

**AN ANALYSIS OF THE LAW REGARDING THE RIGHTS OF CHILDREN  
AND WOMEN WITH DISABILITIES IN UGANDA**

**BY**

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## DECLARATION

I Olek Bosco, the undersigned declare that this research "*an analysis of the Law regarding the Rights of Children and Women with Disabilities in Uganda*" is my own original compilation and has never been presented to any organization or institution of higher learning either as a paper or for any academic award.

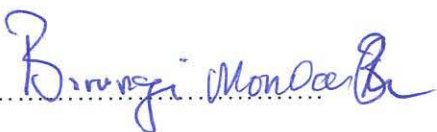
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Date: 25.03.2019 .....

### APPROVAL

"I confirm that the work reported in this research report was carried out by the candidate under my/our supervision".

Sign ..... 

Date..... 

**MRS. BIRUNGI MONICA**

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## **DEDICATION**

First and foremost, I dedicate this research to my parents, Retired Major Bosco Olek Atine and Mrs. Jessica Namaganda (RIP) who strongly supported and encouraged me throughout my studies.

I dedicate this research to my beloved brothers (Isma, Latifu, John, Sakuru) and sisters (Jeniffer, Naikoba, Fatuma, Saudah and Susan) for the patience, love, guidance and support they gave me to be able to complete my studies.

I would also like to dedicate my work to supportive friends and the future scholars.

## LIST OF CASES

1. The United Nations Charter of 1945.
2. The Universal Declaration of Human Rights of 1949.
3. The Montevideo Convention on Rights and Duties of States 1933.
4. The Charter of African Union 1963.
5. The Constitutive Act of African Union 2000.
6. The 1995 Constitution of Republic of the Republic of Uganda as amended.
7. The Convention on the Rights of Persons with Disabilities (CRPD)
8. The Convention on the Elimination of Discrimination against Women (CEDAW)
9. The African Charter on Human and Peoples' Rights
10. The Declaration on the Elimination of Violence against Women (1993)



## ACRONYMS

CSO's	Civil Society Organizations
CBO	Community Based Organization
EA	East Africa
EAC	East African Community
GOU	Government of Uganda
HRC	Human Rights Commission
HRIA	Human Rights Impact Assessment
NRA	National Resistance Army
NEMA	National Environment Management Authority
OCHA	UN Office for the Coordination of Humanitarian Affairs
PGMs	Platinum Group Minerals
SIA	Social Impact Assessment
CEDAW	Convention on the Elimination of Discrimination Against Women
CRPD	Convention on the Rights of Persons with Disabilities
NGOs	nongovernmental organizations
UN	United Nations

## ABSTRACT

The study examined “*an analysis of the law regarding the rights of children and women with disabilities in Uganda*”. People bear incredible political significance for states of asylum and states of origin. In the same way, protracted people caseloads operate as tangible evidence of sustained state negligence, violence, and responsibility. People are political, social and economic burdens to hosting states and can undermine the legitimacy of those in power in the state of origin.

Children and women issues, as with other trans-sovereign issues, are managed through state cooperation and global governance mechanisms. The legal instruments and the bodies administering women protection are most heavily financed by and headquartered in developed/Northern/OECD states, while the absolute majority of people in states of asylum are in the northern part of Uganda.

This thesis contributes to the investigation of how lack of oversight and legitimate veto points in women decision-making, together with disproportioned responsibilities and regional factors affecting states of asylum in Uganda, has allowed for international women law to succumb to national interests and become increasingly instrumentalised by states to the detriment of women populations.

The study finally advocates the responsible persons to improve on the living conditions of children and women with disabilities in the designated camps by ensuring that such persons are protected and their rights guaranteed. It should be the responsibility of the government of Uganda, International and Regional bodies and well as the rest of the world to ensure that the needs of these people are met. Uganda as a country is handicapped due to lack of finances.

## CHAPTER ONE

### INTRODUCTION

#### 1.0 Introduction

The chapter covered the background to the study, problem statement, research objectives and questions, significance, justification and scope of the study, and methodology of the study.

#### 1.1 Background to the Study

A number of studies have highlighted that children and women with disabilities experience more gender-based violent situations than children and women without disabilities. According to the United Nations (2006), over half of women with disabilities have been victims of physical abuse at some point in their lives, a higher rate than the estimated prevalence among women without disabilities. In a recent report by the European Parliament, it is stated that almost 80% of women with disabilities are victims of violence, and that they are four times more likely than other women to suffer sexual violence<sup>1</sup>. In Spain, the last published macro-survey carried out by the *Instituto de la Mujer*<sup>2</sup> reported that 13% of women with disabilities could be considered “technically” abused over the previous year, compared to 9.4% of women without disabilities.

The study of gender-based violence among women with disabilities is underrepresented in the specialized literature in Uganda and elsewhere. This has been highlighted by most authors who have studied this issue<sup>3</sup>. As far as we know, few studies on this social problem have been published in Uganda<sup>4</sup> showing that three out of ten women with physical disabilities are mostly abused by their partners besides other factors. In spite of this study, In the Spanish region of Castilla-La Mancha,<sup>5</sup> an interview with disabled women found that 21.8% of them reported being aware of situations of violence in their close environment. Finally<sup>6</sup>, found that, among

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<sup>1</sup> (Martin et al., 2006; Valenciano, 2004)

<sup>2</sup> [Institute for Women] (2006)

<sup>3</sup> (Curry, Hassouneh- Phillips, & Jonhnston-Silverberg, 2001; Hassouneh-Phillips, 2005; Hassouneh-Phillips & Curry, 2002; McFarlane et al., 2001; Nosek, Howland, & Hughes, 2001; Ortego & Forteza, 2008)

<sup>4</sup> (Bayot et al., 2006; Fernández, Ramirez, & Ramiro, 2005; Sánchez, Álvarez-Buylla, & Espinella, 2010). Fernández et al., (2005)

<sup>5</sup> Bayot et al., (2006)

<sup>6</sup> Sánchez et al., (2010)

representatives of associations of the deaf, 60% of those surveyed reported being aware of cases of violence against deaf women. Unfortunately, there are not enough data available to establish more accurate analyses of the specific features and consequences of this type of violence.

It is important to note that children and women with disabilities may experience not only the same types of abuse as other children and women but also others related to their disability<sup>7</sup>. These other types of abuse are not usually identified by the instruments most commonly used to assess the phenomenon.

Therefore, reported estimates may often underestimate its actual incidence<sup>8</sup>. The impacts of violence on children and women with disabilities have not been sufficiently explored either. According to Curry et al., (2001), disabled women are considered as victims' of low self-esteem, feelings of blame, health problems, depression and anxiety, just like non-disabled abused women. However, such symptoms are already present in many of them because they often face discrimination due to their disability. For this reason, these symptoms are not usually associated with violence by the professionals who attend these women<sup>9</sup>. Therefore, further research is needed to distinguish the specific impacts of violence from those of the disability itself on women with disabilities.

Violence against children and women with disabilities is considered as being unlawful and a human rights violation that occurs, often repeatedly, in the lives of a great number of disabled children and women around the world. Although the forms of violence experienced may differ depending on culture or socioeconomic standing, there are aspects of that violence that are universal. Gender-based violence is rooted in the lack of equality between men and women, and frequently takes place at home, within the family circle. Societal tolerance for gender-based violence and the privacy of the act of violence when it takes place within the home can make it invisible or difficult to detect.

As seen in the Declaration of Violence against Women, gender-based violence includes a wide range of violent actions be it physical or emotional with a negative effect or impact to an

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<sup>7</sup> (Brownridge, 2006; Gilson, Cramer, & DePoy, 2001; Nosek, Clubb, Hughes, & Howland, 2001)

<sup>8</sup> (Nosek, Hughes, Taylor, & Taylor, 2006).

<sup>9</sup> (Curry et al., 2001; Gilson et al., 2001)



individual. According to the World Organisation against Torture, rape and sexual abuse, genital mutilation, incest, forced abortion, honour killings, dowry-related violence, forced marriages, human trafficking and forced prostitution should all be considered forms of torture.<sup>10</sup>

Studies show that children and women with disabilities are victims of abuse on a far greater scale than children and women without disabilities.<sup>11</sup> One factor behind the increased incidence of violence against children and women with disabilities is the stigma associated with disability; such persons with disabilities are often considered by society to be of less value. The absence of representations of their identity favours the perception that one can abuse them without remorse or conscience.”<sup>12</sup> Some societies may believe that the disability is a punishment from God or that the person with the disability may infect others with the disability. Others may see a person with disability as a misfortune to the society, rather than as a person deserving equal rights.

The medical context is a particular source of abuses practiced against persons with disabilities.<sup>13</sup> According to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, one of the purposes in the definition of torture is “for reasons based on discrimination of any kind” and noted that acts of serious discrimination and violence against persons with disabilities can be masked by “good intentions” of medical professionals. Medical treatments of an intrusive and irreversible nature enforced or administered without the free and informed consent of the person concerned, that lack a therapeutic purpose or are aimed at correcting or alleviating a disability, may constitute torture or ill-treatment of persons with disabilities. These kinds of actions include: forced abortion and sterilization, forced psychiatric interventions, involuntary commitment to institutions, and forced or “unmodified” electroshock (electro-convulsive therapy or ECT).<sup>14</sup> Deprivation of the legal capacity to make one’s own decisions facilitates coerced treatments and violence of all kinds, and may constitute torture and

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<sup>10</sup> See World Organisation Against Torture – Violence against Women, available at: [www.omct.org/index.php?id=EQL&lang=eng](http://www.omct.org/index.php?id=EQL&lang=eng)

<sup>11</sup> “Report on Violence and Discrimination against disabled people,” European Disability Forum, Belgium, 1999.

<sup>12</sup> Marita Iglesias, “The nature of violence against disabled people”, 2004, <http://www.nda.ie/cntmgmtnew.nsf/0/BE967D49F3E2CD488025707B004C4016?OpenDocument>

<sup>13</sup> Special Rapporteur on Torture (UN Doc. A/63/175) and by Young et al. 1997.

<sup>14</sup> See also Tina Minkowitz. The UN CRPD and the Right to be Free from Nonconsensual Psychiatric Interventions, Syracuse Journal of International Law and Commerce Vol. 32 No. 2 (2007), and related documents and presentations on forced psychiatric interventions as torture available at <http://www.chrusp.org/home/resources>.

ill-treatment in itself, as it can amount to a denial of full personhood.<sup>15</sup> Such a profound form of discrimination can cause severe suffering.

After 20 years of displacement and war, the people of northern Uganda are leaving in camps set up for internally displaced people and building new lives. The challenges are daunting for all displaced people trying to return to their original homes, settle more permanently in the camps, or relocate to new villages and towns. Yet during this period of upheaval, government plans are failing to take into account the needs of women who acquired their disabilities due to the war or who already had disabilities before the war and may have disproportionately suffered the impact of conflict.

According to available data, approximately 20 percent of Ugandans have disabilities.<sup>16</sup> In northern Uganda, where the rebels of the Lord's Resistance Army have waged war on the government for over two decades, the numbers are difficult to tally but very likely even higher. There is a lack of data on the number of women with disabilities across the country.

During the fighting, many women lost the use of limbs due to landmines or gunshot wounds, were mutilated by rebels, sustained injuries in fires, or were never vaccinated for disabling illnesses such as polio. Now, women with disabilities physical, sensory, mental and intellectual face an even more complex and grueling process of return and relocation than their neighbors.<sup>17</sup> They are often subject to social stigma and sexual violence and denied access to justice. They have specific needs for reproductive and maternal health care that are rarely met.<sup>18</sup> The conflict

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<sup>15</sup> See Final Report of OHCHR Expert Seminar on Freedom from Torture and Persons with Disabilities, available at [www2.ohchr.org/english/issues/disability/documents.htm](http://www2.ohchr.org/english/issues/disability/documents.htm).

<sup>16</sup> Uganda Bureau of Statistics (UBOS) and Macro International Inc., "2006 Demographic and Health Survey," August 2007, <http://www.ubos.org/onlinefiles/uploads/ubos/pdf/20documents/Uganda%20DHS%202006%20Final%20%20Report.pdf> (accessed June 20, 2010), p. 22. The figures are from a random selection of the population and are not disaggregated by gender. Women comprise about 52 percent of the Ugandan population. Id. p. 11. The population of Uganda is 31,656,865. World Bank, World Development Indicators, <http://data.worldbank.org/country/uganda> (accessed on August 11, 2010).

<sup>17</sup> The Convention on the Rights of Persons with Disabilities (CRPD) does not define disability, but instead describes persons with disabilities to "include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others." This reflects the understanding that disability and what may constitute a disability are evolving concepts, in keeping with section (e) of the Preamble of the CRPD. Section (e) also reflects the social model of disability: "disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others." Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008, ratified by Uganda on September 25, 2008, art. 16. In line with these principles, this report uses the term "person with a disability," which puts the focus on the person, not the disability.

<sup>18</sup> Men with disabilities may also experience discrimination and human rights violations of similar gravity. However, this report focuses on the particular experiences of women with disabilities who face multiple forms of discrimination.

and the movement of people have eroded the community networks that might have bolstered them in the past. Frequently abandoned, women with disabilities now face isolation and abuse as the country begins to move forward without them.

## **1.2 Statement of the Problem**

Discriminatory attitudes remain a major barrier to the full inclusion of children and women with disabilities in efforts to rebuild a functioning society, and the government has done virtually nothing to combat these attitudes. Many nongovernmental organizations (NGOs) working in northern Uganda point out that prior to the war, relatives and community members customarily supported persons with disabilities. However, the protracted displacement has eroded these community support networks. Now, children and women with disabilities are too often excluded from community meetings and rarely take any part in decision-making on important issues such as the return process or public health. Under the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of Discrimination Against Women (CEDAW), and the African Charter on Human and Peoples' Rights, three treaties that Uganda has ratified, the government has an obligation to take all appropriate measures to eliminate discrimination by any party, including by private individuals. Over one-third of the 64 women and girls with disabilities interviewed by Human Rights Watch reported that they had experienced some form of sexual and gender-based violence, including rape.<sup>19</sup> Women with disabilities are particularly vulnerable to sexual and gender-based violence because of social exclusion, limited mobility, lack of support structures, communication barriers, and social perceptions that they are weak, stupid, or asexual. Often, women with disabilities find themselves trapped in abusive relationships because they are financially and socially dependent on their partners and families for survival. A number of well-documented factors have made it virtually impossible to successfully prosecute rape for all women. These include police corruption, the lack of necessary police forms to file cases, the requirement for medical

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<sup>19</sup> The Declaration on the Elimination of Violence against Women (DEVAW), adopted in 1993, defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." United Nations Declaration on the Elimination of Violence against Women, December 20, 1993, G.A. res.48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), art. 1.

examination, and the reluctance of some medical examiners to testify during trials.<sup>20</sup> The judicial system's barriers to effective prosecution are compounded for women with disabilities, who may be unable to communicate to others that they were raped, or to travel to police posts. Recognizing the specific vulnerabilities of persons with disabilities, the CRPD obligates the state to take all appropriate measures to protect them from exploitation, violence, and abuse, within and outside the home. Uganda is also a state party to the African Union's Convention for the Protection and Assistance of Internally Displaced Persons, which obligates states to provide "special protection for and assistance to internally displaced persons with special needs, including ... persons with disabilities." Uganda has signed and ratified the protocol on women's rights to the African Charter, which contains a specific article on women with disabilities. Uganda's domestic law guarantees fundamental rights to persons with disabilities. The constitution states that, "Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realize their full mental and physical potential." Uganda also has several domestic statutes in place that prohibit discrimination and codify the rights of persons with disabilities. As relative peace returns to the north and humanitarian organizations scale back their involvement there, local district governments, weakened during the past two decades and currently struggling to regain their authority, are failing to take responsibility for providing services. This gap has a significant negative impact on children and women with disabilities during the return, settlement, and relocation process thus the need for this research.

### 1.3 Purpose of the Study

The purpose of the study was to analyze the law regarding the rights of children and women with disabilities in Uganda.

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<sup>20</sup> Government of Uganda, Combined Fourth, Fifth, Sixth and Seventh Periodic Report to the Committee on the Convention on the Elimination of Discrimination against Women, CEDAW/C/UGA/7, May 25, 2009, <http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/CEDAW-C-UGA-7.pdf> (accessed on June 23, 2010), para. 173; Amnesty International, "I Can't Afford Justice": Violence Against Women in Uganda Continues Unchecked and Unpunished," AI Index: AFR 59/001/2010, April 7, 2010, <http://www.amnesty.org/en/library/asset/AFR59/001/2010/en/f3688aa0-b771-464b-aa88-850bcbf5a152/afr590012010en.pdf> (accessed August 12, 2010).



#### **1.4 Objectives of the study**

*The Specific objectives of the study were:*

1. To examine the causes and effects of discrimination and violence against children and women with disabilities in northern Uganda
2. To investigate the legal implications of the laws governing children and women with disabilities in Uganda.
3. To Investigate children and women with disabilities' access to justice (including support services)

#### **1.5 Research Questions**

1. What are the causes and effects of discrimination and violence against children and women with disabilities in northern Uganda?
2. What are the legal implications of the laws governing children and women with disabilities in Uganda?
3. How children and women with disabilities access justice (including support services)

#### **1.6 Significance of the Study**

This study is significant because the findings could assist policy makers make informed policy decisions that could help reduce Gender based violence on children and women with disabilities.

The findings could be valuable in guiding policy implementers to promote the rights of children and women with disabilities in Uganda.

The findings could also help contribute to the body of knowledge of gender based violence of children and women with disabilities in Uganda.

Finally, this study was carried out in partial requirements for the award of diploma of laws degree of Kampala International University in Uganda which will enable the researcher obtain the degree.

## **1.7 Scope of the Study**

### **1.7.1 Geographical scope**

The study mostly covered the northern part of Uganda. The choice of northern Uganda was because of rampant cases of children and women with disabilities abuse especially after the long war epidemic that was there that prompted the researcher to investigate its likely causes and effects.

### **1.7.2 Content Scope**

The study was limited to gender base violence of children and women with disabilities in northern Uganda. It specifically examined the rights of children and women with disabilities.

### **1.7.3 Time Scope**

The study was limited to the period from January 2019 – March 2019 when the Uganda got some relief from the long war.

## **1.8 Methodology**

Methodology utilized was doctrinal research as, according to Leedy, this methodology is aimed at description. By utilizing qualitative and quantities methodes, the research is able to evaluate both formal and normative aspects of political activity. Qualitative research was used in several academic disciplines, including political science, sociology, education and psychology. According to Peshkin (200:134) in Patton, it usually serves one or more of a set of four purposes: description, interpretation and evaluation of a hypothesis or problem.

According to QSR (a, 2011:115), qualitative research “is used to gain insight into people’s attitudes, behaviors, value systems, concerns, motivations, aspirations, culture or lifestyles.” QSR continues to explain qualitative research as a method of making informed decisions in both business and politics.

The study utilized a descriptive approach as it was necessary to observe and describe the

challenges of creating the appropriate laws in regards to the rights of children and women with disabilities in Uganda. Thus the researcher utilized a descriptive approach so as to be able to examine law regarding the rights of children and women with disabilities in Uganda. The descriptive approach may be considered as inductive, according to Rhodes (1995:44) as conclusions are drawn from repeated observations that is letting facts speak for themselves. Statements are made about Causes and consequences of the phenomenon being observed.

### **1.9 Limitation of the study**

Disability remains a largely 'invisible' issue in Africa especially in Uganda and, as a result, there is a limited pool of research from which to draw. As mentioned earlier in this report, the researcher was not been able to locate any local research on violence against children and women with disabilities. Therefore, relied almost exclusively on international research studies, mainly undertaken in the North American context, which have only in recent years begun to address the profound silence on violence affecting children and women with disabilities. While the researcher have been able to draw useful analysis and lessons from these country experiences, their applicability and relevance to the Uganda context remains somewhat limited.

The field research was undertaken in Uganda only, and was limited to assessing the range, type and content of services provided by a small sample of governmental and non-governmental service providers. The researcher cannot generalize the findings beyond Uganda or the sample of organizations reached.

The research did not seek to derive estimates of the extent of violence against women with different types of disabilities, but rather aimed to make 'visible' the particular social, economic and physical vulnerabilities of disabled women to gender-based violence, and the constraints to them accessing the assistance that is available to some, but not all, nondisabled women.

The research has flagged a number of major challenges related to the form, nature and accessibility of services provided, and posed a number of important questions for discussion and further investigation in the field. These outcomes satisfy the objectives we set for ourselves in terms of this small, exploratory study.

Our experience correlates closely with an identified limitation of the Office on the Status of Disabled People's (OSDP) commissioned survey of national government departments. We too found ignorance of disability issues, violence against women, and departmental initiatives to address disability amongst some of the SAPS staff we surveyed.

## 1.9 Literature Review

### 1.9.1 Disability

Disability refers to the disadvantage or restriction of activity caused by the way society is organized which takes little account of people who have physical, sensory or mental impairments. This results in people with disabilities being excluded and prevented from participating fully and equally in mainstream society; and Impairment refers to a part of the body which is impaired in some way and results in limitations in its functioning according to McClain, C.V. (2002)<sup>21</sup>

According to Bagilhole, B. (1997)<sup>22</sup>; the above definition serves to shift the focus away from the disabled individual to the disabling society; disability is "a product of the built environment which is reinforced by social values and beliefs" The social model is preferred because it seeks to develop, empower and integrate disabled persons into society. This model of thinking about disability has been adopted by the South African government in its endeavor to more adequately cater to the needs of people with disabilities.

In a paper focused on identity politics and violence against women; Crenshaw<sup>23</sup>, suggests distinct intersections between class, race and gender that shape the structural and political aspects of violence against black women in a patriarchal society. She argues that gender and class oppression, coupled to racial discrimination, contribute significantly to Black women constituting the majority of people that are socially and politically marginalized, and live in conditions of poverty. She concludes that for many Black women who have experienced

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<sup>21</sup> McClain, C.V. (2002). *Towards a barrier free society*. SAHRC Report

<sup>22</sup> Bagilhole, B. (1997). *Equal Opportunities and Social Policy: Issues of Gender, Race and Disability*. Edinburgh Gate: Addison Wesley Longman Ltd.

<sup>23</sup> Crenshaw, K. (1994). 'Mapping the margins: Intersectionality, identity politics and violence against women of colour' in Fineman, M. and Mykitiuk, R. (eds.). *The public nature of private violence: the discovery of domestic violence*. New York: Routledge

violence, the justice system and related services are inaccessible due to social, economic and cultural barriers.

According to Glenn <sup>24</sup> writing of the experiences of African-American women with disabilities, refers to the impact of race, gender and disability as the 'triple jeopardy syndrome', in terms of which African-American disabled women suffer a triple oppression due to their race/ethnicity, gender and disability.

Snyder M (2002)<sup>25</sup> argues that women in general have to strive much harder than men to earn their livelihoods, and that in most developing countries people with disabilities are disproportionately poor. Poor, disabled women in developing countries thus must contend with the discrimination and disadvantage that arises from being a woman, of their experience of poverty as a woman, and the marginalization ('the third strike') that arises from their disability.

Following on from Driedger D. (1996),<sup>26</sup> who notes that women with disabilities experience discrimination on the basis of their disability and gender, and that this discrimination may be further compounded by poverty, race and socio-economic disadvantage, we can advance the argument that African women with disabilities, as a specific group, are one of the most marginalized and vulnerable groupings in our society. The 1996 census statistics cited earlier in this report show that African women with disabilities constitute the greatest proportion of disabled persons in South Africa, as compared with men and women from other racial groups.

According to Anello B. (1998)<sup>27</sup>; Violence and abuse is a reality in the lives of many women with disabilities. It is, however, difficult to fully estimate the extent of the problem because acts that women with disabilities may experience as violent generally go unreported. While underreporting of violence is also common amongst non-disabled women, there are additional complicating factors that may inhibit or prevent women with disabilities reporting abuse. These include high levels of dependency on caregivers, who often are the perpetrators of the violence;

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<sup>24</sup> Glenn, E. (2002). *African-American women with disabilities: An overview*

<sup>25</sup> Snyder, M. (2002). *Issues in gender-sensitive and disability-responsive policy, research, training and action*.

<sup>26</sup> Driedger, D. (1996). 'Emerging from the Shadows: Women with Disabilities Organise' in Driedger, D., Feike, I. and Giron Batres, E. (eds). *Across Borders: Women with Disabilities working together*. Canada: Gynergy Books.

<sup>27</sup> Anello, B. (1998). Intersectoral workshop on violence against women with disabilities and deaf women and access to the Justice System.

social isolation and discrimination against women with disabilities; and a lack of information and inadequate support services (see Section 3.5.2). Moreover, as we have noted earlier in this report, there is a general paucity of research on violence against women with disabilities that has only recently started being addressed, and then mainly within a North American context.

### **1.9.2 The causes and effects of discrimination and violence against children and women with disabilities**

*Poverty.* Disabilities are caused and increased by overcrowding, poor living conditions, poor sanitation, lack of access to information and inadequate diets. McClain C.V. (2002)<sup>28</sup>, And the Uganda Human Rights Commission Report on Disability 2005, states that "poverty causes disability and disability causes poverty"

*Inadequate medical services.* Disability is increased by the inadequacy of primary health care and genetic counseling services; weak organizational links between social services; inadequate treatment of the injured when accidents occur; and the incorrect use of medication. Examples of this failure include the poor management of chronic illnesses like diabetes and poor medical services for pregnant women in rural areas, resulting in pre- and perinatal problems (Simon-Meyer, 1999)<sup>29</sup>.

*Violence and accidents.* Some trauma or disability is also caused by violence. Violence often results in severe injuries and/or loss of consciousness, with disabling and lifelong physical and mental consequences. Transport accidents, as well as those occurring in the industrial and agricultural sectors; also increase disability (INDS, 1997; <sup>30</sup>Violence against women results in disability, but the scale of this problem has yet to be estimated.

In view of the above findings by the different authors I agree with their findings about the causes and effects of discrimination and violence against women with disabilities

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<sup>28</sup> McClain, C.V. (2002). *Towards a barrier free society*. SAHRC Report

<sup>29</sup> Simon-Meyer, J. (1999). 'Causes of Disability.' *Update*, 41, 1-3

<sup>30</sup> Helander, E. (1999). *Prejudice and Dignity – An Introduction to Community-Based Rehabilitation*.



### **1.9.3 Legal implications of the laws governing discrimination and violence against children and women with disabilities**

Since 1995, concrete steps have been taken to address the human rights of people with disabilities. The Bill of Rights contained in Chapter 4 of the Constitution of the Republic of Uganda, 1995 as amended<sup>31</sup> guarantees fundamental rights to all citizens, including the right to freedom from discrimination on the basis of disability. The Ugandan government is a signatory to the 1993 United Nations Standard Rules on the Equalization of Opportunities for People with Disabilities which stipulates that "girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others" (McClain, 2002: 25)<sup>32</sup>. These international rules are enshrined in the International Bill of Human Rights and represent the most significant international agreement on the rights of people with disabilities, and the obligations of governments to advance these rights through their policies and programmes. To this end, the UN rules establish a set of clear guidelines for actions to be taken by government regarding disability integration.

Following on from Driedger (1996)<sup>33</sup>, who notes that women with disabilities experience discrimination on the basis of their disability and gender, and that this discrimination may be further compounded by poverty, race and socio-economic disadvantage, we can advance the argument that African women with disabilities, as a specific group, are one of the most marginalized and vulnerable groupings in our society. The 1996 census statistics cited earlier in this report show that African women with disabilities constitute the greatest proportion of disabled persons in Uganda, as compared with men and women from other racial groups.

### **1.9.4 The visible forms of violence of women with disabilities**

According to Chenoweth, L. and Cook, S. (2001)<sup>34</sup>; women with and without disabilities may share vulnerabilities to and experiences of different forms of violence namely:

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<sup>31</sup> Constitution of the republic of Uganda 1995

<sup>32</sup> McClain, C.V. (2002). *Towards a barrier free society*. SAHRC Report.

<sup>33</sup> Driedger, D. (1996). 'Emerging from the Shadows: Women with Disabilities Organise' in Driedger, D

<sup>34</sup> Chenoweth, L. and Cook, S. (2001). Introduction in Violence Against Women with Disabilities. *Violence Against Women*, 7 (4). Sage Periodicals Press.

*Physical violence.* This may be defined as any direct or indirect action that can damage the life, welfare or health of women, provoking pain or unnecessary suffering. It manifests in aggression to different parts of the body (applicable to women with and without disabilities).

*Passive violence.* This refers to that which is not done rather than actions that are done. This form of violence is often idiosyncratic to women with disabilities (or women with severe disabilities) because of their reliance on caregivers, which may include intimate partners, family members or paid/voluntary staff.

I agree with their findings that the various forms of violence are passive and physical violence however there are other forms of violence inflicted on women with disabilities.

#### **1.9.5 Efforts Made to Investigate children and women with disabilities access to justice**

International studies have pointed to the numerous barriers women with disabilities confront responding to abuse in order to access justice. In the Saxton et al (1987) <sup>35</sup>study described earlier, research participants pointed to the important links between how a society that devalues and discriminates against both disabled people and women, then fosters abuse and neglect of disabled people (and women with disabilities in particular); and the failure of society and its institutions to offer adequate support to abused women with disabilities.

According to Anderson, P. and Kitchin. R. (2000). <sup>36</sup>High levels of dependency on caregivers, especially where they involve the unpaid labor of friends and family members, also lead to women with disabilities weighing the pros and cons of responding to a relationship that has turned abusive. Important here are women's fears of being financially abandoned, losing access to shelter, relinquishing access to the most basic care and support needed to survive, fear of losing custody over children and so on. In the context of these real material and emotional dependencies on others, so central to the survival and reproduction of women with disabilities, options for dealing with an abusive relationship are deeply constrained.

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<sup>35</sup> Saxton, M. and Howe, F. (1987). *With Wings: An Anthology of Literature by and about Women with Disabilities*. Feminist Press.

<sup>36</sup> Anderson, P. and Kitchin. R. (2000). Disability, space and sexuality: access to family planning services. *Social Science and Medicine*, 51 (8), 1163-1173.



The Disabled Women's Network of Canada survey of 245 women with disabilities, which found that 40% had experienced abuse, also finds that less than half of these experiences were reported due mostly to fear of retaliation and/or dependency on the perpetrator (Nosek and Howland, 1998)<sup>37</sup>

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<sup>37</sup> Nosek, M. A. and Howland, C. A. (1998). *Abuse and women with disabilities*

## CHAPTER TWO

### LAWS AND REGULATORY LEGAL FRAMEWORK IN CONCERN TO CHILDREN AND WOMEN WITH DISABILITIES IN UGANDA

#### 2.0 Introduction

This chapter presents the legal framework, the applicable international, regional and other national laws applicable to discrimination and gender based violence of women with disabilities.

#### 2.0 Applicable International, Regional, and National Law

Uganda is obligated to respect the rights of persons with disabilities under international and regional laws, the national constitution, and other domestic legislation, but little has been meaningfully implemented in practice. Disagreements between disabled persons' organizations and various government agencies over the legal status of the Persons with Disabilities Act, the complaints-resolving mechanisms of the National Council for Disability, and voting procedures for electing members of parliament representing persons with disabilities remain major barriers to the realization of the rights enshrined in law.

#### 2.1 Uganda's International and Regional Obligations

Uganda is a party to the International Covenant on Civil and Political Rights (ICCPR),<sup>38</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>39</sup> the Convention on the Elimination of Discrimination Against Women (CEDAW),<sup>40</sup> and the Convention on the Rights of the Child (CRC).<sup>41</sup> Uganda was among the first countries in the world to ratify the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol.<sup>42</sup> The

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<sup>38</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1996, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Uganda 21 June 1995.

<sup>39</sup> International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force January 3, 1976, acceded to by Uganda, January 21, 1987.

<sup>40</sup> Convention on the Elimination of Discrimination Against Women (CEDAW), adopted 18 December 1979 by G.A. resolution 34/180, entered into force on 3 September 1981, ratified by Uganda on July 22, 1985.

<sup>41</sup> Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Uganda, on August 17, 1990.

<sup>42</sup> Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006 by G.A. Res. 61/106, Annex I, U.N. GAOR, 61<sup>st</sup> Sess., Supp. No. 49 at 65, U.N. Doc A/61/49 (2006), entered into force May 3, 2008, U.N. Doc. A/61/61, signed

CRPD makes explicit that the human rights enumerated in other major human rights documents apply with equal force and in particularly important ways to individuals with disabilities. Despite Uganda's leadership on the international stage in ratifying the CRPD, in practice, the government is falling short in implementation where it is most needed.

Uganda is also a party to several regional instruments, including the African Charter on Human and Peoples' Rights.<sup>43</sup> Uganda is a state party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).<sup>44</sup>

## 2.2 Right to non-discrimination

Importantly, both CEDAW and the CRPD require states to take steps to eliminate discrimination by not only state actors, but also private actors, including any person, organization, or private enterprise.<sup>45</sup> CEDAW condemns discrimination against all women, and requires States Parties to take all appropriate measures "to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices...and all other practices which are based on the inferiority or superiority of either of the sexes."<sup>46</sup>

The CRPD explicitly recognizes the difficulties facing women with disabilities in Article 6:

- a) States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
- b) States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the

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by Uganda on March 30, 2007 and ratified by Uganda on September 25, 2008. The optional protocol gives individuals the ability to submit complaints to the Convention's monitoring body after they have already exhausted all national redress mechanisms in their countries without success.

<sup>43</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, ratified by Uganda May 10, 1986.

<sup>44</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), adopted July 11, 2003, entered into force November 2005, signed by Uganda on December 18, 2003, ratified by Uganda July 22, 2010.

<sup>45</sup> Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, "Disability Rights, Gender, and Development -- A Resource Toll for Action", (2008), p. 19.

<sup>46</sup> CEDAW, art. 5.



exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

The CRPD also has a dedicated article on respecting the rights of children with disabilities.<sup>47</sup>

The CEDAW Committee, which monitors implementation of the treaty, recommends that states parties to CEDAW take “special measures to ensure that [women with disabilities] have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.”<sup>48</sup> General Recommendation 19 addresses violence against women and defines gender-based violence as “a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.”<sup>49</sup>

The African Charter states that governments shall eliminate discrimination against women<sup>50</sup> and provide “special measures of protection” for persons with disabilities.<sup>51</sup> The Protocol on Women’s Rights goes one step further than mere non-discrimination, instead obligating states to “take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist, specifically in regard to discrimination in law, illiteracy, and education.”<sup>52</sup>

### 2.3 Right to access to justice

Regional and international treaties establish the basic right of individuals to an effective remedy when their human rights have been violated. The Human Rights Committee has emphasized that states must ensure “accessible and effective remedies” for human rights violations and to take into account “the special vulnerability of certain categories of person,” and further noted that “a

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<sup>47</sup> CRPD, art. 7.

<sup>48</sup> CEDAW General Recommendation No. 18 (tenth session, 1991), General recommendations made by the Committee on the Elimination of Discrimination against Women, Division for the Advancement of Women, UN Department of Economic and Social Affairs, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed June 30, 2010). Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, “Disability Rights, Gender, and Development -- A Resource Toll for Action”, (2008), p. 17.

<sup>49</sup> CEDAW General Recommendation No. 19 (11th session, 1992), General recommendations made by the Committee on the Elimination of Discrimination against Women, Division for the Advancement of Women, UN Department of Economic and Social Affairs, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed June 30, 2010).

<sup>50</sup> African Charter, art. 18(3).

<sup>51</sup> African Charter, art. 18(4).

<sup>52</sup> Women’s Protocol, art. 2(1)(d) and 12(2).

failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant (ICCPR).”<sup>53</sup>

As a state party to the CRPD, Uganda must ensure effective access to justice,<sup>54</sup> as well as freedom from exploitation, violence, and abuse for persons with disabilities.<sup>55</sup>

The CRC Committee says that children with disabilities are “five times more likely to be victims of abuse,” including mental and physical violence and sexual abuse. The CRC Committee recommends that governments educate parents on the risks and signs of abuse, train hospital and school staff, and take the necessary steps to prevent violence or abuse against children with disabilities.<sup>56</sup>

The Women’s Protocol to the African Charter defines “violence against women” expansively as “all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.”<sup>57</sup> It requires states to provide effective access for women “to judicial and legal services, including legal aid.”<sup>58</sup>

#### **24.4 Right to health**

The highest attainable standard of health is a fundamental human right enshrined in numerous international and regional human rights instruments, including the Universal Declaration of Human Rights, the ICESCR, the African Charter for Human and People's Rights, the CRC, CEDAW, and the CRPD. The ICESCR specifies that everyone has a right “to the enjoyment of the highest attainable standard of physical and mental health,” and the CRPD further clarifies that this right must be upheld “without discrimination on the basis of disability.”<sup>59</sup> The CRPD

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<sup>53</sup> UN Human Rights Committee, General Comment 31: Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add/13 (2004), para. 15.

<sup>54</sup> CRPD, art. 13.

<sup>55</sup> CRPD, art. 16.

<sup>56</sup> CRC General Comment No. 9 (2006), The rights of children with disabilities, CRC/C/GC/9, adopted on 27 February 2007, [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/\\$FILE/G0740702.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/$FILE/G0740702.pdf) (accessed on July 13, 2010), p.12-13.

<sup>57</sup> Women’s Protocol, art. 1.

<sup>58</sup> Women’s Protocol, art. 8.

<sup>59</sup> CRPD, art. 25.



requires states to ensure a “gender-sensitive” approach in providing equal access to health services.<sup>60</sup> The CRPD and the Women’s Protocol to the African Charter also requires states to provide sexual and reproductive health care.<sup>61</sup>

One of the core principles of international law on accessibility to health services is that of non-discrimination, especially for “the most vulnerable or marginalized sections of the population.”<sup>62</sup> Physical accessibility requires that health facilities, goods, and services be within safe physical reach for all sections of the population, especially vulnerable and marginalized groups such as women with disabilities. Physical accessibility requires equitable distribution of health facilities and personnel within the country. Likewise, the CRPD also requires that states provide health facilities close to communities, even in rural areas.<sup>63</sup> Equal access may require the government to take extra measures to ensure that facilities and services are accessible for all. The CRPD further requires that accessible information be provided to persons with disabilities about assistance, support services, and facilities.

The Committee on Economic, Social and Cultural Rights, which monitors implementation of the ICESCR, has provided examples of what may constitute a failure of a government to fulfill its obligations with respect to the right to health. The examples include failing to adopt or implement a national health policy designed to ensure the right to health for everyone, insufficient expenditure or misallocation of available public resources which lead to the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized, and the failure to reduce infant and maternal mortality rates.<sup>64</sup>

The CEDAW Committee calls on states to give special attention to the health care needs of vulnerable and disadvantaged groups, including women with disabilities.<sup>65</sup> The Committee recognizes that women with disabilities often have difficulties with physical access to health

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<sup>60</sup> Ibid.

<sup>61</sup> Women’s Protocol, art. 14.

<sup>62</sup> CESCR, General Comment No. 14, para 12(b).

<sup>63</sup> CRPD, art. 25(c).

<sup>64</sup> See UN Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights,” General Comment No. 14, The Right to the Highest Attainable Standard of Health, E/C.12/2000/4 (2000).

<sup>65</sup> CEDAW General Recommendation No. 24 (20th session, 1999), paragraph 6, General recommendations made by the Committee on the Elimination of Discrimination against Women, Division for the Advancement of Women, UN Department of Economic and Social Affairs, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed June 30, 2010).

services and recommends that states “take appropriate measures to ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity.”<sup>66</sup>

## 2.5 Rights of internally displaced persons

The CRPD requires that states shall take “all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”<sup>67</sup>

Uganda is also a state party to the African Union’s Convention for the Protection and Assistance of Internally Displaced Persons in Africa, known as the “Kampala Convention” because Uganda hosted the Special Summit for African states in October 2009.<sup>68</sup> Under the convention, Uganda is obligated to “provide special protection for and assistance to internally displaced persons with special needs, including ... persons with disabilities.”<sup>69</sup> In a strong show of support, Uganda was the first country to ratify this treaty.<sup>70</sup> However, Uganda’s national IDP policy makes only one mention of persons with disabilities, specifying that persons with disabilities should be registered in IDP camps.<sup>71</sup>

## 2.6 Ugandan National Law (1995 Constitution of Uganda)

The domestic legislative framework in Uganda guarantees fundamental rights to persons with disabilities and prohibits discrimination. Article 32 of the Constitution states that the government “shall take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.”<sup>72</sup> Article 35 states that “persons with disabilities have a right to respect and human dignity, and the State and society shall take

<sup>66</sup> Ibid.

<sup>67</sup> CRPD, art. 11.

<sup>68</sup> African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted 22 October 2009 ([http://www.reliefweb.int/rw/lib.nsf/db900sid/SNAA-7X73KL/\\$file/au\\_oct2009.pdf?openement](http://www.reliefweb.int/rw/lib.nsf/db900sid/SNAA-7X73KL/$file/au_oct2009.pdf?openement)).

<sup>69</sup> AU IDP Convention, art.9(2).

<sup>70</sup> UN High Commissioner for People, “UNHCR Welcomes First Ratification of AU Convention for Displaced,” press release, February 19, 2010, [http://www.internal-displacement.org/8025708F004D31AA/\(httpIDPNewsAlerts\)/D8890D95ED5B3FADC12576D5005FD8CF?OpenDocument](http://www.internal-displacement.org/8025708F004D31AA/(httpIDPNewsAlerts)/D8890D95ED5B3FADC12576D5005FD8CF?OpenDocument).

<sup>71</sup> Office of the Prime Minister, *The National Policy for Internally Displaced Persons*, August 2004 (on file with Human Rights Watch).

<sup>72</sup> Constitution of Uganda, 1995, art. 32.

appropriate measures to ensure that they realize their full mental and physical potential.”<sup>73</sup> Further, Parliament shall “enact laws appropriate for the protection of persons with disabilities.”<sup>74</sup>

Uganda also has several domestic statutes and policies in place that prohibit discrimination and codify the rights of persons with disabilities.

**Uganda Persons with Disabilities Act, 2006**, seeks to “provide comprehensive legal protection for persons with disabilities in accordance with Articles 32 and 35 of the Constitution; to make provision for the elimination of all forms of discrimination against persons with disabilities towards equalization of opportunity and for related matters.”<sup>75</sup> The act recognizes rights to privacy, family life, participation in public and cultural life, access to social services, and access to public services. The act borrows heavily from what was an early draft of the Convention on the Rights of Persons with Disabilities.<sup>76</sup>

**National Council for Disability (NCD) Act, 2003**, sets up the National Council for Disability, which is mandated to “act as a body at a national level through which the needs, problems, concerns, potentials and abilities of persons with disabilities can be communicated to Government and its agencies for action.”<sup>77</sup> It is further mandated to carry out investigations into violations of the rights of persons with disabilities or non-compliance with laws relating to disabilities.<sup>78</sup> There are lower councils for disability as well, at the district and sub-county levels.<sup>79</sup> At present, less than half of Uganda’s districts actually have a disability council.<sup>80</sup> There are disability councils in Kitgum and Lira districts, though local government officials were uncertain of their members, activities, or even if they were actually operating.<sup>81</sup>

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<sup>73</sup> Constitution of Uganda, 1995, art. 35.

<sup>74</sup> Constitution of Uganda, 1995, art. 35(2).

<sup>75</sup> Persons with Disabilities Act, 2006, Preamble.

<sup>76</sup> Human Rights Watch interview with Julius Kanya, Executive Secretary of National Council for Disability, Kampala, May 23, 2010.

<sup>77</sup> National Council for Disability Act, 2003, sec. 5.

<sup>78</sup> National Council for Disability Act, 2003, sec. 6(f).

<sup>79</sup> National Council for Disability Act, 2003, sec. 18, 22.

<sup>80</sup> Human Rights Watch interview with Julius Kanya, Executive Secretary of National Council for Disability, Kampala, May 23, 2010. There are currently 111 districts, but new ones are regularly created, and there are approximately 50 disability councils.

<sup>81</sup> Human Rights Watch interview with local government officials, Kitgum, May 20, 2010. Human Rights Watch interview with local government official, Lira, May 21, 2010.



Uganda's National Policy on Disability, 2006, aims to promote "equal opportunities and enhanced empowerment, participation and protection of persons with disabilities irrespective of gender, age and type of disability." It identifies and describes the following issues as affecting persons with disabilities: poverty, education and skills, employment, social security, gender, conflicts and emergencies, health, HIV/AIDS, and accessibility.

In addition to a liberal domestic legal framework,<sup>82</sup> Uganda has high levels of participation by persons with disabilities at the national and local levels of government. In 1998, the State Ministry for the Elderly and Disability Affairs was created under the Ministry of Gender, Labor and Social Development. Some 47,000 councilors with disabilities work in the local government structures.<sup>83</sup> At each of the five levels of the local council, there is at least one representative of the disability community.<sup>84</sup>

Seats in the national legislature are designated for certain groups, including persons with disabilities.<sup>85</sup> The quota system reserves seats for five members of parliament (MPs) who represent persons with disabilities from each region and one representing women with disabilities nationally. The MPs are elected by local district unions of persons with disabilities. The MPs' sign language interpreters and personal assistants are paid for by the government.<sup>86</sup>

Five additional persons with disabilities ran for MP elections outside of the persons with disabilities quota framework and were also voted into office. As a result, there are 10 MPs with disabilities in the Parliament at present, of whom three are women.<sup>87</sup>

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<sup>82</sup> Numerous other Ugandan statutes include favorable clauses on the rights of persons with disabilities, including the Business, Technical, Vocational Education and Training (BTVET) Act, 2008; Children's Act, 1997; National Institute of Special Education Act, 1998; Universities and Tertiary Institutions Act, 2001; Parliamentary Elections Act, 2005; and Uganda Communications Act, 1998.

<sup>83</sup> Hisayo Katsui, *Ugandan Disability Movement: Political Achievements and Social Challenges of WWD*, April 2008.

<sup>84</sup> Local Government Act, 1997, secs. 10, 23, 47.

<sup>85</sup> Local Government Act, 1997. Other groups included in the quota scheme are women, youth, workers, and the army.

<sup>86</sup> Hisayo Katsui, *Ugandan Disability Movement: Political Achievements and Social Challenges of WWD*, April 2008.

<sup>87</sup> Foundation for Human Rights Initiative, *Disability is Not Inability*, December 2009, p. 59.

## **CHAPTER THREE**

### **RECOMMENDATIONS AND CONCLUSIONS**

#### **3.0 Introduction**

This chapter presents the recommendations and conclusions to the researched topic.

#### **3.1 Recommendation**

##### **3.1.1 To the Government of Uganda, the Ministry of Gender, Labor and Social Development, and State Ministry of Disabilities**

Ensure that district development plans to implement the Peace, Recovery and Development Plan (PRDP) adequately address the needs of persons with disabilities, in particular women with disabilities, including by providing support for their education and livelihoods and access to health and reproductive care.

Undertake targeted efforts to inform women with disabilities about mainstream government programs and services and encourage their participation. This may include arranging appropriate transportation and providing sign language interpretation.

Strengthen the role of government officials at all levels representing persons with disabilities and district disabled persons' unions or other disabled persons' organizations in planning meetings, thematic working groups and decision-making processes to ensure that the perspectives of persons with disabilities, particularly women with disabilities, are included in all aspects of programs.

At general community decision-making or sensitization meetings, involve women with disabilities by, for example, offering support for blind women to get to the meetings, providing sign language interpreters for deaf women, and encouraging the active participation of all.

When government funding is disbursed to groups of persons with disabilities, design specific plans for targeting women with disabilities, particularly those in remote rural areas, without

requiring registered NGOs or community-based organizations to submit applications on their behalf.

Monitor programs more closely to make certain that women with disabilities are actually benefitting from livelihood support initiatives and other efforts. This should include developing indicators to track outreach to women with disabilities.

Incorporate the perspectives and rights of women with disabilities into existing sensitization programs on voting, community participation, health care (including reproductive health), HIV/AIDS, access to justice, and sexual and gender-based violence among other topics.

Collect data on the number of women with disabilities benefiting from government programs, including the National Agricultural Advisory Services (NAADS) and Northern Uganda Social Action Fund (NUSAF) as well as mainstream initiatives to address sexual and gender-based violence, HIV, and education, among other areas.

Take measures to fight stigma and discrimination, for example through awareness-raising campaigns about the rights of persons with disabilities, in particular women with disabilities.

Incorporate information on how to respect the rights and dignity of women with disabilities into existing trainings of police officers, justice officials, health workers, and others who interact with women with disabilities on the issue of sexual and gender-based violence.

Allocate sufficient funds to gender and disability programs, including for services for women with disabilities who experience sexual and gender-based violence, and for the National Disability Council to fulfill its monitoring role.

Designate a focal point for women with disabilities within existing government structures at the sub-county level (preferably a woman or woman with disability) to serve as a safe resource for women with disabilities and service providers.

Initiate debate among persons with disabilities with a view to identifying and understanding the constraints to participation in electoral processes and drawing proposals on how to make it an all-inclusive and highly participatory process.

Proactively involve the Uganda Human Rights Commission in policy-writing for livelihoods programs in order to reflect a human rights-based approach to new policies.

Inform war victims, particularly those who have already registered with the advisor to the president, of the timeline and procedures for obtaining compensation. Provide this information in accessible formats, including Braille and easily understood language.

Enforce laws against child neglect by, at minimum, requiring proof of child support payments before parents can access other government services such as pensions, business, professional, or drivers' licenses or permits. Put in place support mechanisms for vulnerable mothers, including women with disabilities.

### **3.1.2 To the National Disability Council**

Monitor all government programs, such as NAADS and NUSAF, to ensure that women with disabilities benefit.

Develop protocols and referral systems for complaints lodged by persons with disabilities.

In particular, develop protocols and reporting mechanisms for women with disabilities who experienced sexual and gender-based violence.

### **3.1.3 To the Police, Especially the Child and Family Protection Unit**

Train officers in the Child and Family Protection Unit as well as other police officers on how to respect the rights and dignity of women with disabilities, including the rights of women to be free from sexual and gender-based violence.

Increase the number of police posts in northern Uganda.

Provide sign language interpreters at police stations, or identify potential volunteer sign language interpreters through engagement with the district disabled persons' union. Train police officers in basic sign language.



Make police stations physically accessible for women with disabilities, including by providing ramps.

Provide adequate support, including resources for transportation, to the Child and Family Protection Unit, to carry out its work.

When carrying out community workshops or radio programs to educate the public on the rights of women, expressly include and discuss the rights and challenges of women with disabilities.

#### **3.1.4 To the Parliament of Uganda and the Ministry of Justice and Constitutional Affairs**

Provide regulations for the Persons with Disabilities Act 2006 to ensure implementation and enforcement of the statute in line with the CRPD. Alternatively, amend the statute to detail state obligations with greater specificity.

Amend current laws to ensure procedural accommodations in all legal proceedings, in order to enable persons with all disabilities to fully participate in them and in compliance with the CRPD.

Review all other existing domestic legislation and amend relevant laws to ensure compliance with the CRPD.

Resolve whether the National Council for Disability or the National Union for Persons with Disabilities in Uganda will be conducting elections for members of parliament representing persons with disabilities.

#### **3.1.5 To the Government and other Health Care Service Providers**

Promote access for women with disabilities in mainstream initiatives addressing reproductive health (including voluntary family planning and voluntary counseling and testing), HIV/AIDS, and gender-based violence. When conducting sensitization meetings for the community on health issues, invite women leaders with disabilities in the community and encourage their participation in the meetings.

Offer targeted services for women with disabilities, such as home visits for those who cannot access health clinics and transportation, or provide outreach programs to women with disabilities in rural areas.

Partner with disabled persons' organizations in planning meetings to ensure that the perspectives of persons with disabilities, particularly women with disabilities, are included in all aspects of health programs.

Monitor the provision of health services to persons with disabilities to determine whether they are reaching people on an equitable basis, and collect disaggregate data on persons with disabilities among patients.

Make hospitals and health centers accessible for persons with disabilities, particularly women with disabilities. Ensure that health centers have ramps, accessible delivery beds and toilets, sign language interpreters and Braille on medications. Train health workers in basic sign language.

Ensure that there are functioning, accessible grievance mechanisms to report barriers to health care and mistreatment by health facility staff.

### **3.1.6 To the Humanitarian Aid Actors**

Consider a needs assessment of persons with disabilities in order to gauge effective modes of aid for them, particularly in a post-conflict setting marked by displacement.

Partner with disabled persons' unions to disseminate accurate, accessible information about the return, settlement, and relocation process and services provided by humanitarian actors.

Identify and select beneficiaries of return assistance through multiple sources - the organization's own staff, disabled persons' organizations, and local council structures – in order to eliminate potential discrimination or personal motivations in the selection process.

Work together with the local authorities to collect data on the numbers of women with disabilities reporting cases of sexual and gender-based violence, including what kind of disability they have, in order to identify the scope of the problem and possible solutions and interventions.

Based on collected data, work together with the local government to develop inclusive programs for women with disabilities, including accessible information on procedures to follow in cases of sexual and gender-based violence and training for staff on addressing sexual and gender based violence cases involving women with disabilities.

Include representatives of women with disabilities, for example from the district unions, in the Cluster Working Groups and sexual and gender based violence working groups to include their perspectives.

### **3.1.7 To the Uganda's Development Partners**

Consider conducting a needs assessment of persons with disabilities in northern Uganda, possibly in partnership with disabled persons' organizations or district unions.

Consider funding the government and disabled peoples' unions for programs to empower women with disabilities and realize their rights in the return, settlement, or relocation process, particularly in supporting those who wish to return to their homesteads or to those wishing to remain in camps.

### **3.1.8 To the Uganda Bureau of Statistics**

Continue to include disability questions in the next census and Demographic Health Survey. Disaggregate data not only by age as it is done currently, but also by disability, gender, and region.

Compile statistics on the prevalence of HIV/AIDS and sexual and gender based violence among women with disabilities in order to be a resource for policy makers and program implementers.

## **3.2 Conclusions**

Many children and women with disabilities see themselves as victims of maltreatment and abuse, while society ignores the problem. However, some children and women with disabilities may not see themselves as victims of violence because they consider their situations habitual and associated with disability.



In some situations, the society refuses to recognize that certain acts constitute violence, and the women who experience them may or may not consider themselves as victims. This is particularly true with respect to acts authorized under domestic law, such as forced psychiatric interventions with mind-altering drugs, electroshock or psychosurgery, institutionalization, restraints and isolation, which are practiced primarily on women with psychosocial disabilities and women with intellectual disabilities.

Violence against women with disabilities shares common characteristics with violence against women in general, but has unique dimensions as well.

Being a women and having a disability increases the likelihood of experiencing violence as compared to the risk for women in general.

Women with sensory, learning, and communicative disabilities are particularly vulnerable to suffering abuse and violence.

Women labelled with psychosocial disabilities are likely to be silenced and ignored when speaking out or attempting to defend themselves, particularly when the violence is authorized by law or committed in a context where the woman is deprived of her legal capacity and/or freedom. These women and the forms of violence practiced against them are also likely to be ignored in studies of violence against women with disabilities.

Not having opportunities to function in traditional female roles, as well as having either conformity or resistance to traditional female roles labelled as a psychosocial disability, contributes to lower self-esteem and increases vulnerability, which can be contributing factors to becoming targets of violence.

Professionals who work with women who have experienced abuse often do not recognise that women with disabilities are in the same situations, either because they do not have the information or because they do not recognize acts they believe to be associated with disability, including forced institutionalization and forced interventions, as acts of violence.



Depending on others to cope in daily life increases the risk of being targets of violent actions. This risk can be reduced when proper training is provided to the people who are providing personal assistance, and by ensuring that women with disabilities can retain their legal capacity and freedom.

Violence against women with disabilities is often an act that is perpetrated against what is perceived to be a “faulty being” and is a demonstration of a socially acceptable form of power and control over a woman’s body and mind.

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