; Research Program on Policies, Institutions, and Markets.

women with disabilities in rural areas because of literacy and lack of exposure to their rights. The assessment identified some of the key issues relating to rural women's land rights such as: Women and customary land rights regimes; Women's land rights in the context of statutory law; rural women with disabilities, and land and Agriculture; Women's land rights in the context of rapid change;

It has also been indicated that women with disabilities are at a higher risk of experiencing GBV and having their land rights violated than women without disabilities. This is due to a number of factors, including lack of access to justice, lack of support from family and community members, and a lack of understanding of the rights of people with disabilities. For example, a study in South Africa found that women with disabilities are 2.5 times more likely to experience intimate partner violence than women without disabilities. In addition, a study in Tanzania found that only 13% of women with disabilities had access to justice when their rights were violated.

In Southern Africa, there are several studies that have looked at the intersectionality of women's land rights, GBV, and disability². In Zimbabwe, the ZimRights Trust conducted a study that found that women with disabilities were more likely to experience GBV and to have their land rights violated than women without disabilities. The study also found that there was a lack of awareness about the rights of people with disabilities among community members, which made it difficult for women with disabilities to seek help or justice when their rights were violated.

In Malawi, a study by the Department for International Development found that women with disabilities were more likely to experience GBV and land disputes than women without disabilities. The study also found that many women with disabilities did not have access to legal

² Achieving the Economic and Social Rights of Women and Girls with Disabilities: A Study of the Impact of Social Protection Schemes in Tanzania, Zambia, and Malawi by the London School of Economics, published in 2014.

services or support, which made it difficult for them to resolve disputes or access justice. In addition, the study discovered that women with disabilities were often not considered "real" landowners by community members, which further limited their ability to access their rights.

Another study, conducted by the Southern African Federation of the Disabled, found that people with disabilities were often excluded from traditional land dispute resolution processes, which further compounded their difficulties in accessing justice. The study identified that women with disabilities were particularly vulnerable to sexual and economic violence, which often went unreported. It was also discovered that women with disabilities were often excluded from decision-making processes around land use and access, which further limited their ability to access their rights. The studies from Southern Africa demonstrate that the issue of women's land rights, GBV, and disability is complex and multi-faceted. There is a need for more research in this area, as well as more efforts to address the needs of women with disabilities.

OBJECTIVES

- a. Examine regional and national legal frameworks, policies, and international conventions relevant to women's land rights and gender-based violence, with a specific focus on how this addresses the intersectionality of disability in a rural context
- b. Analyse existing data, reports, and scholarly literature to quantify the prevalence and patterns of gender-based violence against rural women with disabilities and explore the documented challenges they encounter in securing and exercising their land rights.
- c. Evaluate government and nongovernmental programs or initiatives aimed at promoting women with disabilities' land rights and combat gender-based violence
- d. Assess the inclusivity and effectiveness of interventions for rural women with disabilities, identifying gaps and potential areas for improvement.

JUSTIFICATION OF THE STUDY

Land is a basic unit of employment and source of income in Africa, therefore access to land provides total security to women even with disabilities in rural areas. Despite the importance of

land ownership as well as the key roles played by women in food security, 70% of the agricultural labor force are women, especially those with disabilities in rural areas who are deprived of that right. Land is a primary source of wealth, social status, and power, this study seeks to discover the connection between rural women with disabilities, land rights and gender based violence in Southern and Eastern Africa.

METHODOLOGY

The study was essentially done through desk reviews based on materials sourced from internet. Based on the foregoing, this report is based largely on qualitative information. Nonetheless, it brings together useful information needed to improve women's land rights in Southern and Eastern Africa.

FINDINGS

Gender based violence and women's land rights

Gender-based Violence has been a trending topic since 19th century all over the world. Most women, especially those with disabilities, become victims of gender-based violence and discrimination based on their disability³. Most women do not have access to land ownership because of customary systems, and weak government laws and policies. In responding to this situation, the international community created specific standards to protect women's rights including land rights even of women with disabilities. These instruments include the Universal Declaration of Human Rights, 1948, and the International Covenant on Economic, Social and Cultural Rights, 1966, and the Convention on the Elimination of all forms of Discrimination against Women. At the regional level, the African Charter on Human and Peoples' Rights, 1981, and the Southern Africa Development Community Declaration on Gender and Development, 1997. Recent relevant world conferences, including Vienna Declaration and Program of Action of 1993, Cairo Conference on Population and Development (ICPD) 1994, the Beijing World Conference

³ Mutangadura, G. (2004). Women and Land Tenure Rights in Southern Africa: A human rights-based approach.

on Women Declaration and Platform for Action (1995), and Durban World Summit on Sustainable Development, Johannesburg, 2002.

These instruments confirmed the strong link between the gendered nature of violations of human rights and the advancement of women's rights even on land ownership. The Convention on the Elimination of all forms of Discrimination against women (CEDAW) brings together all conventions and treaties that protected and promoted the rights of women in particularly vulnerable areas into a single instrument. The CEDAW lays the basic principles on how women's land rights should be treated in a rights-based approach. Specifically, Article 14 of the CEDAW obliges state parties to ensure equal treatment between men and women on land ownership even those with disabilities. To achieve real equality, the CEDAW requires that marriage and inheritance laws about land rights should be based on equality. Article 16 of the CEDAW also implies that land tenure reform must ensure women's property rights during marriage, at divorce, and in the event of the death of the husband. By 2021, 42 African countries such as Zimbabwe, Zambia, Tanzania, South Africa, Uganda, Malawi, Senegal, and others ratified the CEDAW and agreed to incorporate the principles of equality of men and women in their legal systems, abolish all discriminatory laws, and adopt appropriate ones prohibiting discrimination against women. As a response to international political commitments to gender equality, national governments have introduced this concept into policies and legislation. Despite what was agreed, cases of gender-based violence and discrimination of women and girls land rights are still coming out in most of the African countries.

In Malawi, this translated into "equal inheritance" in 2002 National Land Policy. Equal inheritance permit female and male children to equally inherit their parents' land. In some situations, shifting from customary inheritance practices to equal inheritance may reduce women's access to land. This primarily depends on the nature of women's access in the specific customary system. In the instance of Malawi, both patrilineal and matrilineal kinship groups exist, and it has been argued that in the latter group women enjoy control over customary land. The reality of gender disparities in land ownership is that women lack access to land which constitutes a major source and means of wealth creation and economic empowerment.

Customary system

⁴Customary systems can have a significant impact on the land rights and GBV experiences of women with disabilities. In many parts of Southern Africa, customary systems often prioritize the rights of men over women, and women with disabilities may be considered to have even less rights than other women. This can result in women with disabilities having limited access to land, and being at a higher risk of experiencing GBV. For example, in some communities in Malawi, women with disabilities are often excluded from inheriting land, which can leave them vulnerable to displacement and homelessness.

Additionally, customary systems may condone GBV, or view it as a "private" issue that should not be addressed by the community or legal system⁵. This can make it difficult for women with disabilities to seek help or justice when they experience GBV. The exclusion of women with disabilities from customary systems can have serious consequences for their land rights and their experiences of violence. It is important to address the issue of women's land rights, GBV, and disability within customary systems, and to ensure that women with disabilities are able to access their rights and seek justice when necessary.

On the other hand, the impact of customary systems on women with disabilities' land rights and experiences of GBV in eastern Africa is similar to that in Southern Africa, though there are some differences. In countries such as Ethiopia, Kenya, and Uganda, customary systems often operate alongside formal legal systems, which can create confusion and uncertainty for women with disabilities. Additionally, in some areas of eastern Africa, customary systems may be more strictly enforced than in Southern Africa, making it even more difficult for women with disabilities to access their rights. Overall, the lack of legal protections and the prevalence of discriminatory attitudes towards women with disabilities create significant challenges for women with disabilities in eastern Africa.

⁴ Kabanga, L., et al (2018). Equal Inheritance Is Not Always Advantageous for Women: A Discussion on Gender, Customary Law, and Access to Land for Women in Rural Malawi.

⁵ Kabanga, L., et al (2018). Equal Inheritance Is Not Always Advantageous for Women: A Discussion on Gender, Customary Law, and Access to Land for Women in Rural Malawi.

Factors contributing to the inability to access land rights and GBV for rural women with disabilities

a. Lack of knowledge

Literature reveals that in many African countries laws on WLR exist. This is in line with declarations, including the Maputo Protocol, in which governments have committed to promote women's access to and control over productive resources such as land and to guarantee their right to property. Although most countries in Africa have constitutions which ascribe to equality between male and female on women's land rights, the general public especially rural women with disabilities are not aware or conversant with such provisions. This is because once the land policies are adopted and land laws passed, there is no deliberate efforts made by the State to sensitize the general public on what these documents say about peoples' land rights in general and rural women with disabilities in particular.

However, many of these laws are understood by women with disabilities in urban areas than those in rural areas because of literacy levels and exposure⁶. Most governments fail to have policies, laws, and procedures clearly expressed in accessible formats, applicable languages and for them to be widely publicized. For example in Ethiopia, where the Revised Family Code (2000) gives equal rights to women and men in terms of marriage, inheritance, and property under the country's prevalent tenure regimes, there is limited awareness of this law among rural women with disabilities. Evidence from Kenya's Muranga and Narok communities highlights that the majority of women including those with disabilities do not know of the land provisions supporting their rights to land in the new constitution, land laws, and the national land policy.

This is also the case in Malawi where most rural women with disabilities are not aware of their land rights. This lack of access to information and knowledge about land laws has serious implications for women with disabilities ability to exercise control over land. A good example of this is seen in Malawi's Phalombe community, where community-based organizations (CBOs) are

⁶ Mutangadura, G. (2004). Women and Land Tenure Rights in Southern Africa: A human rights-based approach.

taking steps to improve women's land rights awareness from current levels of about 50% by establishing local land committees. In all above mentioned countries most National documents are not translated or printed in accessible format leaving rural women with disabilities behind.

b. Inability to enforce laws

In many African countries enforcement and protection of women's land rights are limited with regard to inheritance. The AU F&G call for enactment of legislation that provides equal rights for women to inherit land, as well as for co-ownership of registered land by spouses. Under the Maputo Protocol, African countries recognize that women and men have the right to an equitable sharing of joint property deriving from a marriage. Women and girls still have weaker rights to inherited land than their male siblings or uncles. In Lamu, Kenya, women and girls inherit a third of their father's land while men are bequeathed half of the same property, yet the country's constitution provides guarantees for equitable access to land for all⁷.

c. Poor presentation in decision-making tables.

Gender inequality is a major factor in the determination of women's meaningful contribution to land governance (Osorio and Galina, 2018). This is despite calls in the AU F&G for country governments to promote women's participation in land administration structures, as well as commitments under the Maputo Protocol for states to ensure increased and effective representation and participation of women at all levels of decision-making. In this way governments are also failing to realize participatory and gender-sensitive approaches in land governance in line with the VGGTs. The promulgation of regulations to increase women's participation in decision-making mechanisms and processes. Kenya is implementing the two-thirds gender principle, which makes it possible for women to sit on county land control boards.

⁷ Behrman, J. (2016). Closing the Gender Gap in Land Access, Control, and Ownership in Eastern Africa.

While in some African countries women's land rights are enshrined in the constitution or land law, in reality this does not bring feasible outcomes with respect to equitable access and control over land due to poor implementation and enforcement of the laws. Rural women with disabilities still lack decision-making power. Effective land administration requires representatives of women with disabilities participation in policy formulation and at the level of implementation on an equal footing with others in order to ensure a gender-equitable land tenure system.

Participation of women with disabilities in local land management and administration committees including in land dispute resolution/management committees is basic for women with disabilities empowerment as it enables them to take part in community level decision making processes. Meaningful representation is an important step towards helping women gain access to established rights. It is not just a matter of placing women in positions to add to numbers, but to ensure that their voices are heard. Women must be an integral part of the implementation of land reform programmes. Training community members as paralegals, topographers and conflict mediators can help build community skills and increase the probability that women with disabilities concerns will be addressed. Women led organisations of persons with disabilities of feminist movement can be effective tools in promoting local participation, building consensus and raising consciousness at all levels, especially as rural women with disabilities are generally not well represented in decision-making bodies, and they are often instrumental in pressuring for government programmes to include rural women with disabilities as equal participants.

⁸SOUTHERN REGION OF AFRICA.

Women with disabilities face a double burden of discrimination in the Southern region of Africa, as they face both gender-based violence and discrimination based on their disability. A report by the Southern Africa Federation of the Disabled (SAFOD) in 2014 found that women with disabilities are up to four times more likely to experience violence than women without disabilities. They also face unique barriers to accessing justice, as they may not be able to navigate the legal system or find advocates who are willing to help them.

⁸ "Malawi Gender-Based Violence Indicator Survey" by Malawi National Statistics Office and The ministry of Gender, Children, Disability and Social Welfare. Southern African Federation of the Disabled Report, 2014.

The report which was based on data collected from surveys of women with disabilities in Malawi, Zambia, and Zimbabwe. The report found that women with disabilities faced a range of forms of violence, including physical, sexual, emotional, and economic violence. They were also more likely to be isolated and to have limited access to services, which made them more vulnerable to violence.

One of the most significant challenges faced by women with disabilities in the Southern region of Africa is the lack of data on their experiences of violence and land rights⁹. While some data has been collected, it is often not disaggregated by disability status, making it difficult to understand the unique challenges faced by women with disabilities. For example, in a study of gender-based violence in Malawi, only 2% of respondents identified as having a disability, making it difficult to draw conclusions about their experiences. This lack of data makes it difficult to advocate for change and to ensure that the rights of women with disabilities are respected.

The study was named as "Malawi Gender-Based Violence Indicator Survey" and it was conducted in 2013 by the Malawi National Statistical Office and the Ministry of Gender, Children, Disability and Social Welfare. The survey was funded by the United States Agency for International Development (USAID) and was conducted in partnership with the World Health Organization (WHO) and UNICEF. While the survey did not specifically focus on land rights, it did provide some insights into the experiences of women with disabilities, including those related to violence.

MALAWI

THE CONNECTION BETWEEN WOMEN'S LAND RIGHTS AND GENDER-BASED VIOLENCE IN MALAWI.

When women do not have secure land rights they can be at greater risk of Gender Based Violence. Lack of secured land rights can force women to be or stay in an abusive relationship in order to have access to land. On the other hand, when women have secured land rights, they have more

⁹ Rural Women's Access to Land and Property Rights Projects by SARDC, 2012.

control over their lives and are less likely to experience Gender based violence. In Malawi, women who do not have secure land rights are more likely to experience economic insecurity and poverty, which makes them more vulnerable to GBV. This is because land is often a major source of income and security for women, and without it they may be more dependent on men for economic support. In addition, women without land rights may be more likely to experience violence within their households, as husbands may feel threatened by their wives' increased autonomy.

One example of the link between women's land rights and GBV in Malawi comes from a study conducted by the Landesa Center for Women's Land Rights. The study found that women who were granted land rights by the Malawian government were less likely to experience physical violence, economic abuse, and sexual abuse than women who did not have land rights. In addition, the study found that women who owned land were more likely to participate in household decision-making and have more control over household resources.

Another example of the link between women's land rights and GBV comes from a study conducted by Oxfam in northern Malawi. The study found that women who had been granted land rights through the government's Land Allocation Programme were less likely to experience intimate partner violence, including physical and sexual violence. The study also found that women who owned land were more likely to seek help and leave abusive relationships. The study highlights the importance of land rights in empowering women and reducing their vulnerability to violence.

Lack of control to land can lead to power imbalances. In Malawi, women often have less control over land than men. This is due to a number of factors, including customary law, which often grants decision-making power over land to men, and the fact that women are often not listed as co-owners of land. This lack of control over land can lead to power imbalances within families and communities. For example, women may have less say in decisions about how land is used, or they may be unable to sell or rent land without the permission of their husband or male family members. This lack of control can also lead to economic insecurity and poverty.

Another consequence of the lack of control over land is that women are often unable to leave abusive relationships. Because they may not have access to land or other financial resources, they may feel that they have no choice but to stay with their abusers. This can create a cycle of violence and poverty, as women may be unable to escape the situation and improve their lives. In addition, women who are not in control of land may be at risk of being evicted from their homes if they divorce or separate from their partners. This can create even more insecurity and instability.

An example of how a lack of control over land can lead to power imbalances and insecurity can be seen in the case of Msambi Mkandawire, a woman from rural Malawi. When Msambi's husband died, she was forced to leave her home and land because she did not have a title to the property. As a result, she became very poor and had to beg for food and support from her community. When she tried to get help from the local chief, he told her that she was not entitled to any land or support because she was a widow and had no male relatives to help her.

In Malawi there are strong patriarchal traditions and norms that limit women's access to land and other resources. Women are not allowed to inherit land or they are forced to marry young and move away from their families, which can leave them more vulnerable to abuse. patriarchal traditions and norms in Malawi can limit women's access to land and other resources. For example, in many communities in Malawi, women are expected to marry and have children, and their main role is to take care of the home and family. As a result, they often do not have the same opportunities as men to earn an income or own property. In addition, some customs and beliefs hold that women are inferior to men, and that they should obey their husbands. These traditions and beliefs create a culture where women are not respected or valued, and this can limit their ability to access resources like land.

For example, the impact of patriarchal traditions and norms on women in Malawi occurred in 2017, when a group of women were forcibly evicted from their homes in the city of Blantyre. The women had been living in a settlement on privately-owned land for many years, but the landowner decided to evict them in order to develop the land for commercial use. The women were given very little

notice, and they had nowhere else to go. Many of them ended up living on the streets or in informal settlements, where they faced unsafe and unsanitary conditions.

Traditional practices like bride price can also lead to a sense of ownership over women, which can contribute to gender based violence. The practice of bride price, which is common in many parts of Malawi, has contributed to a sense of ownership over women. Bride price is a custom in which a man pays a sum of money or goods to the family of his bride in exchange for her hand in marriage. While this custom is often seen as a way to show respect and appreciation to the bride's family, it has negative consequences. For example, because bride price is seen as a way to "buy" a woman, it can create a sense that women are property, and that men have the right to control them. One well-known case of a woman who was affected by the practice of bride price in Malawi is the case of Memory Banda. Memory was a 16-year-old girl who was forced into marriage after her family sold her to a man for the equivalent of \$165. The man had already been married three times and had eight children, and he intended to take Memory as his fourth wife. However, with the help of a local advocacy group, Memory was able to escape the marriage and file a complaint against her family. This case highlights the way that bride price can be used to exploit and abuse women.

Women with disabilities are particularly vulnerable to gender based violence and other forms of violence in Malawi. ¹⁰They also face increase barriers to accessing land due to societal stigma and discrimination. One way in which the land rights of women with disabilities can be affected by violence is through inheritance. In many cases, women with disabilities are not considered to be legal heirs to their family's land, even if they have lived on the land their whole lives. When a family member dies, the land may be given to another relative, such as a brother or uncle, who may not be as supportive of the woman's needs. This can leave her without a place to live, or without access to the resources she needs to live independently. Furthermore, if the woman is forced to move from her home, she may lose her land rights entirely.

¹⁰ The GAAP Survey

For example the case of Doreen Dzonga, a woman with a disability who lived in the village of Mzimba in Malawi. Doreen's father died when she was a young girl, and her uncle became her guardian. When her uncle died, Doreen's family members decided to take the land away from her and give it to her uncle's son. Doreen went to the local court to try to keep her land, but the court ruled against her. She ended up losing her land and was forced to move to a small plot of land that was not adequate for her needs.

This case is a clear example of the many ways in which violence and discrimination can affect the land rights of women with disabilities. In addition to losing her land, Doreen also lost her access to the resources she needed to live independently, such as water and sanitation. She was also left without a place to live, and had to rely on the kindness of others for shelter. This is just one example of the ways in which women with disabilities are particularly vulnerable to violence and other forms of discrimination. There are many other cases like Doreen's, and they highlight the importance of addressing these issues through legal and policy reform.

When it comes to Gender based violence disabled women face limited mobility¹¹. When it comes to limited mobility, this can make it difficult for disabled women to escape situations of violence, as they may not be able to move quickly or easily. For example, if a woman is confined to a wheelchair, she may not be able to run away from an abusive partner or escape a dangerous situation. Communication difficulties can also make it difficult for disabled women to get help. If a woman cannot speak or understand the local language, she may not be able to ask for help or report abuse. Additionally, she may not have access to sign language interpreters or other forms of communication assistance. This can make it difficult to seek help.

In 2016, a case of land-related violence against a disabled woman made headlines in Malawi. A woman with albinism, who was also deaf and mute, was attacked by a group of men who wanted to steal her land. The men tied her up, beat her, and cut off her fingers in an attempt to force her to sign over her land. This case highlights the vulnerability of disabled women in Malawi, as they

¹¹ Malawi National Statistics office and The Ministry of Gender, Children, Disability and Social Welfare (2013). Malawi Gender-Based Violence Indicator Survey.

may face violence not only because of their disability, but also because of other factors such as their race or gender. Additionally, this case shows how violence against disabled women can be linked to land issues.

LAND LAWS AND POLICIES IN MALAWI

1. Land Act (2016)

The land act provides the legal framework for land tenure and land administration, including the process for registering land titles and resolving land disputes¹². It recognizes women's rights to land and their right to equal protection under the law. It also states that women have the right to register land in their own names, and that decisions about land should be made with the Participation of women.

Though the 2016 Land Act in Malawi is a progressive piece of legislation, but it does have some weaknesses. One of the biggest weaknesses is that it does not explicitly address the needs of disabled people, despite the fact that they are disproportionately affected by land issues. There is no mention of accessibility or accommodations for people with disabilities in the Act, and this can lead to discrimination and exclusion. For example, in rural areas, disabled people may not be able to access land registration services because they are not physically accessible, or they may not be able to understand the documents because they are not available in a format that is accessible to them.

Another weakness of the 2016 Land Act is that it does not adequately address gender-based violence. While the Act does include some provisions to protect women's land rights, it does not specifically address violence against women, nor does it provide any guidance on how to prevent or address such violence. This is a significant issue in Malawi, where women are often the victims of land-related violence. For example, in 2016, a survey conducted by Malawi Gender, Agriculture and Assessment Project (GAAP) discovered that 47% of women in Malawi had experienced some form of land-related violence, and nearly one-third of these women reported that the perpetrator was a

¹² The 2016 Land Act of Malawi.

family member. One of the key findings of the GAAP survey is that while women have some legal protections under the 2016 Land Act, they often face significant challenges in accessing and exercising their rights. For example, while the Act recognizes that both men and women have equal rights to own and control land, it does not address the social and cultural norms that often prevent women from exercising these rights in practice. Additionally, while the Act requires that land registration be gender-sensitive, it does not provide specific guidance on how to ensure that this is the case. As a result, women may still face discrimination in the land registration process, despite the Act's intent.

2. Customary Land Act of 2016

The customary land act recognizes land rights, and provides for it recognizes customary land rights and provides for the protection of traditional leadership structures¹³.

Despite what was stated in the policy the researcher discovered a number of weaknesses. One of the key weaknesses of the Customary Land Act of 2016 is that it does not adequately address the needs of vulnerable groups, such as women and people with disabilities. The Act recognizes the existence of customary land rights, but it does not provide specific guidance on how to protect the rights of vulnerable groups. For example, the Act does not explicitly address issues such as discrimination, access to land, or inheritance for women or people with disabilities. This lack of clarity can lead to confusion and further marginalization of these groups.

Another weakness of the Customary Land Act is that it does not provide any guidance on how to resolve disputes over land. The Act recognizes the need for a dispute resolution mechanism, but it does not provide any specific details on how this mechanism should work. This is a major issue, as land disputes are common in Malawi and can lead to violence and displacement. Without a clear dispute resolution mechanism, it can be difficult to resolve these disputes in a fair and equitable manner.

3. National Land Policy of 2016

¹³ Customary Land Act of 2016

This policy sets out government's vision for land management and reform. It calls for gender equality in the land ownership and use, and for the inclusion of women in decision-making about land¹⁴.

The 2016 National Land Policy of Malawi has several weaknesses that have been noted by various stakeholders. One key weakness is the lack of clarity on the role of traditional authorities in land governance. The policy recognizes the role of traditional authorities in administering land in customary areas, but it does not provide clear guidance on how they should carry out this role. This has led to confusion and disputes over land, particularly in areas where traditional authorities are in conflict with local communities.

Another weakness of the National Land Policy is the lack of clarity on the role of women in land governance. The policy recognizes the importance of gender equality in land governance, but it does not provide specific guidance on how this should be achieved. This has led to confusion and a lack of progress on gender equality in land governance. Additionally, the policy does not provide adequate guidance on how to address the issue of landlessness, which is a major challenge in Malawi.

Finally, the policy does not provide adequate protection for the rights of vulnerable groups, such as people living with disabilities, the elderly, and those affected by natural disasters.

CONNECTION BETWEEN WOMEN WITH DISABILITIES LAND RIGHTS AND GENDER BASED VIOLENCE IN ZAMBIA.

The lack of land rights among women with disabilities in Zambia often leaves them vulnerable to violence¹⁵. This is because land is often a key source of income and security, and without access to land, women with disabilities may be forced to rely on others for their survival. This can make them vulnerable to abuse and exploitation, including sexual violence¹⁶. Additionally, the stigma

¹⁴ National Land Policy of 2016 (Malawi)

¹⁵ www.csrzambia.org.

¹⁶ The rural women's access to Land and Property Project by SARDC (2014).

associated with disability can make it difficult for women to report abuse or seek help. This is especially true in rural areas, where the lack of infrastructure and resources can make it even more difficult for women with disabilities to access support.

The second factor that contributes to the link between land rights and GBV among women with disabilities in Zambia is the lack of awareness of their rights.¹⁷ Many women with disabilities are not aware of their legal right to inherit land or their rights to protection from violence. This lack of awareness can leave them vulnerable to exploitation by family members or others who may seek to take advantage of their situation. It can also lead to women accepting or normalizing violence as a part of their lives. This is especially true in rural areas, where traditional beliefs and practices may not support the rights of women with disabilities.

There have been some efforts to address the issue of land rights and GBV among women with disabilities in Zambia. The National Disability Policy, which was launched in 2012, includes a section on land rights and calls for the recognition of the right to inherit land for all persons with disabilities. However, there are still many challenges in implementing this policy, including a lack of funding and capacity at the local level. Additionally, the policy does not specifically address violence against women with disabilities, leaving them without clear protections. This has led to calls for the development of a specific gender-based violence policy for women with disabilities.

¹⁸One example of a case study is that of Mercy Mwansa, a woman with a disability from Mazabuka district in Zambia. Mercy was married to a man who would beat her, even while she was pregnant. She became pregnant and gave birth to a child who also had a disability. Mercy's husband eventually left her, leaving her with no means of support and no access to land. She had to move in with her parents, who were also unable to support her. Mercy tried to seek help from the police and other authorities, but they were unresponsive to her needs.

Women's access to Land and Security of Nature in Southern Africa; Case study of Zambia and southern Africa by NUPI (2014).

¹⁷ www.worldbank.org.

¹⁸ Disabled Women's Access to Property: Experiences from Livingstone, Zambia by the ActionAid International Southern Africa and Women's Forum of Zambia, published in 2012.

Mercy's story is not unique. Many women with disabilities in Zambia face similar challenges when it comes to land rights and GBV. For example, in a study conducted by the Southern African Research and Documentation Centre, it was found that women with disabilities often face discrimination when it comes to accessing land. In one case, a woman with a disability was denied access to land by her family because they believed that she would not be able to manage the land effectively. This is just one example of the many ways in which women with disabilities are discriminated against when it comes to accessing land.

LAND LAWS AND POLICIES IN ZAMBIA

1. The land Act of 1995

The Land Act of 1995 is a key piece of legislation in Zambia that addresses land ownership, management, and use.¹⁹ The act recognizes customary land tenure, which means it recognizes the traditional system of land ownership and management that is based on customary law. The act also establishes a system of national land registration, which provides legal security of tenure and a means of resolving land disputes. Additionally, the act recognizes women's right to own land, and it provides for special measures to ensure women's equal access to land. The act is considered an important step towards ensuring the equal rights of women in Zambia, and it has been praised by international organizations.

Despite its many strengths, the Land Act of 1995 has some weaknesses. One key weakness is that the act does not provide a clear mechanism for implementing the customary land tenure system. This has led to confusion and conflict over land rights. Additionally, the act does not provide sufficient protection for small-scale farmers, who often face eviction from their land. Finally, the act has not been adequately resourced, which has limited its implementation. Despite these weaknesses, the act remains an important piece of legislation in Zambia, and efforts are being made to address its shortcomings.

2. The Disability Act of 2012

¹⁹ The Land act of 1995

The Disability Act of 2012 is a law that protects the rights of persons with disabilities in Zambia. The act was passed to give effect to the United Nations Convention on the Rights of Persons with Disabilities, which Zambia ratified in 2007. The act defines a person with a disability as someone who has a physical, mental, intellectual, or sensory impairment that substantially limits their ability to participate in society²⁰. The act prohibits discrimination against persons with disabilities and requires the government to take steps to ensure their full and equal participation in society. Additionally, the act establishes a National Disability Council to promote the rights of persons with disabilities.

In relation to land rights, the Disability Act of 2012 has some significant weaknesses. One weakness is that the act does not provide a mechanism for people with disabilities to receive compensation for land that has been taken from them. Additionally, the act does not provide for specific protections for people with disabilities who live in informal settlements. This can make it difficult for people with disabilities to obtain land tenure security. The act does not provide for the establishment of an independent body to monitor compliance with the act and to ensure that people with disabilities have access to justice.

Another weakness of the Disability Act of 2012 in relation to land rights is that it does not address the issue of customary land tenure. Customary land tenure is an important form of land tenure in Zambia, and many people with disabilities live on customary land. However, the act does not provide for the recognition of customary land tenure or for the protection of people with disabilities who live on customary land. This can leave people with disabilities vulnerable to eviction and loss of land. Finally, the act does not provide for specific protections for people with disabilities who have been forcibly evicted from their land.

One example of the challenges faced by people with disabilities in relation to land rights is the case of a woman named Doris (not her real name). ²¹Doris is a woman with a disability who lives in a rural area of Zambia. She has been living on a piece of land that is held under customary tenure

²⁰ The Disability Act of 2012

²¹ Th Centre Research for Social Research in Lusaka, Zambia (2013)

for many years. However, she has recently been threatened with eviction by a local chief. The chief has told Doris that she must leave the land because she is a woman with a disability and is therefore considered to be a "bad omen" for the community. Doris is now facing the prospect of losing her home.

3. The National Gender Policy of 2006-2015

The National Gender Policy of 2006-2015 was a policy that was designed to promote gender equality and women's empowerment in Zambia²². The policy was developed by the government of Zambia with support from the United Nations Development Programme (UNDP). The policy covered a range of areas, including education, health, and economic development. It also included a section on land rights and housing, which stated that the government would "develop a land rights policy which would guarantee the equal rights of women and men in ownership, control, and use of land." However, the policy was not fully implemented and was replaced by the National Gender Policy of 2015-20.

Although the National Gender Policy of 2006-2015 did not have a significant impact on the situation of women in relation to land and housing, it did lay the groundwork for future policies and initiatives. For example, the National Gender Policy of 2015-20 included a specific goal to "ensure equal access to, ownership and control of land and other natural resources by both men and women." This goal was a direct result of the work that was done under the previous policy. Overall, the National Gender Policy of 2006-2015 was an important step towards improving the situation of women in Zambia, but it still had its limitations.

One of the main weaknesses of the National Gender Policy of 2006-2015 in relation to land rights and women with disabilities was its limited reach in rural areas. Many women with disabilities live in rural areas, and they often face additional barriers to accessing land and housing. For example, in rural areas, land is often held under customary tenure, which can be complicated and difficult to navigate. In addition, rural areas often lack the infrastructure and resources that are needed to

²² National Gender Policy of 2006-2015.

support people with disabilities, such as accessible housing and transportation. As a result, many women with disabilities in rural areas were not able to benefit from the policy.

A case study that highlights the specific challenges faced by women with disabilities in rural areas is the case of Grace (not her real name), ²³a woman with a disability who lives in a village in Eastern Province, Zambia. Grace's village is located in a remote and rural area, and she does not have access to transportation or basic services. As a result, Grace has difficulty accessing land and housing, and she is often unable to participate in community events and activities. Grace's story is just one example of the challenges that many women with disabilities in rural areas face in accessing land and housing.

REPUBLIC OF SOUTH AFRICA

In South Africa, women with disabilities face unique challenges when it comes to land rights and GBV. The country's history of discrimination and violence against people with disabilities has led to a lack of trust and access to justice for many women with disabilities²⁴. In addition, women with disabilities often have limited economic opportunities and are dependent on others for support, making them more vulnerable to abuse and exploitation. GBV is also a significant issue in South Africa, with one in three women experiencing physical or sexual violence in their lifetime. Women with disabilities are at even greater risk of experiencing violence, as they may be unable to defend themselves or escape from an abusive situation

In terms of specific policies and programs, the South African government has implemented a number of initiatives to address the issue of GBV and land rights for women with disabilities. These include the National Strategic Plan on Gender-Based Violence and Femicide, which aims to address the root causes of GBV and provide support to survivors²⁵. In addition, the Department of Rural Development and Land Reform has a number of programs that aim to increase access to land for women with disabilities. However, these policies and programs have been criticized for being underfunded and not reaching the people who need them most.

²³ Land Rights and Women with Disabilities in Zambia by World Bank (2017)

²⁴ The Right to Land for Women with Disabilities in South Africa (2016)

²⁵ Gender Based Violence and the Disability Rights Agenda by SAHRC (2019)

LAND LAWS AND POLICIES IN SOUTH AFRICA

1. The Restitution of Land Rights Act

The Restitution of Land Rights Act was passed in 1994, after the end of apartheid in South Africa. The act provides for the restitution of land that was taken away from people by the apartheid government, and it includes specific provisions for people with disabilities. Section 25 of the act states that the government must take steps to ensure that people with disabilities have access to land and can participate in the process of land restitution. In addition, the act provides for the establishment of a Commission on Restitution of Land Rights, which is responsible for implementing the act and ensuring that people with disabilities have their land rights restored.

One of the main weaknesses of the Restitution of Land Rights Act is that it does not provide clear guidance on how to implement the act in a way that is inclusive of people with disabilities²⁶. For example, the act does not specify how to identify and reach out to people with disabilities who may be eligible for restitution, or how to ensure that they are able to participate in the process. In addition, the act does not provide for any specific resources or support for people with disabilities who are seeking to have their land rights restored. This can make it difficult for people with disabilities to access their rights under the act.

2. The Rural Development and Land Reform Policy

The Rural Development and Land Reform Policy is a policy of the South African government that was developed in order to address the issue of rural poverty and land reform. The policy includes specific provisions for people with disabilities, including the right to access land and other resources, the right to participate in decision-making processes, and the right to have their voices heard in the process of land reform. The policy also includes a number of programs and initiatives that are designed to support people with disabilities, including a program for the provision of assistive devices and other forms of support. However, the policy has been criticized for not being adequately implemented and for not providing adequate.

²⁶ The South African Human Rights Commission, (2019).

One of the main weaknesses of the Rural Development and Land Reform Policy is that it has not been implemented in a way that fully addresses the needs of people with disabilities²⁷. For example, while the policy provides for the provision of assistive devices, there have been reports that many people with disabilities have not been able to access these devices or other forms of support. In addition, the policy has not been fully integrated into other government programs, such as the social protection system. This has led to a situation where people with disabilities are often not able to access the benefits and support that they need.

One case study that highlights the challenges faced by people with disabilities in accessing land and other resources under the Rural Development and Land Reform Policy is the case of the Makhonya Rural Development Project in KwaZulu-Natal. The project was established to provide support to people with disabilities in the area, but it has been criticized for not being fully accessible to people with disabilities. For example, the project has not provided assistive devices or other forms of support to all of the people who need them. This has led to a situation where some people with disabilities have been unable to benefit from the project and have been excluded from the process.

MOZAMBIQUE

In Mozambique, as in many other African countries, women with disabilities often face significant barriers to accessing land. This is due in part to the fact that traditional systems of land tenure often do not recognize the rights of women, and disability is often seen as a sign of bad luck or a curse. Additionally, women with disabilities often lack access to education and employment opportunities, which makes it difficult for them to advocate for their rights or take action to protect themselves from violence. The Mozambican government has made some efforts to address these issues, but the problem persists.

In terms of specific policies and programs, the Mozambican government has enacted the Law on the Rights of Persons with Disabilities, which was approved in 2008. This law explicitly

²⁷ The Right to Land for Women with Disabilities in South Africa: A Critical Analysis. Published in 2016.

recognizes the right to land for people with disabilities. In addition, the National Institute for the Protection of the Rights of Persons with Disabilities was established in 2009 to implement the law and promote the rights of people with disabilities. However, these policies and programs have not been as effective as they could be, in part because of a lack of resources and capacity. As a result, women with disabilities in Mozambique continue to face significant barriers to accessing land and protecting themselves.

It's also worth noting that the issue of land rights and GBV for women with disabilities in Mozambique is often seen as part of a broader issue of gender inequality and poverty. Mozambique has a high rate of poverty, and women, in general, face significant challenges in terms of access to education, employment, and other opportunities. These issues are exacerbated for women with disabilities, who face even greater barriers to participation in society. Therefore, addressing the issue of land rights and GBV for women with disabilities will require a comprehensive approach that addresses these broader issues of inequality and poverty.

LAND LAWS AND POLICIES IN MOZAMBIQUE

1. The Land Law.

The Land Law of Mozambique was enacted in 1997. The law states that all citizens of Mozambique, regardless of their gender or disability status, have the right to own land. The law also states that people with disabilities should have equal access to land and property, and that they should not be discriminated against in the process of acquiring, holding, or disposing of land. However, the law does not specifically define what it means to be a person with a disability, and it does not provide any specific provisions for people with disabilities. This has led to confusion and inconsistency in the implementation of the law.

The main weaknesses of the Land Law is that it does not specify any mechanisms for people with disabilities to claim their rights or seek redress if they are denied access to land. In addition, the law does not provide for any financial or other support for people with disabilities to access land. As a result, people with disabilities often face significant barriers to accessing land, including a

lack of information, financial resources, and support from the government²⁸. Additionally, people with disabilities may face discrimination and exclusion from their communities, which can further hinder their access to land.

A case study that highlights the challenges faced by people with disabilities in accessing land in Mozambique is the case of Francisca Chissenga, a woman with a physical disability who lives in the Zambezia province. Francisca was born with a physical disability and has faced significant challenges in her life, including poverty and exclusion from her community. She has tried to access land through the government's land allocation process, but has faced a number of challenges, including discrimination and a lack of support from government officials. As a result, Francisca has not been able to access land and has struggled to support herself.

2. The National Policy on Disability

The National Policy on Disability in Mozambique was adopted in 2008 and is designed to ensure that people with disabilities have equal access to all areas of life, including land. The policy outlines a number of specific measures that should be taken to ensure equal access to land for people with disabilities, including; Ensuring that people with disabilities have access to land information and land services, Ensuring that people with disabilities have equal access to financial resources to purchase or lease land, Ensuring that people with disabilities have equal access to support services, such as legal assistance and advocacy; Promoting the inclusion of people with disabilities.

One of the main weaknesses of the National Policy on Disability in Mozambique is that it does not have a clear implementation plan. The policy outlines a number of measures that should be taken to ensure equal access to land, but it does not provide specific timelines or budget allocations for these measures. In addition, the policy does not have a clear mechanism for monitoring and evaluating the implementation of the policy, which makes it difficult to assess whether or not the

²⁸ Food and Agriculture Organization (FAO), (2015). *A Human Rights-Based Approach to Development: The Case of Mozambique*.

policy is being effectively implemented. Lastly, the policy does not include a specific focus on the situation of rural women with disabilities, who often face additional challenges in accessing land.

One case study that highlights the challenges faced by rural women with disabilities in accessing land in Mozambique is the case of Maria Josefa, a woman with a physical disability who lives in a rural area of the Nampula province. Maria Josefa has been trying to access land for many years, but has faced a number of challenges. She has been denied access to government-allocated land because she does not have the financial resources to pay for the land. She has also been denied access to a piece of land that was left to her by her parents, because her brothers have been unwilling to share the land with her.

ZIMBABWE

In Zimbabwe, the situation is similar to that in Mozambique, in that women with disabilities face significant barriers to accessing land and protecting themselves from GBV. The Constitution of Zimbabwe guarantees equal rights for women and people with disabilities, but these rights are not always implemented in practice. Women with disabilities often lack access to resources and support, and they may not be aware of their rights²⁹. As a result, they may be unable to claim their land rights or seek help if they experience violence. Additionally, traditional and cultural beliefs often perpetuate discrimination against women with disabilities, further complicating the issue.

In terms of specific policies and programs, the Government of Zimbabwe has developed the National Disability Policy (2013-2022)³⁰, which outlines a number of measures to promote the rights of people with disabilities. However, implementation of the policy has been limited, and more needs to be done to ensure that women with disabilities are able to benefit from it. In terms of research, a study by the UN Population Fund (UNFPA) found that women with disabilities in Zimbabwe are at increased risk of experiencing physical and sexual violence, and that they face significant barriers to accessing justice and support services.

²⁹ UNFPA, (2013). *Violence against Women with Disabilities in Zimbabwe: Findings of a National Survey*.

³⁰ National Disability Policy (2013-2022).

Other research, such as a study by the Open Society Initiative for Southern Africa (OSISA) in 2014, has found that women with disabilities are often excluded from decision-making processes around land and other resources. This can leave them with little say in how land is used or managed, and can make it difficult for them to claim their rights. Additionally, a lack of accessible infrastructure, such as accessible roads and public transportation, can limit women with disabilities' ability to travel and participate in community life. This can further increase their risk of experiencing violence or exploitation.

LAND LAWS AND POLICIES IN ZIMBABWE

The land laws and policies in Zimbabwe related to rural women with disabilities are outlined in the Constitution of Zimbabwe and the Land Reform and Resettlement Programme. The Constitution guarantees equal access to land for all citizens, and it prohibits discrimination on the basis of disability. The Land Reform and Resettlement Programme was established in 2000 and is designed to promote equitable access to land. The program includes a number of measures to support people with disabilities, such as financial assistance for land purchase and training in land management. However, there are still a number of challenges faced by rural women with disabilities in accessing land in Zimbabwe.

³¹One of the main challenges faced by rural women with disabilities in Zimbabwe is the lack of awareness about their rights to land. Many rural women with disabilities are not aware of their rights under the Constitution or the Land Reform and Resettlement Programme. This lack of awareness means that they are often not able to access the support that is available to them. In addition, many rural women with disabilities have difficulty accessing financial support to purchase land, and they often face discrimination from other community members. As a result, they often have to rely on family members or other community members for support, which can be unreliable.

THE EASTERN REGION OF AFRICA

³¹ The Zimbabwe Gender Commission report (2016).

In the Eastern Africa region, women with disabilities face similar challenges when it comes to accessing land and protecting themselves from gender-based violence (GBV)³². While there are some variations among countries in the region, the overall situation is similar. The legal framework for protecting the rights of people with disabilities varies from country to country, but there are often gaps in implementation and enforcement. Women with disabilities are often excluded from decision-making processes, and they may not have access to legal remedies when their rights are violated. Additionally, traditional and cultural practices often perpetuate discrimination against women with disabilities, which can make them more vulnerable to violence.

In terms of the particular challenges faced by women with disabilities in accessing land, there are a few key issues. First, women with disabilities often have limited access to information about their rights and the processes for claiming land³³. Second, women with disabilities may face physical barriers, such as inaccessible infrastructure, that prevent them from engaging in the land tenure process. Third, women with disabilities may face social stigma and discrimination, which can make it difficult for them to claim their rights and participate in the community. Lastly, women with disabilities may not have the financial resources to engage in land tenure processes, which can be costly.

KENYA

In Kenya, women with disabilities have limited access to land and resources, and this has increase their vulnerability to GBV³⁴. Some of the key gaps include: Lack of access to information on their rights, the land tenure system, and the processes for claiming land, physical barriers such as inaccessible infrastructure, making it difficult to participate in community meetings or to access legal services, social stigma and discrimination, making it difficult for women with disabilities to advocate for their rights, financial barriers, as many women with disabilities are unemployed or have limited income, and Limited access to legal remedies, as many women with disabilities do.

³² Landesa, (2019). Land and Women with Disabilities in East Africa.

³³ Landesa, (2019). Land and Women with Disabilities in East Africa.

³⁴ International Land Coalition (ILC), 2018.

These gaps have been exacerbated by the lack of implementation of the 2010 Constitution, which guarantees equal rights for all Kenyans regardless of disability³⁵. While the constitution makes specific reference to the need to protect women with disabilities from discrimination, there are still gaps in how this is implemented in practice. For example, the land laws in Kenya still do not make specific provisions for women with disabilities, and there is no legal framework for addressing GBV against women with disabilities. This makes it difficult for women with disabilities to seek redress for violence or discrimination.

One example of the challenges faced by women with disabilities in Kenya is the case of Beatrice (not her real name). Beatrice is a woman with a physical disability who lives in a rural community in western Kenya. She has been subjected to GBV, including verbal abuse and physical violence, by her husband and other family members. She has also been denied access to land and other resources, and she has faced discrimination from her community. Beatrice has sought help from the police and from NGOs, but she has not been able to get the support she needs to address the violence and discrimination she has experienced.

Land Laws and Policies in Kenya

The land laws and policies in Kenya that are relevant to rural women with disabilities include the Constitution of Kenya, the Land Act, the Land Registration Act, and the National Land Policy. The Constitution guarantees the right to access land and other natural resources for all citizens, and it prohibits discrimination on the basis of disability. The Land Act provides for equal access to land and the right to own land, and it establishes a system of land registration and titling. The Land Registration Act outlines the process for registering and transferring land. The National Land Policy provides guidance on land use, management, and access.

1. The Land Act

The Land Act of Kenya, which was passed in 2012, provides for a number of protections for rural women with disabilities. One of the key provisions of the Act is the recognition of the matrimonial

³⁵ Behrman, J. (2016). Closing the Gender Gap in Land Access, Control, and Ownership in Eastern Africa.

home as the joint property of husband and wife³⁶. This is important for rural women with disabilities, who often rely on their husbands for support. The Act also prohibits discrimination against people with disabilities in the process of registering and acquiring land. In addition, the Act establishes a Land Commission, which is tasked with implementing the law and promoting equity in access to land.

One of the main weaknesses of the Land Act is that it does not provide for a clear mechanism for people with disabilities to register and transfer land³⁷. The Act requires people to provide documentation, such as a birth certificate, in order to register land. However, many people with disabilities do not have access to these documents. In addition, the process of registering and transferring land can be costly and time-consuming, which can be a barrier for people with disabilities who may have limited resources. Finally, there is no specific provision in the Act for the protection of rural women with disabilities, which means that they may not be able to fully benefit.

³⁸A case study that demonstrates some of the shortcomings of the Land Act is the story of Mary Wanjiku, a woman with a physical disability who lives in the central region of Kenya. Mary's home was built on a piece of land that was registered in her father's name. After the Land Act was passed, Mary tried to have the land transferred to her name, but she faced a number of challenges. First, the land registration process was lengthy and complicated, and she was not given any support from the government to complete the process. Second, Mary was unable to afford the fees required for the registration, which made it difficult for her.

2. The Land Registration Act of 2012

The Land Registration Act of 2012 is a key piece of legislation in Kenya that provides a framework for land registration and administration. The act replaced the previous Registration of Titles Act, which had been in place since 1963. The new act introduces a number of changes to the land

³⁶ The Land Act of Kenya, 2012.

³⁷ Land Alliance Report in Kenya, 2016.

³⁸ Land Alliance Report in Kenya, 2016.

registration system, including a new system of land records and the introduction of a new system of land titles. The act also provides for the establishment of a Land Registration Board, which is responsible for registering and issuing titles. The act has been criticized for being complex and difficult to implement, and for its lack of provisions for marginalized groups, such as women and people with disabilities.

One of the main weaknesses of the Land Registration Act is that it does not adequately address the issue of gender equality. The act does not explicitly mention gender equality, and it does not include any specific provisions to ensure that women have equal access to land. In addition, the act does not provide for any specific measures to ensure that people with disabilities are able to register their land. This is a major concern, as people with disabilities often face additional barriers to accessing land and other resources. In order to make the land registration system more inclusive, it is important to address these gaps in the act.

One case study that demonstrates the shortcomings of the Land Registration Act is the case of Caroline Wanjiku, a woman with a disability who owns land in Nairobi. Despite the act's provisions for equal access to land, Caroline has faced a number of barriers in registering her land. First, she has been unable to find a lawyer who is willing to help her with the registration process, as lawyers often charge high fees that are out of reach for people with disabilities. Second, Caroline has found it difficult to navigate the complex registration system, which requires a number of documents and procedures.

UGANDA

In Uganda, there is a similar situation to Kenya, with women with disabilities facing discrimination and exclusion from land and other resources. According to a study by the UN Development Programme, women with disabilities in Uganda are particularly vulnerable to GBV, and they have limited access to justice and protection. In Uganda, the legal framework for addressing GBV is weak, and there are few services available for women with disabilities who have experienced

violence. In addition, women with disabilities are often excluded from decision-making processes that affect their lives, such as land tenure and access to resources³⁹.

One of the key gaps identified in the study on Uganda is the lack of disaggregated data on GBV against women with disabilities⁴⁰. This makes it difficult to assess the full extent of the problem and to develop effective policies and programs to address it. The study also highlights the need for more awareness and training for service providers, such as police and health workers, on how to respond to GBV against women with disabilities. Additionally, there is a need for more inclusive approaches to land tenure that take into account the specific needs of women with disabilities.

One case study that highlights the challenges facing women with disabilities in Uganda is that of a woman named Betty (not her real name). Betty is a woman with a physical disability who lives in a rural area. She has experienced multiple forms of violence, including physical abuse by her husband and sexual abuse by a neighbor. Betty has tried to seek help from the police and health workers, but she has faced stigma and discrimination. Betty has also been denied access to her family's land, which has made it difficult for her to support herself and her children. Betty's story is a reminder of the many challenges that women with disabilities face in Uganda.

Laws and Policies in Uganda

⁴¹The Constitution of Uganda, which was adopted in 1995, provides for equal rights for all citizens, including people with disabilities. The Land Act of 1998 and the Land Amendment Act of 2010 further protect the rights of people with disabilities to access land⁴². The Land Amendment Act of 2010 specifically addresses the issue of land ownership for people with disabilities, and provides for the registration of land in the names of people with disabilities. However, despite these legal protections, rural women with disabilities in Uganda still face a number of challenges in accessing land. These challenges include limited access to financial resources, discrimination from community members, and limited awareness of their rights.

³⁹ The Uganda Women's Network's report on rural women with disabilities, 2017

⁴⁰ The Uganda Land Alliance's report on land rights for people with disabilities, 2016.

⁴¹ The Constitution of Uganda, 1995.

⁴² The Land Act of 2010

A major challenge faced by rural women with disabilities in Uganda is that they often lack the financial resources needed to access land. Many rural women with disabilities live in poverty, and do not have the resources to purchase land or pay for the registration of land. In addition, women with disabilities often face discrimination from community members, who may view them as less deserving of land ownership than other members of the community. This discrimination can make it difficult for women with disabilities to access and use land, even if they have the legal right to do so. Lastly, many rural women with disabilities are not aware of their rights under the law.

One example of a rural woman with a disability in Uganda who has faced challenges in accessing land is Jane Akello. Jane is a single mother of two children, and has a physical disability that limits her mobility. She lives in a rural area, and relies on subsistence farming to support her family. However, she has faced a number of challenges in accessing and using land. Jane has been unable to access financial resources to purchase land, and has been the target of discrimination from community members who do not believe she is capable of owning land. As a result, Jane has struggled to provide for her family and improve her quality of life.

In response to the challenges faced by people with disabilities in Uganda, including rural women, a number of organizations have been working to improve their access to land. These organizations include the Uganda Land Alliance, which provides legal aid and training on land rights to people with disabilities, and the Uganda Women's Network, which advocates for the rights of rural women. In addition, the government of Uganda has taken steps to improve the implementation of the Land Amendment Act, including the establishment of a Land Fund to provide financial support to people with disabilities who wish to acquire land. However, more work needs to be done to ensure that people with disabilities in Uganda are able to exercise their full rights to land. One area where more progress is needed is in the area of awareness and education. Many people with disabilities in Uganda, including rural women, are not aware of their rights under the law, and do not know how to access the resources that are available to them. Additionally, many people with disabilities face a lack of support from their communities, which can make it difficult for them to access and use land. Addressing these issues will be essential in order to ensure that people with

disabilities in Uganda are able to fully exercise their rights to land and improve their quality of life.

RWANDA

There are a number of ways in which women with disabilities are particularly vulnerable to GBV in Rwanda. One factor is their lack of access to information and resources. Women with disabilities are less likely to be aware of their rights, and they may not know how to report violence or where to seek help. In addition, they may face discrimination and exclusion from their communities, which can make them more vulnerable to violence. Women with disabilities are also more likely to be poor and economically dependent on others, which can make them more susceptible to violence.

Rwanda has made significant progress in addressing GBV and promoting the rights of women with disabilities⁴³. However, there are still some gaps and challenges. One issue is that many women with disabilities still lack access to information about their rights and how to seek help if they experience violence. In addition, there is a lack of data on the prevalence of GBV against women with disabilities, which makes it difficult to develop effective policies and programs. Finally, there is a need for more services and support for women with disabilities who experience violence, including access to safe housing and income-generating opportunities.

In rural areas of Rwanda, women with disabilities face even greater challenges. They may have limited access to education and healthcare, and they may not have the means to travel to report violence or seek assistance. In addition, they may be more isolated from their communities and less likely to have strong social networks. This makes it even more difficult for them to access information and resources, and to report or seek help for violence. Women with disabilities in rural areas also often have limited access to land and other resources, which makes them more dependent on others and more vulnerable to violence.

⁴³ The Constitution of Rwanda (2003, revised in 2015).

A case study that highlights the challenges faced by women with disabilities in accessing land and protection from GBV in Rwanda is the story of Esther (not her real name). Esther is a woman with a disability who lives in a rural area of Rwanda. When her husband died, she was left with very little money and no access to land. She faced discrimination from her family and the community, and was unable to access support from the government. She was also a victim of sexual violence by her brother-in-law, who took advantage of her vulnerability. Esther's story is sadly not unique, and highlights the challenges faced by many women with disabilities.

Laws and Policies in Rwanda

The land laws and policies in Rwanda related to rural women with disabilities are outlined in the Constitution of Rwanda, the Land Law of 2009, and the Gender Equality Policy of 2013. The Constitution of Rwanda guarantees the right to land for all citizens, and the Land Law includes provisions for the protection of the rights of people with disabilities.⁴⁴ The Gender Equality Policy outlines specific measures to promote the inclusion of people with disabilities in all areas of society, including land ownership. Despite these legal protections, rural women with disabilities in Rwanda continue to face a number of challenges in accessing and using land.

One of the key challenges faced by rural women with disabilities in Rwanda is a lack of information and awareness about their rights. Many rural women with disabilities are not aware of their legal rights, or how to access the resources that are available to them⁴⁵. Additionally, there is a lack of accessible information and resources on land rights, which makes it difficult for rural women with disabilities to navigate the process of acquiring and using land. Other challenges include a lack of financial resources, discrimination, and limited support from the government and other organizations.

In recent years, the government of Rwanda has taken steps to address these challenges. In 2016, the government launched a national awareness campaign on the rights of people with disabilities, including their rights to land. The government has also established a land bank to support people

⁴⁴ The Gender Equality Policy of Rwanda. 2013

⁴⁵ The national awareness campaign on the rights of people with disabilities, 2016.

with disabilities in acquiring land, and has implemented a program to provide financial assistance for people with disabilities who are looking to acquire land. While these initiatives are a step in the right direction, more needs to be done to ensure that rural women with disabilities in Rwanda are able to fully access and use their rights to land.

The case of Mukamana, a rural woman with a physical disability in Rwanda, is a good example of the challenges and opportunities faced by women with disabilities in the country. Mukamana lives in a rural community with her husband and children, and has been trying to access land for years. However, she has faced a number of challenges, including discrimination from her community and a lack of financial resources. In 2015, with the support of an NGO, Mukamana was able to apply for a loan to purchase land. She was approved for the loan and was able to purchase a small plot of land. Since then, Mukamana has been able to build a small house on her land, and she is now working to improve her farming techniques and increase her income. Her story highlights the importance of access to information, resources, and support for rural women with disabilities in Rwanda. With the right support, women like Mukamana can improve their quality of life and become more self-sufficient. Mukamana's story is also an example of the progress that has been made in recent years in terms of land rights for people with disabilities in Rwanda.

BURUNDI

In Burundi, women with disabilities are at increased risk of GBV, and their lack of access to land is one of the factors that contributes to this. Women with disabilities in Burundi face a range of barriers to accessing land, including lack of financial resources, discriminatory practices, and limited legal protection. This lack of access to land often leaves them dependent on others, and vulnerable to abuse and exploitation. This can lead to GBV, and can also have a negative impact on their health and wellbeing.

In terms of specific cases, there are many women with disabilities in Burundi who have experienced GBV. One such case is that of a woman named Immaculée (not her real name), who was abandoned by her husband after she became disabled. She was then forced to leave her home and move in with her parents, where she experienced physical and sexual abuse at the hands of her

brother. Immaculée's story is just one example of the violence and discrimination that many women with disabilities face in Burundi. These experiences are often not reported or addressed, and there is a lack of support and services available to women⁴⁶.

Land Laws and Policies in Burundi

In Burundi, the Constitution and the Land Code both recognize the rights of people with disabilities to land. However, there are no specific provisions that address the rights of rural women with disabilities. The land laws and policies in Burundi do not take into account the unique challenges that rural women with disabilities face, such as limited access to information and resources, as well as a lack of support from their communities. As a result, rural women with disabilities in Burundi continue to face significant barriers to accessing and using land.

In terms of initiatives that have been taken to improve the situation of rural women with disabilities in Burundi, there have been a few notable efforts. For example, the Ministry of Agriculture and Livestock has been working to improve the accessibility of agricultural services for people with disabilities. Additionally, the organization Handicap International has been working with rural communities to increase awareness and understanding of the rights of people with disabilities. These efforts are a start, but more needs to be done to ensure that rural women with disabilities in Burundi have equal access to land and other resources.

One of the main weaknesses of the land laws and policies in Burundi is that they do not take into account the intersectionality of gender and disability. Rural women with disabilities face a unique set of challenges that are not addressed by the current laws and policies. This means that rural women with disabilities often do not have access to the same opportunities and resources as other groups. Additionally, the lack of enforcement of the existing laws and policies is a major issue. The laws and policies are not consistently implemented or enforced, which means that rural women with disabilities often do not receive the support they need.

⁴⁶ United Nations High Commissioner for Refugees (UNHCR), (2017). Displaced Persons with Disabilities in Burundi: A Disaggregated Approach to Vulnerability.

Another weakness of the land laws and policies in Burundi is the lack of data on the situation of rural women with disabilities. Without accurate data, it is difficult to assess the specific needs of this group and to develop policies and programs that will effectively address their needs. The lack of data also makes it difficult to monitor and evaluate the impact of existing policies and programs. The government and other organizations working on this issue need to invest in data collection and analysis in order to effectively address the needs of rural women with disabilities.

Another weakness of the current laws and policies in Burundi is the lack of financial resources dedicated to supporting rural women with disabilities. Many rural women with disabilities are living in poverty, and lack the financial resources to access land or other resources. The government and other organizations need to provide more financial support, such as microloans or grants, in order to help rural women with disabilities improve their livelihoods. Additionally, there is a need for more capacity building and training for rural women with disabilities. This includes training on agricultural techniques, financial literacy, and other skills that can help them improve their lives.

RECOMMENDATIONS

- Strengthening laws and policies to protect women's rights to land, including ensuring that these laws are enforced and implemented.
- Providing training and education to women with disabilities on their land rights and how to access them.
- Providing financial support and assistance to women with disabilities to access land, including through micro-finance and other programs.
- Ensuring that development projects take into account the needs and rights of women with disabilities, including in the design, implementation, and monitoring of the project.
- Disseminate information and materials at locations convenient for women with disabilities such as schools and health centers and take advantage of radio and cell phones.

- Providing comprehensive training to all women led organizations and human rights activists working on development projects on the causes and consequences of GBV, as well as the prevention and response to GBV.
- Establishing robust reporting and referral systems for GBV cases, and ensuring that survivors have access to medical, legal, and psychosocial support.
- Strengthening the capacity of law enforcement agencies to investigate and prosecute cases of GBV.
- Launching awareness-raising campaigns to change the attitudes and beliefs that perpetuate GBV.
- Providing economic empowerment programs
- Engage women with disabilities in decision-making spaces as equal partners, clients, and agents of change.
- Helping rural women with disabilities to understand the laws in their own language
- There is a need to strengthen the national women's movement through existing initiatives mobilising more women's land rights forums and building their capacity at the local level across the country to also reach rural women with disabilities..
- Identify and mitigate potential GBV risks during the land registration process at the household, community, and institutional levels. Provide community members and stakeholders involved in land governance with information on GBV and available redress and support mechanisms in the area. Provide GBV training to those involved in land-based conflict resolution.
- Address women with disability practical and social limitations to attending training and community meetings by targeting invitations to women with disabilities and other marginalized groups and by offering women-only sessions/meetings and holding these during times and at venues that are convenient for them.
- Facilitate the participation of women and other marginalized groups in all steps of the land registration process through ongoing sensitization, targeted invitations, tailoring meetings and steps to meet their needs, and development of technical guides for data collectors.

- Obtain public support for rural women's land rights from socially respected and prominent individuals such as village elders, religious leaders, chiefs, headpersons, and others.

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