

Trócaire
Working for a just world.

INSTITUTING PROTECTION OF PERSONS WITH DISABILITIES RIGHTS TO
CUSTOMARY LAND OWNERSHIP IN ACHOLILAND,



PWDs during the FDGs on issues affecting PWD's land rights June 2017

Funded by:



Acknowledgements

Trócaire Uganda would like to thank all implementing partners especially the Joint Acholi Sub Region Leaders Forum (JASLF), for the oversight support provided in undertaking this study. Special recognition and appreciation goes to the Democratic Governance Facility (DGF), for the financial support rendered towards this research project and study on the PWDS and land rights. We greatly appreciate all the Field Research team members who committed their time and effort to ensure that this work was successfully undertaken. To the Acholi traditional and clan leaders, and research communities, the various Local Government leaders in Acholi Sub region, we are grateful for your support and cooperation particularly in providing us valuable information about the Acholi culture and traditions. It is our hope that this study will be a source of rich information that will contribute towards improving access, use, control, management and administration of customary land rights by the youth, as well as customary land policy and programming in Uganda.

We would like to recognise the contribution of the research coordinator James Ojera Latigo for leading the research and special appreciation to Ms. Susan Toolit Aloba the project Manager for reviewing the research report.

Acknowledgement of Author

This report was authored by Lillian Namukasa (Consultant) for Trócaire Uganda as part of the overall research project on customary land practices in Acholi.

List of Abbreviations

ARLPI:	Acholi Religious Leaders Peace Initiative
CEDAW:	Convention on the Elimination of all forms of Discrimination against Women
CRPD:	Convention on the Rights of Persons with Disabilities
FAO:	Food Agriculture Organization
FGD:	Focus Group Discussion
ICESCR:	International Convention on Economic, Social and Cultural Rights
LRA:	Lord's Resistance Army
PWDs:	Persons with Disabilities
UDHR:	Universal Declaration on Human Rights
UNDP:	United Nations Development Programme
URI:	Uganda Research Institute
WHO:	World Health Organization

Table of Contents

Acknowledgements	2
Acknowledgement of Author	3
List of Abbreviations	4
EXECUTIVE SUMMARY	6
Knowledge about land rights.....	7
Access to land by Persons with Disabilities.....	7
Land management and utilization by Persons with Disabilities.....	8
Involvement of Persons with Disabilities in solving internal land wrangles	8
Recommendations	9
1. Introduction.....	9
1.1. Background.....	9
1.2 Purpose and objectives of the study	12
2.0 Literature Review	13
2. Methodology.....	22
2.1 Research Design	22
2.2 Demographic Information	23
2.3 Limitations of Study	25
3. Presentation and Discussion of Findings.....	26
3.1 Knowledge about land rights.....	26
3.2 Persons with Disabilities Access to Land.....	27
3.3 Persons with Disabilities Rights to Access Customary and Communal Land within Families, Chiefdoms and Clans.....	28
3.4 Land Management and Utilization by Persons with Disabilities.....	30
3.5 Involvement of Persons with Disabilities in Solving Internal land Wrangles	31
4.6 Challenges	32

5. Conclusions, Best Practices and Recommendations	34
5.1 Conclusions	34
5.2 Best Practices	35
5.3 Recommendations	36
References	38
Annexes	40
Annex I: Interview guide for FGDs with Persons with a Disability	40

EXECUTIVE SUMMARY

This Research was conducted in Acholi land to generate and document a body of knowledge on the specific customary and communal land holdings practiced by Acholi as a representative pilot system for Africa in general. The research focused on Persons with Disabilities as a special interest group in accessing, control, ownership and management of customary and communal land. Specifically, the research was intended to;

- Provide additional information on land rights and persons with disabilities in Acholi land.
- Identify specific aspects hindering the enjoyment of land rights for the most vulnerable Persons with disabilities in Acholi land
- Strengthen the security of Persons with Disabilities rights on customary and communal land tenure in Acholi land through research, consultation, and advocacy.

The study was conducted using a qualitative research design that utilized focus group discussion guides as tools for data collection. Fourteen focus group discussions were conducted with Persons with Disabilities within thirteen (13) chiefdoms in the 8 districts of Nwoya, Pader, Gulu, Agago, Amuru, Omoro, Lamwo and Kitgum. A total of 218 (45% women and 55% men) with various disabilities participated in the study through the Focus Group Discussions. In addition to the primary data, secondary data related to land and persons with disabilities was extracted from a research carried out by JASLF/Trócaire in 2017.

The analysis of the National Population and Housing Census, 2014 data indicates that disability prevalence in the research districts (Northern Uganda) was above the national average of 14.6%. In comparison with the general population, Nwoya and Pader Districts had the highest proportion of Persons with Disabilities at 28% and 24% respectively while Gulu had the least at 15%. Lamwo, Agago, Kitgum, and Amuru Districts had 22%, 19%, 18% and 17% respectively.

Acholi land has land conflicts which are grouped into four categories namely; Large-scale land acquisitions by government on behalf of private sector investors, intra family disputes, Territorial disputes between clans, or groups of clans known as chiefdoms, Disputes between land holding groups and institutions and lastly Intra-community disputes over land access or 'rights' to particular land parcels. All these conflicts coupled with negative attitudes and perceptions render persons with disabilities most vulnerable in accessing, utilizing, controlling and owning customary and communal land. Disabled men and women in many countries face stigma, prejudice and social isolation at the family, community or national level which makes it difficult for them to enjoy their fundamental human rights including land rights like any other person in society.

Knowledge about land rights

The research found out that majority of the Persons with Disabilities in the 8 districts knew that they have a right to inherit, own and utilize the customary land because of being children of the particular family or clan by birth. In terms of management of the customary land, Persons with Disabilities reported that the land is owned by the family head, clan leaders on behalf of the members. In the seven districts of the study out of eight, participants reported that any person in the family or community has a right to access and use the customary and communal land. However, the perception on the right to settle, utilize, own and sell customary land was different in Nwoya District where a majority (80%) of the Persons with Disabilities reported that they can settle and utilize land but not to own or sell it at their own will.

Access to land by Persons with Disabilities

On access to land, Persons with Disabilities reported that customary land be inherited from parents, grandparents or clan leaders who are the custodians of the land. It was noted that children born in the family gain access to the land through inheritance from their parents. In Acholiland, there is communal land where the entire community has the right to use a piece of land. However, Persons with Disabilities reported that their rights to access land are sometimes denied by the family, community and clan leaders because of their disability. They further noted that even during the allocation of clan or communal lands, Persons with Disabilities are segregated and are never involved or consulted by the clan leaders. The situation is worse when it comes to women and girls with disabilities. It was reported that even those who receive the land, sometimes their land is taken away by family members who think Persons with Disabilities do not have capacity to utilize all the land given to them by the parents/grandparents thinking they cannot effectively utilise it because of their disability.

Land management and utilization by Persons with Disabilities

In Acholi land, the communities believe that land management and utilization is by the clan leadership “Rwot”. The elders, family heads, especially men, also have the powers to manage family land and conduct distribution for utilization to clan/family members. Persons with Disabilities reported limited involvement in managing customary land unless appointed by the family member which may not be common. In limited circumstances family heads of extended families have powers to manage and utilize the customary land. At family level, the family appoints a male elder to manage the land on behalf of the family, often Persons with Disabilities are not given such opportunities even if they are the elder male in the family. However, it was noted that there are a few family and community members who are positive and respect the rights of Persons with Disability over land, allocate land to them equally like any other person in the family or community. However; those who have negative attitudes towards disability, deny them a chance to fully access, own and utilize the land.

On the utilization of land, Persons with disabilities who had accessed land reported that they majorly use it for cultivation, settlement and rearing animals. Others reported that they rented the land to other people who have small pieces of land at a certain fee to meet their basic needs. They further noted that, their land was also used to facilitate community development projects initiated by the government or other institutions including construction of hospitals, schools, roads and other developments to bring services closer to people against their wish but rather identified as land which is not utilised and can be used for community development.

Involvement of Persons with Disabilities in solving internal land wrangles

It was established that Persons with disabilities have limited participation in land dispute resolution in the community; this is due to negative attitudes, myths, misconceptions and superstitions against them. Other challenges identified include mobility challenges, non-recognition of Persons with Disabilities rights by family and community leaders, negative societal attitudes, and lack of clear structures to involve Persons with Disabilities, inadequate coordination and inadequate access to information by Persons with Disabilities among others. Most community members still believe that persons with disabilities are of no value; they do not have capacity and ability to utilize and manage huge land and are sick. This starts right from the home to the community where Persons with Disabilities live. Stigmatization and discrimination of Persons with disabilities affect Persons with Disabilities in accessing and utilization of communal land.

Relatedly, inadequate consultation of Persons with Disabilities during land distribution deprives them of their rights to access and utilize land. Persons with Disabilities reported uninformed consent on issues of land distribution by family and clan members.

Recommendations

It should be noted that land is a resource that every Ugandan in society should have access to. Persons with Disabilities suggested that 'KerKal' Chiefdom should oversee land issues and not Government, however they recommend being involved by having a representative at KerKal to air out their issues. In the past Acholi system used to treat persons with disabilities equally and Persons with Disabilities wish that it should be restored. This can be more emphasized by raising awareness on the land laws and policies like the Land Act, the Land policy and the constitution of the republic of Uganda, persons with disabilities Act, UNCRPD that protect the land rights of all persons in Uganda with keen interests on those that are disability specific. Land boundaries should be reopened and boundaries clearly marked using live demarcations for instance planting trees on the boundaries. The sale of customary land should be restricted and managed communally. It was established that the youth are selling land to buy motorcycles for transport business "boda-boda" and migration to urban centres, therefore restricting sale of land mostly on the side of youth will save the land and reduce the number of homeless. Persons with Disabilities should be treated like any other person in accessing and utilization of land.

Lastly, to achieve inclusion of persons with disabilities in the development agenda, societal attitudes that progressively lead to stigma and discrimination should be eliminated in society through continuous awareness raising on fundamental human rights, advocacy and empowerment of Persons with Disabilities.

1. Introduction

1.1. Background

Persons with disabilities account for 15% of the world's population, or 1 billion people and 80% of people with disabilities live in developing countries (World Disability report, 2011). In Uganda, 14.6% of persons aged 5 and over have some form of disability. The prevalence increases significantly from 12% among persons aged 30-39, to 31% at age 40-49, and to 49% at age 50-59. The disability prevalence rate was higher among those living in rural areas compared to those in urban areas (National Population and Housing Census, 2014). The majority of Persons with Disabilities live in rural areas where land use and control over other productive resources are hinged on traditional notions of ownership.

The changing land use and land ownership patterns have not always been accompanied by appropriate reforms in policies, laws, and institutions. Africa must ensure that the current wave of land reform initiatives, which often coincide with political and economic reforms emanating from democratization, help to establish needed changes in land rights as well as legal and institutional frameworks (UNDP 2006). In developing countries around the world, [land and natural resources](#) lie at the heart of social, political and economic life. In much of Africa, however, rural farmers and communities lack secure property rights; many are losing their land

to Government, investors and others outside the community—often with profound adverse impacts on local livelihoods and the environment (Madeline Weber, 2015). In Uganda, land is a fundamentally important resource as is the basis of income, sustenance and identity for most Ugandans. Over 80% of Ugandans, especially those living in rural areas depend on land for their survival through agriculture (Atieno M.S, 2017).

In Uganda, customary tenure systems regulate 75 percent of the total land and are still the most common form of tenure in the country (FAO, 2017). While customary tenure is equal to other forms of tenure in law; in practice it is often accorded a lesser status than other forms of tenure that makes it fragile in Uganda. For example, in cases of disputes statutory rules and forms of evidence often trump customary rules and evidence, adversely affecting those who subscribe to customary tenure. Moreover, the legitimacy of traditional leaders and institutions is increasingly being challenged as citizens seek out the authority of statutory institutions to administer land and resolve disputes (Viet Peter, 2017). He further noted that the fact that some local leaders are increasingly making decisions to advance personal interests and at the expense of the needs of communities has further weakened the legitimacy of traditional authorities. As a result, it is becoming harder for traditional institutions to perform their roles, including implementation and enforcement of customary rules.

Outside of the mailo land areas, most people hold land on the basis of customary tenure; it is estimated that 80% of all land in Uganda is held customarily (90% in northern Uganda) although the actual situation is probably much more nuanced, with many purchases of customarily-held land taking place on an informal basis, a process which occurs through the dictates of custom, but also, at the same time, effectively removes the land from the ambit (and restrictions) of customary tenure (Norfolk & De Wit, 2011).

Inheritance is a significant means of transferring wealth from one generation to the next, and therefore increasingly attracts attention from researchers and policy-makers working on intergenerational and multidimensional poverty (Nora Ellen Groce et al, 2014). In the developing world, inheritance is among the rare means for obtaining property and other economic assets. Furthermore, the right to dispose of property gives individuals a continuing voice in family and community matters, even when ill or elderly. Those who are denied inheritance, even where only small amounts of property or cash exist, may face destitution. Such 'property' can be quite limited – a bicycle, sewing machine, or cooking stove needed to continue self-employment (Cooper E, 2010). Researchers of disability and poverty in low-income and middle-income countries routinely hear anecdotes about how disabled persons are passed over when land, property, or money is passed down within families. Take, for example, Women with disabilities, they are more likely to lose land rights in disputes than others, and so are other vulnerable groups who lack the money and status to push for legal redress (Ayugi. C, 2009). It should be noted that in Uganda, women with disabilities are also treated the same as it was reported by

FAO, 2017 that most women who were being threatened with eviction did not have the necessary documentation as rightful owners of the land upon the death of their husbands. In some cases, it was evident that although women were struggling to keep their land, they were not fully aware of the boundaries of the land for which they were struggling.

According to Patrick Auma, 2017, persons with physical disabilities in Amuru District are struggling to access land amidst persisting stigma. Those affected reported that stigma from their communities and some local government authorities have made their living conditions much worse. For instance, a widow with a physical disability from Otwee village in Amuru District reported that her estate was grabbed by her in-laws in Patiko Sub County in Gulu District shortly after her husband died. The mother of six says violence associated with the land disputes led her to migrate and settle in Amuru town with her children. She further noted that her children have dropped out of school due to poverty and her family depends on casual jobs and handouts from well-wishers to survive. In a similar incident, another woman with disability in Nwoya District reported that finding justice over land is hindered by stigma and high poverty levels which hinder access to courts. She urged government to prioritise economic empowerment of persons with disability to facilitate access to land justice (Patrick Auma, Uganda Radio Network -November2017).

The JASLF/Trócaire Report on piloting the protection of rights to customary land ownership in Acholi land conducted in June 2016 catered for disability issues and on its conclusion of the research, it was recognized that additional research was necessary therefore necessitating the need to conduct a detailed study on access, ownership, control and management of customary and communal land by Persons with Disabilities in Acholi land.

Disability is a development issue, because of its bidirectional link to poverty: disability may increase the risk of poverty, and poverty may increase the risk of disability. A growing body of empirical evidence from across the world indicates that people with disabilities and their families are more likely to experience economic and social disadvantage than those without disability (WHO, Understanding disability, 2011).

Women with disabilities in Amuru Sub county Amuru District pleaded with civil society organizations to help them safeguard their land. The women said that government structures in the District are too bureaucratic to save them from land grabbers in the community. One of the LRA insurgency Land mine survivors from Amuru Sub County in Kilak County, Amuru District informed a dialogue meeting organised by Action Aid Uganda that women with Disability are losing their land to grabbers due to lack of Knowledge on the referral pathways.

1.2 Purpose and objectives of the study

The purpose of this study therefore is to unveil, generate and document a comprehensive research-based, practically-oriented and evidence-based body of knowledge into the specifics of customary and communal land holdings practiced by the Acholi as representative pilot system for Africa in general. The objectives of the study were;

- a) To conduct a study to provide additional information on land rights and persons with disabilities in Acholi land.
- b) To identify specific aspects that hindered the enjoyment of land rights for the most vulnerable Persons with disabilities in Acholi land
- c) To strengthen the security of Persons with Disabilities' rights on customary and communal land tenure in Acholi land through research, consultation, and advocacy.

2.0 Literature Review

2.1 Disability Definitions

The UNCRPD of which Uganda is a signatory in article one defines a Person with Disability as "Persons with disabilities 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."

In Uganda, we have different definitions from different legal documents for instance the National Council for Disability Act 2003 defines disability to mean a substantial functional limitation of daily life activities of an individual caused by physical, sensory or mental impairment and environmental barriers; While the Persons with Disabilities (PWD) Act 2006 defines disability as "a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation". In Uganda, the main category of Disability is physical due to accidents, civil wars, domestic violence and illnesses among others. By recognizing that disability is the result of the interaction between impairment and external barriers, the PWD Act aligns the legal definition of disability in the Ugandan law to that enshrined in the CRPD, implying a significant paradigm shift away from the medical/charitable models, to understanding disability as a social phenomenon. Furthermore, of particular value is the recognition that physical, mental and sensory impairments, can all result in a disability.

2.2 Legal framework

Uganda's Constitution of 1995 article 237 and Land Act of 1998(amended) section 3 recognizes four land-holding and tenure systems; freehold, mailo, leasehold, and customary – each with its own rules and each bestowing different rights and responsibilities concerning individuals. The Land Act established that more than 80% of land in Uganda is held under undocumented customary tenure systems, the situation for the vast majority of Ugandan men and women. The Land Act defines customary tenure as "a system of land tenure regulated by customary rules which are limited in their operation to a particular description or class of persons." It defines mailo tenure as a customary form of freehold tenure, where "holding of registered land in perpetuity and having roots in the allotment of land pursuant to the 1900 Uganda Agreement and subject to statutory qualifications."

The Constitution of republic of Uganda 1995 provides for equality, prohibits discrimination of all forms and promotes the protection of women's rights as well as affirmative action in favour of women and other marginalized groups including special interest groups (SIGS). Furthermore,

different articles of the constitution of the republic of Uganda talk about protection of the rights of vulnerable persons as follows; Article 32(1) commits the state to take affirmative action in favour of groups marginalized on the basis of gender for the purpose of addressing imbalances, which exist against them. This provision places direct responsibility on the government of Uganda to address the inequalities in access and control over land between men and women. Article 33 specifically stipulates protection of women's rights in social, economic, and political spheres. In Article 33 (6), it outlaws the laws, cultures, customs or traditions, which are against the dignity, welfare, or interest of women. Article 34 (4) mentions that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them realise their full potential and advancement.

Land Act 1998 section 59, amended 2010 provides for the establishment of Land Commission, District Land Board and Sub county Land committee. This provision does not provide for representation of Persons with Disabilities on District Land Boards and Sub-County Land committees or on the Land Commission. The traditional chiefdom in Acholi provides for representation of women at chiefdom Council but does not provide for representation of Persons with Disabilities. The Land Act of 1998 recognizes that occupancy of customary land conveys legal rights without documentary evidence, but it also provides for a "certificate of customary ownership" which can be registered with the state (all customary land may also be converted to freehold land). Unregistered customary land is vulnerable to expropriation by the government and "grabbing" by political and economic elites. According to Peter Viet, 2017, Land registration provides an added measure of protection for customary land rights.

The World Bank report on *Improving Land Governance in Sub-Saharan Africa: A Ten-Point Program to Scale Up Land Policy Reforms and Investments*, lists "improving security over communal lands," including "organising and formalizing communal groups, demarcating communal land boundaries and registering communal rights." as the first of ten key elements important for improving land administration in Sub-Saharan Africa¹. Due to the LRA insurgency, land demarcations were destroyed making it difficult for communities to clearly identify boundaries. This has escalated land wrangles between communities and families.

Uganda is a signatory to the international legal frameworks, as a member of the United Nations and subscribes to the provisions of the Universal Declaration on Human Rights (UDHR). It's a party to the Convention on the Rights of Persons with Disabilities, 2006 (CRPD) and its optional Protocol, the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights (ICCPR) the Convention on the Elimination

¹Byamugisha, Frank (2013): *Improving Land Governance in Sub-Saharan Africa: A Ten Point Program to Scale up Land Policy Reforms and Investments*. Washington DC: Agence Française de Développement & the World Bank, page .5

of all forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child. The legal instruments emphasize that landlessness threatens the enjoyment of a number of fundamental human rights. Access to land is important for development and poverty reduction, but also often necessary for access to numerous economic, social and cultural rights, and as a gateway for many civil and political rights that a person with disability should enjoy like any other person.

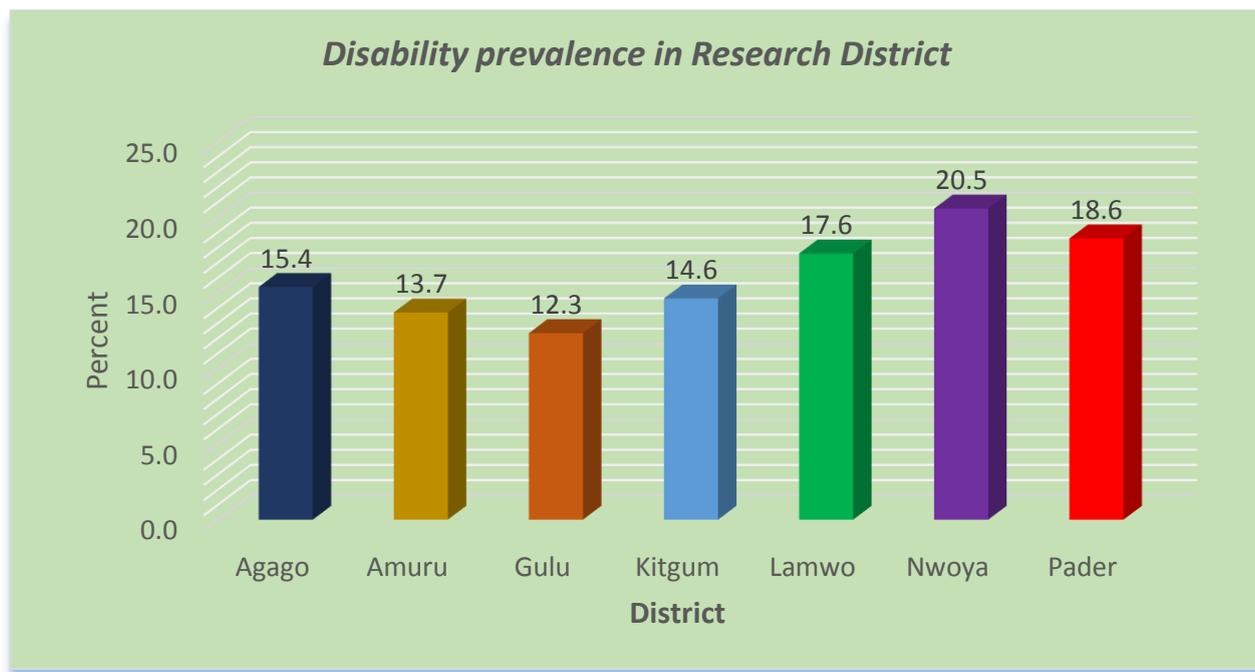
For instance, UNCPRD talks of women's right to ownership over land, property and inheritance is acknowledged in CRPD article 12's right to equal recognition before the law. Article 16 (h) accords women the same rights as their spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration. Article 17 of the UDHR states that "(1) everyone has the right to own property alone as well as in association with others [and] (2) no one shall be arbitrarily deprived of his property. Similarly, the International Covenant on Civil and Political Rights article 1 (2) 2emphasises that all people may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The FAO developed an approach of Voluntary Guidelines on Governance and Tenure (VGGT) in 2012, this provides guidance to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all and to support the realization of the right to adequate food in the context of national food security. The Guidelines contribute to the global and national efforts towards eradication of hunger and poverty, based on the principles of sustainable development recognizing the centrality of land to development by promoting secure tenure rights and equitable access to land, fisheries and forests. (FAO, 2015).

2.3 Disability population in the study Districts

The analysis of the National Population and Housing Census, 2014 data indicates that disability prevalence in most of the research districts (Acholiland) was above the national average of 14.6%. In comparison with the general population, Nwoya and Pader Districts had the highest proportion of Persons with Disabilities at 28% and 24% respectively while Gulu had the least at 15%. Lamwo, Agago, Kitgum, and Amuru Districts had 22%, 19%, 18% and 17% respectively.

Fig 1: Percentage of Persons with Disabilities in the Research districts compared to the general population

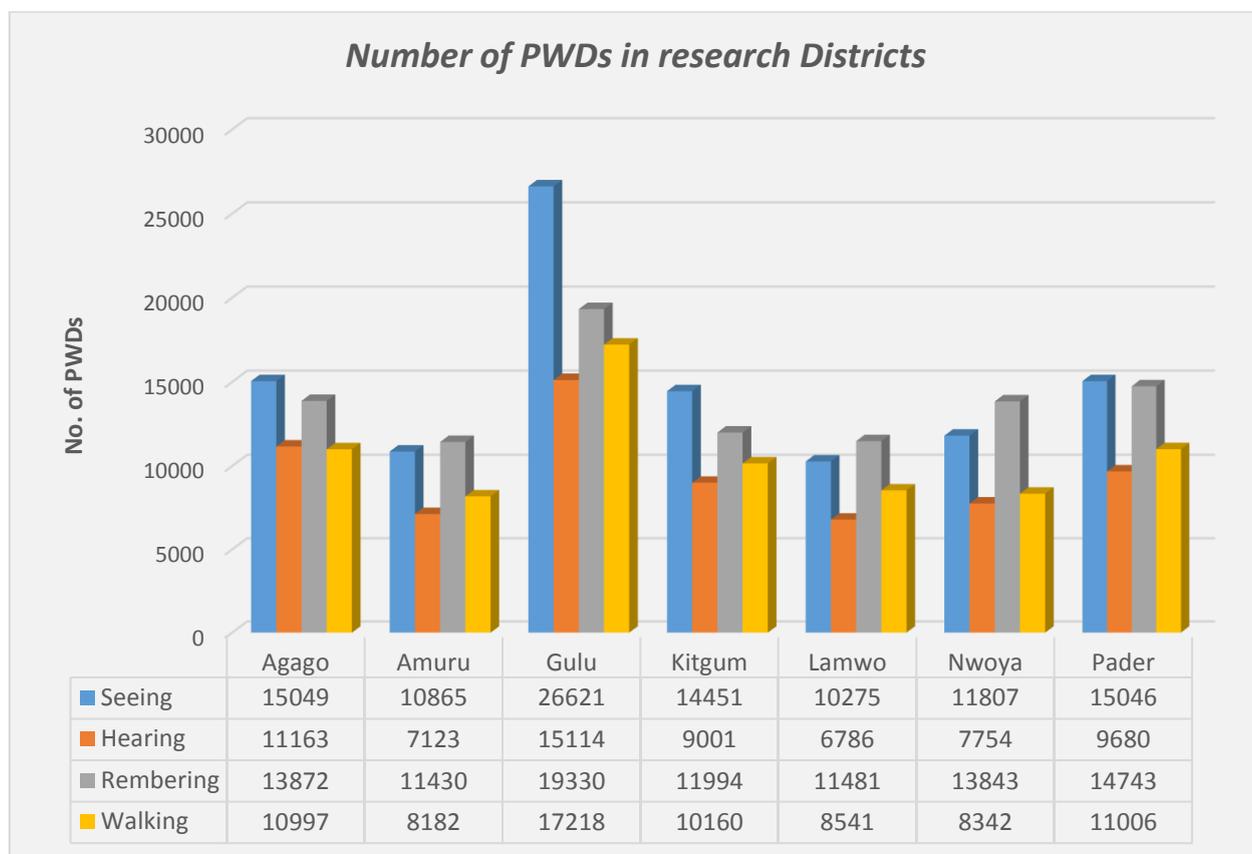


Data source: National Population and Housing Census 2014

Note: By the time of conducting the National Population and Housing Census 2014, Omoro District was still under Gulu District.

The high numbers of Persons with Disabilities in Northern Uganda could partly be attributed to the Lord's Resistance Army (LRA) insurgency. In terms of disability categories, persons with visual impairment (difficulty in seeing) were high in most of the districts compared to other categories of disabilities (refer to fig.2).

Fig. 2: Population of Persons with Disabilities in the research districts



Data source: National Population and Housing Census 2014

Note: National Housing and Population census considered four disability classifications in 2014 census, therefore some categories of disability may have been left out.

2.4 Disability and Development

Disability is a development issue, a growing body of empirical evidence from across the world indicates that People with Disabilities and their families are more likely to experience economic and social disadvantage than those without disability (WHO, Understanding disability, 2011). This is because of discrimination, it was further noted by Lwanga-Ntale (2003) that Ugandan

customary law prohibits disabled persons from inheriting land; he quoted a group of disabled women, stating that “a disabled person cannot inherit land. A brother’s child may even be preferred in inheritance if he is not disabled”

Land held under customary tenure is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies; and applicable to any persons acquiring land in that area in accordance with those rules. Customary tenure arrangements vary across ethnic groups and even clans within one group, and can change to accommodate new challenges and opportunities. While customary tenure has for generations provided security in land for the majority of people in Uganda, It has been established that the Uganda Land Act 1998 (Chapter 227) provides that if, according to local custom, a person is considered the owner of a piece of land, the laws of Uganda recognizes him/her as the real owner. The individual does not need to have any title documents, and should follow the local rules that custom has established (Peter Viet, 2011).

Uganda’s National Development Plan 2015/2019 emphasizes equal access to development opportunities by all members of society regardless of sex, gender and Disability. Nevertheless, patriarchy in Uganda runs deep and gender and disability discrimination continues to predispose Persons with Disabilities and Women with Disabilities to unequal access to productive resources like land. Social norms and cultural attitudes in Uganda, have historically imposed barriers that subject People with Disabilities to lives of unjust dependency, segregation, isolation and exclusion from mainstream society. This marginalisation has led to emotional effects on Persons with Disabilities resulting into violent tendencies towards their families and society (Human Rights Watch report, 2010).

2.5 Access to land by Persons with Disabilities

Land security in Acholi has been a focus of international interventions throughout the ten-year period since the end of the LRA insurgency on Ugandan soil. This has been in response to a number of studies predicting and later identifying massive levels of conflict over land in the wake of long-term displacement of the entire rural population. Interventions have included legal aid programmes, recording and publishing the principles and practices of customary land management, sensitizing communities and local council courts on Ugandan land law, training traditional and local council leaders in the principles of mediation, and most recently, demarcating and seeking to title land parcels (Julian Hopwood, 2017).It should be noted that there has been land conflicts in the region and there are four types of land conflicts that are broadly grouped as indicated below:

- Large-scale land acquisitions by government on behalf of private sector investors. Although these acquisitions are sometimes of very questionable legality, land law changes in the Land Policy (2013) will increase the government’s legal powers of expropriation without compensation.

- Territorial disputes between clans, or groups of clans known as chiefdoms, sometimes in collaboration with local politicians. These are particularly problematic as they generate long term inter-community hostility and violence.
- Disputes between land holding groups and institutions - schools, churches and local government - that have been 'gifted' land in the past. It is common for the current generation to challenge the (usually unwritten) terms of these 'gifts' made by their parents and grandparents, demanding payments or return of the property.
- Intra-community disputes over land access or 'rights' to particular land parcels.

Source: Mercy Corps (2011) Land Disputes in Acholi land: A conflict and Market Assessment- Acholi land.

Lumumba D, (2006) noted that through reviewing relevant documents that countries can create an inclusive enabling system of rights for Persons with Disabilities, however, the obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups through: Ratifying and domestication of the instruments; Need to remove the negative overtones within customary law; Putting in place measures where the vulnerable groups can be catered for in a dignified manner. Lumumba further noted that in rural areas, poverty is associated with lack of productive assets, particularly land. However, it has been emphasized that land is only a necessary, not a sufficient condition for moving out of poverty. Some lack skills, finance and motivation to develop it; many other poor people produce on the land but lack markets for their produce. Groups seen as particularly vulnerable to poverty include; widows, the youth, the elderly, orphans, people with disabilities (Persons with Disabilities), the displaced and refugees. There has been a lot of literature on the plight of women and less on other marginalized groups such as people with disabilities and adolescents in Uganda and minorities.

Persons with Disabilities in many countries face stigma, prejudice and social isolation, while lacking the education, social support networks, and legal right to appeal injustices at the family, community or national level (Lang et al 2011). Grace N.E et al (2015) noted that limited awareness of the laws and rights of Persons with Disabilities by the lawyers and judges often lack knowledge of the recent legal changes (such as the CRPD) or applicable laws that protect the inheritance rights of disabled persons. Traditional stigma surrounding disability may make lawyers and judges unlikely to care about supporting inheritance rights for disabled people. She further urged that individuals whose rights on property are jeopardized as a result of a socio-cultural setting, bad governance, xenophobia, poverty and marginalization, to mention but a few, which results in their exclusion from wealth creation opportunities and keeping them in perpetual poverty thus retarding their development. These groups include categories of women (who also form the majority of the poor in Uganda), households headed by men or women in

shanty parts of towns, men and women operating in the informal sector, unaccompanied youth, the orphans and communities caught up in conflict affected situations. There is also a need to consider in this category - children, the unemployed men and women, the elderly and the aged, and the unaccompanied minors.

Burke and Egaru (2011) noted in their study of effective practices of land dispute resolution in Acholi that “Acholi customary law also grants women significant land rights, and the Constitution mandates that state law prevails where it contradicts with customary law.” But they then add that controversy exists about how effective either the customary or state system is in protecting women’s rights, identifying widows and unmarried women as especially marginalized and vulnerable. “While widows should take over the land from the deceased husband and unmarried woman should receive land from her parents,” they contend that “family members often conspire to deny their rights”. Due to stigma and discrimination widowed women with disabilities face a double burden (first as women with disabilities and secondly as widows) in accessing, utilizing and controlling land inherited from their family members.

The drafting and adopting of the UN Convention on the Rights of Persons with Disabilities led to a paradigm shift that has underpinned many processes of the protection of rights of Persons with disabilities around the globe. In the Convention, the rights of persons with disabilities have been given a solid international basis and framework. (NORAD consulting Group, 2014). The CRPD reconfirms the paradigm change, from a social welfare approach to a human rights based approach and from segregated measures to inclusion. Disability is a highly political and social issue that requires changes and solutions on a societal level, where everybody has equal rights and opportunities in the social, economic, cultural and political spheres of life. A growing trend is also the more prominent position taken by Disabled Persons Organizations in arguing for their inclusion and human rights.

Women with disabilities in Amuru Sub county Amuru district pleaded with civil society organizations to help them safeguard their land. The women say that government structures in the District are too bureaucratic to save them from land grabbers in the community. Esther Amono, one of the LRA insurgency Land mine survivors from Teddi Village Acwera Parish Amuru Sub County in Kilak County, Amuru District informed a dialogue meeting organised by Action Aid Uganda that women with Disability are losing their land to grabbers due to lack of Knowledge on the referral pathways. She informed the meeting that *“We were living harmoniously until I was hit by land mine in Rec kiCyeye. That is when trouble started between my neighbour and I after knowing that I am disabled and unable to pursue the matter further than the local council locally known as RwotKweri”* (Abalolrn Otto, 2017). Such voices of Persons with Disabilities

indicate that they continue to face unjust and unfair treatment when it comes to ownership, control and utilization of land.

2. Methodology

2.1 Research Design

The primary data was collected by the JASLF/Trócaire team of researchers using a qualitative research design that utilized focus group discussion guides as tools for data collection and given to the writer to analyse. Fourteen community meetings/ focus group discussions were conducted with Persons with Disabilities within 8 Districts of Nwoya, Pader, Gulu, Agago, Amuru, Omoro, Lamwo and Kitgum. Fourteen research sites in thirteen chiefdoms were selected for this study. These included; Koch and Bwobo-Manam chiefdoms in Nwoya district; Pawel and Pabbo chiefdoms in Amuru district; Patiko chiefdom in Gulu district; Puranga chiefdom in Omoro and Pader Districts; Pajule chiefdom in Pader District; Lira Palwo and PalutiKwong chiefdoms in Agago District; Chua and Labongo chiefdoms in Kitgum District; Lokung and PalabekKal chiefdoms in Lamwo District.

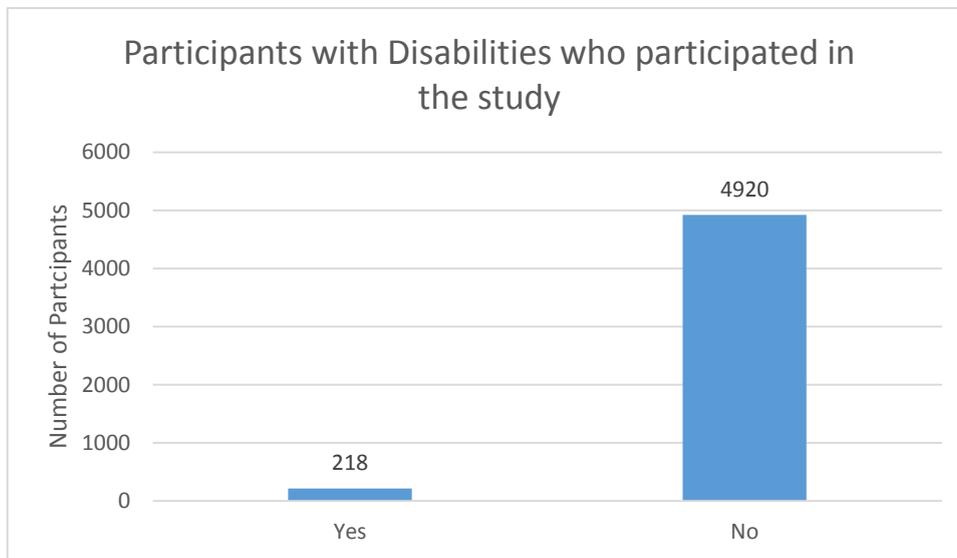
The consultant reviewed and improved PWD tool and trained the research Assistants on the tools and the ethical considerations to follow while collecting data from Persons with Disabilities before commencement of data collection exercise.

Qualitative data was cleaned, analysed, and collated using constant comparison analysis (Leech and Onwuegbuzie, 2007: p. 564). Constant comparison analysis involves reading through the entire set of data, chunking the data into smaller meaningful parts, coding those parts, labelling similar chunks of data with the same codes, grouping the codes by similarity and identifying themes from the grouped codes of data using yellow highlighters and stickers.

Finally, interpretation was done by composing explanations and descriptions from the themed data from which conclusions were generated.

2.2 Demographic Information

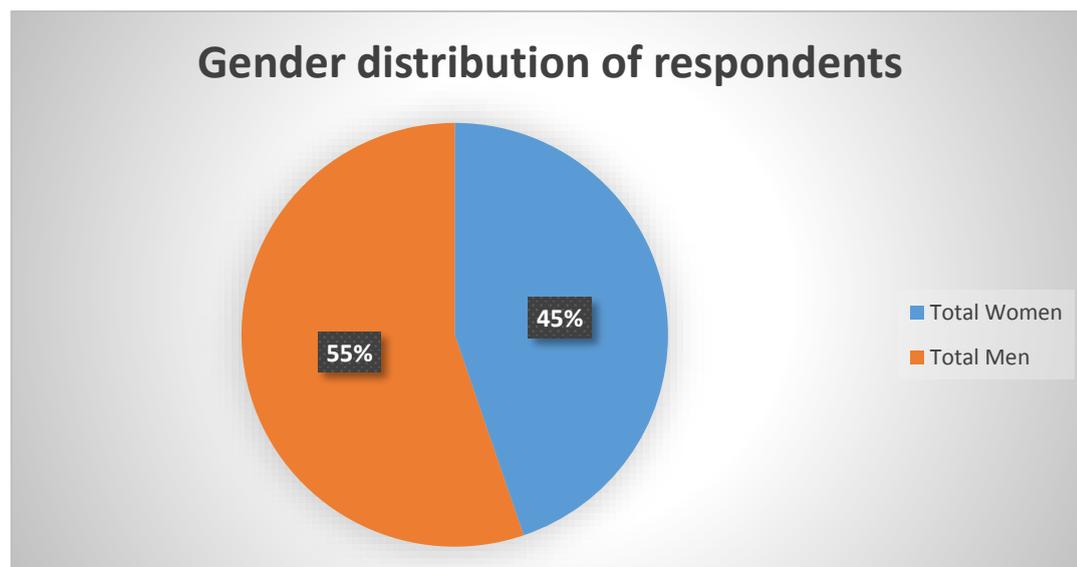
Fig.3: Participants with Disabilities that took part in the Study



Source: JASLF/Trócaire Research, 2017

A total of 5,138 participants were involved in the study of which, 4% (n=218) were Persons with Disabilities. Given the population of Persons with Disabilities in community, the sample was representative enough to provide sufficient information on the access to land rights for Persons with disabilities in Acholi Land. The data discussed in the study findings was only based on information gathered from fourteen Focus group discussion as described above.

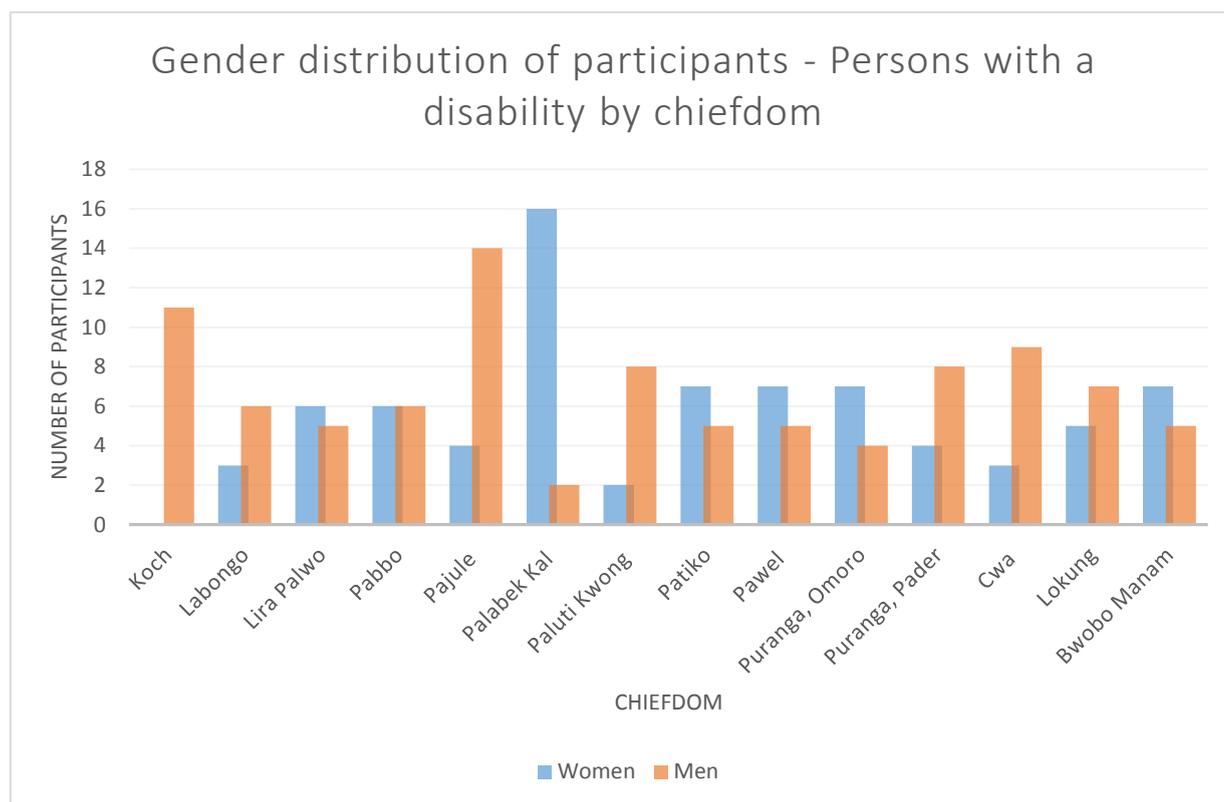
Fig 4: Distribution of Participants with Disabilities by Gender



Source: JASLF/Trócaire Research, 2017

Basing on the attendance lists of community meetings/focus group discussions, 55% of persons with disabilities interviewed were male and 45% were female. This was done to collect equitable information that gives views of women and men with disabilities that fact that women with disabilities are facing double discrimination when it comes to access to land in most communities in Uganda due to cultural and social attitudes towards them.

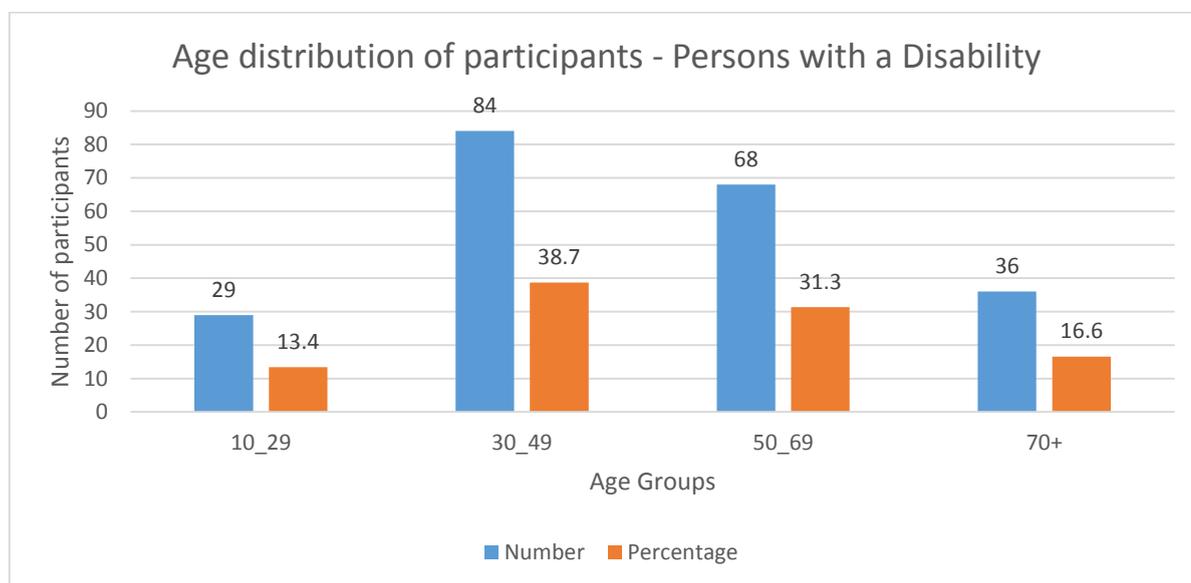
Fig.5: Gender distribution of participants with a disability by chiefdom



Source: JASLF/Trócaire Research, 2017

The above graph illustrates the gender distribution of respondents with a disability by chiefdom where FGDs were conducted. Among the 14 research sites, PalabekKal chiefdom had a higher proportion of female respondents as compared to males whereas Pajule chiefdom had a higher proportion of male respondents as compared to females, while Koch chiefdom only had male respondents.

Fig 6: Age distribution of Participants with Disabilities



Source: JASLF/Trócaire Research, 2017

As shown in figure 4, majority of participants with a disability fell in the two age categories of 30-49 and 50-69 both more than 30% of respondents while the age groups 10-29 and 70+ years had the least number of participants with a disability.

2.3 Limitations of Study

Data validation was not well conducted. There was a lot of data collected and transcribed without indicating the sex, age, disability type and location of respondent. This made analysis difficult especially in identifying unique issues affecting different categories of Persons with Disabilities in specific chiefdoms.

The data was not properly transcribed. Only statements were captured and included in the excel sheet. Some data and or interesting statements could have been lost. It should have been ideal for the researcher writing the report to extract data verbatim from the field notes and transcribed notes from the recordings.

Disability is an area that is not well studied in terms of research, collecting sufficient literature to inform the study is little challenging, and it is tedious and time consuming.

3. Presentation and Discussion of Findings

3.1 Knowledge about land rights

The research found out that majority of the Persons with Disabilities in the 8 districts (Gulu, Nwoya, Agago, Pader, Kitgum, Lamwo, Amuru and Omoro) in the region knew that they have a right to inherit, own and utilize the customary land because of being children of the particular family or clan by birth. In terms of management of the customary land, Persons with Disabilities reported that the land is owned by the family head, clan leaders on behalf of the members. Any person in the family or community has a right to access and use the customary land.

Regarding the communal land, almost all participants agreed that any persons in the community have a right to use the land. They reported that the communal land is managed by the clan leaders and or government and no one is entitled to sell it. A Participant with Disabilities noted; *“Anybody born in that family including boys and girls, person with disability is entitled to land. All children born and stayed in that specific clan have rights to settle, utilize and own the customary land. Communal land is for everybody even someone who does not belong to that clan can be given a piece to stay in, person with disability also have rights to settle, utilize or own customary and communal land so long as he or she was born from that clan and the father belongs to the clan.”* **A Person with Disability, PalabekKal chiefdom, Lamwo District.**

Another participant with disability emphasized that, *“All people have rights to settle in, utilize or own land but the elders of the clan are the ones who always have authority over it and for the youths they consider them unable just because some of them have too much desire for money and end up selling land.”* **A Person with Disability–Pajule Chiefdom, Pader District.** However, the perception on the right to settle, utilize, own and sell customary land was different in Nwoya District where the majority (80%) of the Persons with Disabilities reported that they can settle and utilize land but not own or sell it at their own will. They reported that men in different chiefdoms have the supreme rights over the land and can sell, own, settle and utilize it. Women with disabilities who are married to the different clans are only allowed to settle and utilize but not own or sell it. Similarly, the study findings indicated that children who are born of disabled persons in the clan (Kaka) have rights over the land and can use the land but not to own the land. During Focus group discussions at chiefdom level, a participant said, *“People with disability are not allowed to sell land but they can settle and utilize land because they are considered to be weak always and do not know land issues”* **A Person with Disability Bwobo-Manam chiefdom, Nwoya district.**

Whereas the majority of the Persons with Disabilities reported that they have rights to access land, their rights are denied by the family, community and clan leaders because of their disability. Persons with disabilities reported that because they are not strong enough to utilize

a big chunk of land, they are given small pieces by their parents and clan leaders compared to other able bodied siblings. *“We have no land rights and we are given small plots to use because we are weak, there is no one to stand in for our rights”*. **A Person with Disability in Puranga chieftdom, Omoro District.** This is done because the community perceive Persons with Disabilities to be physically weak and unable to utilise land for development.

3.2 Persons with Disabilities Access to Land

Persons with Disabilities reported that customary land can be accessed through parents, grandparents or clan leaders who are the custodians of the land. It was established from the information gathered that children born in the family gain access to the land through their parents. The communal land on the other hand is managed and given out by the clan head and his executive to whoever wants to use the land. It was established from information gathered that in the case of children born in a family, the head of the household who is the father, holds a family meeting with the children and allocates land per the responsibility at hand on each child. Sons with wives are given a larger proportion of land and the others without are given a relatively smaller portion of the land.

Participants reported that the responsibility of the clan head together with his executive is to allocate land to be used for grazing, farming and for other purposes, and then various sub clans and household units take it upon themselves to give out land to the household members or sub clan members to use accordingly. Persons with disabilities rights to customary land are not respected since many of them have been chased away from the land allocated by their families. Through analysis, it was established that able bodied persons grab land forcefully from Persons with Disabilities in their communities/families most especially when they realize that their energy is going down, they are unable to utilise their land effectively, more to note was that leaders in their areas are not supportive whenever they face such challenges. This was reported that *“leaders who should support us to protect our rights over land issues are in most cases bias and rule in favour of the able bodied people especially the Rwothkweri are not supportive to our rights of land ownership”* **A person with disability in Bwobo-Manam chieftdom, Nwoya District.**

The research established that Persons with disabilities are not given equal chances with their counterparts who have no disabilities in land access which has affected their opportunities for growth and development like any other person in society. It was reported that *“People without disabilities have taken bigger plots than us because we have no voice and energy to struggle for our land. Our children end up suffering. For us Persons with Disabilities, in most cases people think that having a disability is a curse, to the extent that they take us to be people who are not productive. Because of all these, we are always given land for settlement but not for other*

purposes like farming among others". A **Person with Disability in Pajule chiefdom, Pader District**.

It was further noted that during the allocation of clan or community land, Persons with Disabilities are segregated and are never involved. *"We are segregated when allocation of land is carried out because we are not involved and we are given smaller portions compared to those with no disabilities"* A **Person with Disability from Pawel Chiefdom, Amuru District**. The above scenarios may indicate that Persons with Disabilities are left at the periphery when it comes to access, ownership and control of land. Persons with Disabilities are not consulted during the distribution of family land. As a result, they are allocated small plots for their settlement.

3.3 Persons with Disabilities Rights to Access Customary and Communal Land within Families, Chiefdoms and Clans

The majority of respondents interviewed noted that in their community a people who have rights to settle, utilize or own customary land are children born to the members of that clan "kaka". These are people who belong to that clan most especially male children born in that chiefdom. Whereas Persons with Disabilities believed that they have rights over customary and communal land, the majority reported that their rights are alienated basing on their disability. This was reported to be worse among women and girls with disabilities. Women with disabilities noted, *"Due to our personal inabilities, our rights to customary land has been ignored completely because we are always considered as disabled people who don't need land"* A **woman with Disability in Lira Palwo chiefdom, Agago District**.

Much as some Persons with Disabilities reported to have rights over land and have been accessing it, there were those who believed that family and community members deny them a chance to access, utilize and own land. They reported that because of their disability, their land is taken away by family members who think they don't have capacity to utilize all the land given to them by the parents/grandparents. Another Person with Disability also said; *"As people with disabilities our rights to customary land is not there completely. Many of us are chased away from the land allocated to us. People without disabilities grab our land by force especially when they realize that your energy is going down or you are unable to dig as it was before"*. A **person with Disability in Bwobo-Manam chiefdom, Nwoya District**. Another female with disabilities emphasized that they are despised even by their own clan members and have no representatives at the chiefdom level. More to note was reported by another female who said, *"Us as disabled women, if you lose your husband sometimes your land is encroached on by his relatives"*. A **female with Disability in Lukung chiefdom, Lamwo District**.

Women with Disabilities that are married within the clan are allowed to utilize the land like other women, people with disabilities have full rights just like any other person in the family or clan to settle in, utilize the land, however in some clans and chiefdoms they have been denied the right to utilise, they are made dependant on other family members for survival which has limited their development potential. A person with disabilities reported that everyone in Acholi land does not own land but clan leaders and chiefs have used their powers to take decisions on their behalf, he stated *“Ladit gang or Ladit kaka: Family Heads and or Clan Heads all have rights to settle in, no one is allowed to own land as an individual but provide custody on behalf of the family and the clan”*. **A person with disability in PalabekKal chiefdom, Lamwo District.** It was further observed that customary land is meant to be utilised by various households and clans including people who are born into that customary land or grew up on that land and a woman/widow who has lived on this land for a long time. It should be noted that Persons with Disabilities have equal rights to access, utilize and manage communal and customary Land in Uganda since they are born in the family, they have their rights equally compared to able bodied siblings but still when it comes to land distribution by their fathers they are given small pieces of land since they are considered to be less energetic to do a lot on huge pieces of land which may not be the case. It was emphasized by another participant that *“We are cheated in the share of customary land when the family has decided to divide the land among children. Persons with Disabilities are always given smaller portions.”* **A Person with Disability from Koch Chiefdom, Nwoya District.**

In the focus group discussion, Persons with Disabilities reported societal misconceptions and cultural beliefs that lead to discrimination to have affected their access to customary and communal land in Acholi region. They are looked at as persons who do not deserve to access and own land in some communities, a Person with Disability said *“For us Persons with Disabilities, in most cases people think that having a disability is a curse, to the extent that they take us to be people who are not productive Because of all these, we are always given land for settlement but not for other purposes like farming among others”*. **A Person with Disability, Puranga chiefdom, Pader District.**

Persons with Disabilities reported that they are not always given opportunity to use communal land because they cannot move long distances where the communal land is located, it's a negative attitude which has been an undoing for persons with disabilities being covered with “self-pity”. A Person with Disability said; *“Land is hereditary. We are born not knowing about it, but acquire land that our ancestors used, for generations. Therefore, we acquire it from our parents and relatives.”* **A Person with Disability in Puranga chiefdom, Omoro District.**

Cultural and societal misconceptions have led to discrimination of Persons with Disabilities, some families are not treating children with disabilities equally with other children; this has been reported in different reports related to disability. For instance, Groce, 2014 reported that

Disabled women are at increased risk of being denied inheritance rights and this is a contributing factor to their increased risk of greater poverty. This was emphasized by a person with disability in one Focus group discussion, who said, *“As people with disability, we are always given little portion because our fathers say we don’t have energy to cultivate a big portion of land. We are not always given communal land because they think that Persons with Disabilities cannot move far so it’s only given to able individuals”*. **A Persons with Disability in Cwa Chiefdom, Kitgum district.**

The cultural and societal misconceptions can be attributed to individuals’ negative attitude towards disability and not necessarily overall community practice or guidelines. Family and community members who are positive and respect the rights of persons with disability over land, allocate to them land equally like any other persons in the family or community. However; those who have a negative attitude towards disability, deny them a chance to fully access, own and utilize the land. However, it was established that Persons with Disabilities have self-pity which have kept them behind in land utilisation. For instance a person with disability reported that *“We have less energy to do farm work because of our problem of mobility, we cannot move to the sub county and the district court, as the result we suffer a lot from where we are”*. **A Person with Disability from Paranga Chiefdom, Pader District.**

3.4 Land Management and Utilization by Persons with Disabilities

In Acholi land, the communities believe that land management and utilization is by the clan leadership “Rwot”. The use of the land is usually over seen by elders, clan heads or other assigned committees to ensure the rights of the entire group are being honored. The elders also have the powers to manage family land and conduct distribution for utilization to clan/family members. Heads of households especially the men in the clan are regarded as trustees of the customary land. Persons with disabilities are not managing customary land unless appointed by the family member which is not common. In limited circumstances family heads of extended families have powers to manage and utilize the customary land.

Those who are mandated by the communal law to manage land include Elders, and grandparents, males and females of 50 years and above. It is believed that elders above 50 years are knowledgeable about the history of the clan, clan members, extended families, and household members. It was noted that elderly male sons are the ones responsible for management of the family land and the elders in the particular clan. It was also noted that there are clan leaders elected who are responsible for management of customary land and these include Chiefs, “Rwotmoo” and rwotkweri, Rwotokoro, Rwot-Acana and Jago (Clan head) referred to clan executives. A participant with disabilities reported, *“There is a lot of insult on us that we are disabled and land is no longer important to us and we are denied the rights to own land sometimes we need to be helped in such cases, our rights as persons with disability is constantly abuse”*. **A Person with Disability in FGD in Palabek Kal Chiefdom, Lamwo District.**

At family level, the family appoints a male elder to manage the land on behalf of the family, often Persons with Disabilities are not given such opportunities even if they are the elder male in the family. According to Esther Obaikol (2014), the male elders are the custodians of customary land in most communities and determine distribution of the land. However the family rather than the community has more control in the land utilization, and individuals in the family are allocated land. Allocations are only made to male members of the household with very few exceptions. In many places in Uganda customary land has tended to become more individualized and though not initially acceptable, incidents of sale are very high. It was noted that Persons with Disabilities have user rights but they do not manage and effectively utilise the customary and communal land. A participant with disabilities said that *“Communal land use, they first sit down, agree whether to sell it so that it helps in fulfilling other responsibilities in the households like educating children in the entire clan”*. **A Person with Disability in Pajule, Pader District.**

It was observed that land is a resource that every Ugandan in society requires to have access to; it fulfils basic necessities of life. However, it was reported that if a person with disability does not have someone to support them to secure land they use for their development, the elders will chase them away from the land. *“If you don’t have someone to support you the elders will chase you away from the land”*. **A Person with Disability from Cwa Chiefdom, Kitgum District.** On the other hand, Persons with Disabilities who cannot walk (physical disability) reported that they do not have access to communal land because it is located far away from their area of residence. *“Our rights to customary and communal are not being observed completely this is because the able people do not always consult us when they want to use land especially us people with disability who cannot walk, for example I have been denied the right to cultivate our land because I am a female disabled person. I am currently hiring land for cultivation”*. **A Person with Disability from Lira Palwo Chiefdom, Agago District.**

3.5 Involvement of Persons with Disabilities in Solving Internal land Wrangles

Persons with disabilities have limited participation in land dispute resolution in the community; this is due to negative attitudes, myths, misconceptions and superstitions against them. Family, community and clan leaders believe that Persons with Disabilities have no power and so cannot influence decisions. There are a lot of factors that affect Persons with Disabilities from participating in internal land wrangle resolutions. Some of the challenges identified include mobility challenges, non-recognition of Persons with Disabilities rights by family and community leaders, negative societal attitudes, lack of clear structures to involve Persons with Disabilities, inadequate coordination and inadequate access to information by Persons with Disabilities (failure by community leaders to convey information in accessible formats to reach all categories of disabilities like deaf, blind and persons with psycho-social disability).

Due to mobility challenges, when meetings are held in far places, Persons with Disabilities do not attend because of transport and long distance. In some cases, because Persons with Disabilities are not respected, they are kicked out of the meetings regarding land wrangles and only the clan, elders of the family, Local council and other people are involved. However, Persons with Disabilities also indicated that they can be valuable resources when consulted on land matters, they can advise, influence decisions and guide the people on land issues. *“As Persons with Disability, we are under rated as inferior, referred to as useless people. However, given opportunity, we can give our opinion on issues related to customary land”* **A Person with Disability from Pabbo Chiefdom, Amuru District.**

Another participant reported that, *“As Person with Disability I know the land boundaries and I have a lot of knowledge concerning the land. I definitely have the right to get involved in the land issue in case there are internal problems, as a Person with Disability I have a say regarding the customary land because that is where I belong. I should be involved in each and everything that takes place in that because we are all the same. For example we had land conflict at our home to the extent that we had to go to court of law we went up to there and we won the court case because we were right.”* **A person with Disability from Palabek Kal Chiefdom, Lamwo district.** This is a clear indication that Persons with Disabilities in most of the Chiefdoms are rarely consulted in settling land issues.

4.6 Challenges

Negative societal attitude and perceptions towards Persons with Disabilities: Basing on the information gathered from the research, Persons with Disabilities reported that their able bodied counterparts think they are of no value; they do not have capacity and ability to utilize and manage huge chunks of land and their health is fragile. Persons with Disabilities are being regarded as dependents and not given the land and thought to be unable to use land. A Person with Disabilities said *“The voice of the disable people are not considered over land ownership and in the decision making in the community on land “*. A person with Disability from Bwobo-Manam chiefdom, Nwoya District.

Discrimination of Persons with Disabilities by their Parents and community leaders: Most parents do not love their children with disabilities because they believe they are unable to utilise the land and that they do not contribute anything in the family. Disability based discrimination is usually experienced from the immediate family members to the community in which Persons with Disabilities live. **A Person with Disability in Pajule Chiefdom, Pader District** noted that *“Persons with Disabilities are not loved by their parents, always segregated which makes them feel so deserted and demoralized in whatever they do”*. It was further emphasized by another respondent that *“In most cases people think that having a disability is a curse, to the extent that they take us to be a person who is not productive, because of all these, we are always given land*

for settlement but not for other purposes like farming among others”. **A person with Disability from Puranga Chiefdom, Pader District**

Stigmatization and discrimination of Persons with Disabilities has affected their access and utilization of communal land. Persons with Disabilities are looked at as persons with no capacity to utilize the land by calling them names and keeping them under caretakers who think and take decisions on their behalf. A respondent noted, *“As People with Disabilities, we face a lot of challenges on land issues, people who have money (Rich men) always takes away our land, there is unequal distribution of land among the chiefdom members which does not favor us, there is disrespect and undermining on the people with disabilities in the chiefdom, ignorance from leadership structures and also we are not being considered for the meetings and during meeting as well.”***A Person with Disability in Labong Chiefdom, Kitgum District.**

Inadequate consultation of Persons with Disabilities during land distribution: Persons with Disabilities reported uninformed consent on issues of land distribution by family and clan members. A majority of Persons with Disabilities reported that there are always disagreements when it comes to apportioning land to the family members, most of them reported family members do not listen to them and they give them small land by force. Persons with disabilities are often not involved in decision making on land matters of the family yet they reported to be aware of the land boundaries and have a lot of knowledge concerning their communal/customary land. A respondent with disability said, *“Much as there are laws that stipulate that there should be inclusion of people with disability in all issues people in the community still take advantage of our disability to deny us full access to customary land for example they can take matters of land resolution very far and they do not inform us so we cannot even be able to attend these meetings.”***A Person with Disability in Pajule chiefdom, Pader District.**

Equality on Land Management and utilisation: Persons with Disabilities belong to all clans and should be involved in each and everything that takes place on that piece of land because they have equal rights like all their counterparts. But sometimes people do not appreciate them, for instance people with disability have had land conflict in their communities the extent that they had to go to courts of law. It was reported that Persons with disabilities fail in courts due to failure to facilitate them as reported by one of the participants, *“Due to limited resources, Persons with Disabilities face challenges in following up cases of land conflicts which have been taken to court”.* **A person with disability in Bwobo-Manam, Nwoya District.**

Mobility challenges to attend courts and land meetings: Most Persons with Disabilities do not report cases of land wrangles to the authorities. They lack transportation means. For instance a person with physical disability at times uses a wheelchair that needs an extra cost to transport, also persons with visual impairment require a guide to guide their movements and the deaf

persons require a sign language interpreter and all this necessitates extra costs of transport. They end up failing to move because of the cost of transport involved, the distance to court and the duration the court takes to handle land matters.

Limited financial capacity: Persons with Disabilities lack capital and finances to invest in land. This has affected most Persons with Disabilities since they are known to be among the poorest of the poor and do not have finances and capital to invest in their land, this has increased risks of losing the land to those who have capabilities to utilise it. The fact that poverty and disability are related, it has affected the Persons with Disabilities motivation to participate in community affairs like able bodied persons because many people in the society do not respect the basing on their social class, some Persons with Disabilities have turned to hand outs and they are seen as burden to their families and communities.

Limited representation of Persons with Disabilities at the Chiefdoms: Persons with disabilities in Acholi land have been left behind in Land matters due to inadequate representation at the chiefdom level. It was reported that, *"We still do not have enough representation in the higher positions like at kerkal level or committee in charge of land."* **A person with disability in Lukung Chiefdom, Lamwo District.** It should be noted that without a voice on such committees, issues of Persons with disabilities as regards to land matter scan easily be ignored or neglected consciously or unconsciously.

Misinterpretation of customary land laws: Studies have established that decades of displacement have eroded people's understanding of customary law while some youth born in the camps have no knowledge on how land is traditionally governed. Many are also ignorant of the rights of widows and orphans under customary law and as such, some have found themselves 'chased away' from land that is rightfully theirs. (URI& ARLPI, 2012).

5. Conclusions, Best Practices and Recommendations

5.1 Conclusions

Disability is a development concern that requires attention if Uganda is to attain the sustainable development goal¹ which is geared towards eliminating poverty. It was established that Land is an important resource for development mostly in Uganda where agriculture is the major source of income. Most Ugandans in rural areas earn their living through farming on their land, however Persons with Disabilities in Acholi are deprived of that right because of societal beliefs, lack of financing, ineffective representation in leadership positions, lack of representation on Chiefdoms that have powers on management and land allocation. To ensure Persons with Disabilities are not left behind, there is need to advocate for inclusion, law enforcement, raise awareness about the laws that govern land and inheritance rights, avail assistive devices to

Persons with disabilities and ensure they are aware of the laws that are land related in the country.

To achieve inclusive usage of land by all residents of Acholi land, good governance in land administration is not a new issue, and is as important in the developing world as it is in developed countries. Land is increasingly becoming an important governance issue. It is recognized that undivided political commitment is required to handle land governance matters. Good land Governance is critical in managing the growing pressure on land as a result of population increase which has led to an increase in land conflicts and disputes (Amongi Betty, 2017).

5.2 Best Practices

5.2.1 Best Practices from the Research Findings

In Pajule Chiefdom Pader district, it was reported by some Persons with Disabilities that they have full rights to land utilization and ownership because they are born from that clan and were given an opportunity to utilise land for their personal usage and gains, this indicated how their rights have been protected by clan and family members. This is a good practice that should be replicated in all other chiefdoms to enable Persons with Disabilities have full control over their land. However, land is mostly used by Persons with Disabilities for food cultivation and on limited scale. A respondent with disability said, *“The customary and communal land given to me, I will use it for cultivation of food stuff for feeding and others I sell. Then after sell the harvested product then buy animals”*. A Person with Disability from Labongo Chiefdom, Kitgum District.

In Pabbo chiefdom, Amuru District; some Persons with Disabilities reported to have accessed land like any other person in the home regardless of their disability. *“Where I come from I was given land equally the same portion by my grandfather (maternal) with his children though the worry is when he is not there (gone), his children might mistreat me since culture doesn’t allow maternal grand children to acquire/inherit customary land except from their father’s home.”* **A Person with Disability in Pabbo Chiefdom, Amuru District.**

The legal recognition of Disability with in Uganda is important for inclusion of persons with disabilities in development work. Uganda government has enacted enabling laws and policies that cater for the rights of vulnerable persons including persons with disabilities, the government is also a signatory to the UNCRC and the sustainable development goals whose slogan is “leave no one behind”, these instruments are paramount on all issues of development including access and utilization of Land in Uganda.

There is exhibited partnership between different organizations in Acholi land that protect and promote land rights of all citizens. They have included issues of disability in their program work

a gesture that all persons are catered for and persons with disabilities issues will be solved. This is done by organizations like Gulu Association of women with disabilities, Action Aid, FIDA, and UHRC among others.

5.2.2 Best Practices from related Literature

The best way to protect land from grabbers in customary law, Persons with Disabilities should apply and secure certificates of customary ownership. This is done through submitting an application to the sub-county area Land committee with a fee to be registered as the owner of the land in application. (URI& ARLPI, 2012). This is being done in Acholi region, Persons with Disabilities should appreciate the process to support the process.

Uganda Government established the Uganda Land Commission (ULC) using the 1995 Constitution of the Republic of Uganda. The Constitution provides for the setting up of Uganda Land Commission as an autonomous body; this has been accorded the budget vote and its operational, many regions have used it to solve their land issues, which Persons with Disabilities in Acholi region should take advantage of to solve their Land wrangles by petition the commission to resolve their land conflicts.

Persons with Disabilities should also make use of the good laws in Uganda for instance; the Issuance of Certificates of Customary Ownership and Occupancy. In Uganda, approximately 80% of the land is held customarily and highly unregistered. The Government of Uganda enacted the 1998 Land Act that provides for issuance of Certificates of Customary Ownership and Certificates of Occupancy, this program is pro-poor and looks at protection of women, Persons with Disabilities and other vulnerable groups and families. (Amongi B, 2017). She further noted that Uganda Government have come up with mechanisms to address land disputes in a speedy manner including strengthening the legal framework, institutional capacity and procedural linkages between land administration institutions and the Judiciary and also by establishing a clear hierarchy for dispute resolution to guarantee fairness, promptness, finality and authoritativeness of decisions over tenure rights.

5.3 Recommendations

5.3.1 Recommendations from the Research Findings

1. Recommendations to cultural Leaders:

Persons with Disabilities recommend that 'KerKal' Chieftdom to be in charge of land management and administration. Persons with Disabilities further recommends to be involved in land management by providing them with a representative at KerKal in order to be in position to have a voice to air out their issues. The cultural leaders should be organised, appreciate the

legal instruments that govern land within the country in order to do perform their duties effectively.

There is need for continued awareness raising on the traditional land laws and policies that protect the land rights of all persons in Uganda with keen interests on those that are disability specific. A person with disability said, *“Land issues should be handled at local level i.e. chiefs, land protectors and LC1 because courts of law take too long to resolve land disputes some taking up to 5 or 10 years. The government magistrates sometimes are from other parts of the country and brought to Patongo court who don’t know land boundaries and will not move out in the community but request for 200,000/= and also at sub county level the person is required to pay 50,000/= for feeding the negotiation team”***A Person with Disability from Agago District.**

The land boundaries should be re-opened using natural land marks like stones, trees and others; participants suggested that Government should not get involved in land matters since they do not know the boundaries. However, there is no way to neglect all arms of Government because Land conflicts require security of the parties involved, the court and the judiciary needs to be involved to resolve the conflicts. The sale of customary land should be restricted and managed communally. The research established that land is being sold in Acholi to re-invest in motorcycle businesses and migrations to towns. A persons with disability reported *“One assessed his rights that it was ok because he was given a big piece of land, he sold some to marry his wife, also built a home, grazes his animals on it, bought a motorcycle and no one disturbed him”*. **A person with Disability in Pajule Chiefdom, Pader District.**

2. Recommendations to Land users:

To reduce selling of land in Acholi land; the study recommends awareness raising on the dangers of land sale so that the vice is eliminated mostly among the youth to save the land and reduce the number of homeless through loss of land. Participants in the study suggested that heavy punishment should be given to those who sell customary and communal land, a participant said, *“Customary land is never to be sold, it’s the land that has been meant to feed our children and our grandchildren, so selling of this land should be prohibited.”***A Persons with Disability in Puranga Chiefdom, Pader District.**

The participants also suggested restoration of live demarcations for instance planting trees on the boundaries to avoid land wrangles. This has been done traditionally in all communities in Uganda mostly by those who are not in position to survey their land.

3. Recommendations to civil society organisations:

Mass sensitization of the community should be emphasized to appreciate the need to include Persons with Disabilities in land governance of Acholi land. A respondent suggested that *“All the community should be sensitized to acknowledge PWDs as “FULL” human beings not “HALF” creatures and therefore accorded respect and our opinions taken into considerations”*. **A person with Disabilities in Koch chiefdom, Nwoya District.**

To achieve inclusion of persons with disabilities in the development agenda, societal attitudes that progressively lead to stigma and discrimination should be eliminated in society and this can be done through awareness raising on fundamental human rights, advocacy and empowerment of persons with disabilities to protect and promote their rights. A person with disability suggested that *“Trócaire should bring in individuals or an organization to stand in for us and raise our voices as soon as possible”*. **A person with disability from Puranga Chiefdom, Pader District.**

4. Recommendation to Government

There is need to provide information related to rights of Persons with Disabilities, the Government should build networks with disabled peoples’ organizations and other human rights bodies to raise awareness of the public about Persons with Disabilities’ Rights. For instance, the UNCRPD and other existing legal frameworks to protect and promote the rights of Persons with Disabilities and uphold the Sustainable Development Goal. Also, the Land policy and the Land Act needs to be reviewed to provide for representation of PWDs on relevant Land Boards, Commissions and Committees.

References

1. Abalo Iren Otto (2017) Persons with Disabilities in Amuru speak out on Land Wrangles, The sunrise. www.sunrise.ug.

2. Amongi Betty (2017) Improving Land Administration for Good Governance; What Uganda can do to achieve complete Coverage. World Bank. Paper presentation
3. Atieno Mboya Samandari¹ (2017) Gender-Responsive Land Degradation Neutrality, Global Outlook, UNConvention to Combat Desertification, working paper.
4. Burke, C. & Egaru, E. (2011, November). Identification of good practices in land conflict resolution in Acholi. Kampala: UN Peace building Programme.
5. Byamugisha, F. (2013). Improving land governance in sub-Saharan Africa: A ten point program to scale up land policy reforms and investments. Washington DC: Agence Française de Développement & the World Bank.
6. Cooper, E. 2010 "Inheritance and the Intergenerational Transmission of Poverty in Sub-Saharan Africa: Policy Considerations." Working Paper 59. Chronic Poverty Research Centre
7. Cooper, E. (2010) Women and Inheritance in Five Sub-Saharan African Countries: Opportunities and Challenges for Policy and Practice Change. Paper presented at the 'Ten Years of War against Poverty' conference, Manchester.
8. Esther Obaikol (2014) The Implementation of the Land Governance Assessment Framework in Uganda: http://siteresources.worldbank.org/INTLGA/Resources/Uganda_Draft_Report.pdf
9. Elisabeth Wickeri and Anil Kalhan: Land Rights Issues in International Human Rights Law. https://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf
10. FAO (2017) http://www.fao.org/gender-landrights-database/country-profiles/countries-list/land-tenure-and-related-institutions/en/?country_iso3=UGA
11. FAO (2015) Enhancing Forest Tenure and Security in Uganda, Thinking beyond the forest cover and canopy, A policy brief. <http://ufwg.envalert.org/wp-content/uploads/2016/08/Enhancing-Forest-Tenure-and-Security-in-Uganda-Policy-Brief.pdf>
12. Groce N.E et al (2014) Inheritance, Poverty, and Disability, Disability and society online publication, Cross Mark, London, UK.
13. Julian Hopwood (2017) Land Conflict and security in Acholi Northern Uganda, JSRP Policy brief 7.
14. Land Rights for African Development From Knowledge to Action, UNDP, 2006, https://commdev.org/userfiles/capri_brief_land_rights.pdf
15. Lang, R et al (2011). Implementing the United Nations Convention on the rights of persons with disabilities: principles, implications, practice and limitations. ALTER-European Journal of Disability Research.
16. Madeleine Weber (2015) Property and Land rights Issues, <http://www.wri.org/blog/2015/03/4-property-and-land-rights-issues-explained-through-videos>
17. Mercy Corps (2011) Land Disputes in Acholi land: A conflict and Market Assessment-Acholi land.
18. Nora Ellen Groce, Jillian London & Michael Ashley Stein (2014); Inheritance, poverty, and disability, Disability & Society, Taylor and Francis.
19. Norfolk, S., & De Wit, P. (2011). Assessing Land Access in Agricultural Development Projects in Eastern and Southern Africa: Report on a visit to Uganda (Unpublished Report for the Bill & Melinda Gates Foundation). BMGF.
20. Uganda Bureau of Statistics (UBOS), National Population and Housing Census 2014
21. Uganda's Constitution of 1995
22. Uganda Land Act of 1998
23. Uganda Land Policy 2013
24. Uganda National Census Report 2014
- URI & ARLPI (2012)** A Must Guide for Stake Holder Mediation, Sensitization and Reconciliation Processes, Mitigating Land Conflict in Northern Uganda, supported ifa/zivik.
25. Viet Peter (2017) Women and Customary Land Rights in Uganda; <http://www.focusonland.com/fola/en/countries/brief-women-and-customary-land-rights-in-uganda>
26. <https://ugandaradionetwork.com/story/land-justice-elude-Persons-with-Disabilities-in-Amuru->
27. World Report on Disability 2011

Annexes

Annex I: Interview guide for FGDs with Persons with a Disability

“Instituting Protection of Rights to Customary Land Ownership in Acholi land”

Field Research Component – Phase II (2017)

TOOL THREE (B):

SPECIAL INTEREST GROUP FOCUS GROUP DISCUSSION OF PEOPLE WITH DISABILITIES

[Carefully identify people with disabilities in the Chiefdom as a special category and mobilize them from adjacent Parishes to participate in 1 (one) FGD of 8 to 12 respondents. Work with the community mobilizers to reach out and invite selected people with disabilities from the categories listed in B below. You may consider combining some categories if in your judgment they are comfortable sharing information together. Note: ensure participation and voices of each category are heard and noted.]

A. **Definition of the Persons with disability:** 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. (UNCRPD, 2006).

B. The categories of People with disabilities may include:-

Disability	Sub categories
Sensory disabilities	<ol style="list-style-type: none"> 1. Deaf with speech 2. Deaf without speech 3. Deaf-blind 4. Hard of hearing 5. Total blindness 6. Low vision (Nose readers)
Physical disabilities	<ol style="list-style-type: none"> Amputations 1. One arm 2. Both arms 3. One leg 4. Both legs Amputations 5. One arm 6. Both arms 7. One leg 8. Both legs Deformities 9. Lower limb 10. Upper limbs, shoulders, forearm and hand 11. Club feet 12. Spina bifida 13. Spinal cord injuries 14. Rheumatism 15. Little persons

Other disabilities	Albinos
--------------------	---------

- C. **Some suggested causes of the above conditions may have been:** Congenital (from birth); Illness/disease; Land Mine/UXO; Road accident; Trauma/Injuries; Wars and Civil strife; Domestic violence; Life style (Drug abuse, poor health care, poor feeding etc.)
- D. **Seeking Consent:** [It is best to think of consent as an ongoing process, in which you remind respondents of the possible future uses of the information they give you as appropriate, and in which respondents can opt out whenever they wish. Respondents should have a right to remain anonymous and to have their rights to privacy and confidentiality respected. In this participatory work with communities, it may not be realistic to undertake to protect the identities of those taking part, and so do not suggest that you could. Then respondents can decide for themselves what they say and what they don't say.] Once consent is verbally granted, proceed.
- E. Start Time: _____
- F. End Time: _____
- G. Use a separate the sheet in the next page to register the participants.

SPECIAL INTEREST FOCUS GROUP DISCUSSION OF PEOPLE WITH DISABILITIES AT CHIEFDOM LEVEL
ATTENDANCE SHEET

CHIEFDOM NAME: _____ Venue: _____ Date: _____

Researchers: 1) _____ 2) _____

Sub-County(s): _____

Parishes: _____

SN	Name	M/F	Age	Clan(Kaka)	Title/Position	Contact	Sign
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							

Number of Female with disabilities: _____ Number of Male with disabilities: _____

Guide Questions to be administered at Special Interest FGD of People with Disabilities

1. Opening Questions

- (i) What is your understanding of Customary Land? What is your understanding of Communal land? [I ngecmamegwu, NgomKwaro obedo gin ango? Ngoma lwak kono obedongo?
- (ii) In your opinion, who controls, manages and administers customary and communal land and how is this done? (Ka ingecwu, anga onyo nga ma gwoko, loyo dok doro ngomkwaro ki ngom pa alwak?) [Probe for organizational structure in the land management and how this works in practice to their knowledge]
- (iii) What category of people have rights to settle in, utilize or own Customary and communal land? [Probe for the categories of people who have rights to settle in, utilize, own and sell of land. Probe further whether all these categories include the various categories of people with disabilities]

2. Key Questions

- (i) As people with disabilities, how do you assess your rights to customary and communal land within your Chiefdom, Clan or elsewhere? Give examples. (Macalo, bulu, wun uneno ningning kit ma twero wu tyer kwede I ngomKwaro ma I Ker Kal eni, onyo Kaka wu onyo kamukene? Mi labol)
- (ii) How is land allocated to you, by who? [Ngomkwaro unongo ningning? Anga ma poko/miyo]?
- (iii) How do you use or utilize the customary communal land to which you have right and access? (Ngomkwaro ki ngomalwak ma wu tyer iyer ki tweroni, utiyo kwede ningning?) [Probe for cultivation, animal husbandry, business activities, grazing, wood cutting, playground, hire out, commercial farming, etc]
- (iv) As people with disabilities, what do you consider are your involvement in internal problems or matters concerning customary communal land? How do you do this? Give examples. [Ka peko me lok pa ngom tyer, wun wudonyo iyer ningning. Mi labol]
- (v) Of all the things we have discussed today about customary communal land, what are the most challenging to you as people with disabilities?
- (vi) What recommendation(s) can you give to strengthen the security of customary and communal land in Acholiland for your group?

- 3. What other comments or recommendations can you give to strengthen the security of customary communal land in Acholiland?

Thank You for your active participation!!

