

NAME

FUNGAI CHIWARE

REGISTRATION NUMBER

R012377W

SUPERVISOR

PROFESSOR J STEWART

COURSE

PRACTICAL PAPER

TOPIC:

PERCEPTIONS OF HARM

TABLE OF CONTENTS

CHAPTER 1	3
1.1 INTRODUCTION	3
1.2 WHAT DOES IT MEAN TO BE DISABLED?	3
1.2.1 <i>The medical definition of disability.</i>	3
1.2.2 <i>The social definition of disability.</i>	4
1.2.3 <i>The moral definition of disability.</i>	4
1.2 ASSUMPTIONS AND RESEARCH QUESTIONS	5
CHAPTER 2 ACCESSING THE DISABLED: RESEARCH METHODOLOGY AND METHODS	7
2.1 GROUNDED THEORY APPROACH	7
2.2 WOMEN'S LAW APPROACH	8
2.3 SEX AND GENDER ANALYSIS	8
2.4 HUMAN RIGHTS APPROACH	9
2.5 ACTORS AND STRUCTURES	10
2.6 THE RESEARCH METHODS	11
2.6.1 <i>Focus Group Discussions</i>	11
2.6.2 <i>One on one interviews.</i>	11
2.6.3 <i>Observation</i>	12
CHAPTER 3 FEAR AND APPREHENSION: SECURITY CHALLENGES FACING WOMEN WITH DISABILITIES	13
INTRODUCTION	13
3.1 MAJOR BARRIERS FACED BY WOMEN WITH DISABILITIES IN MANAGING PERSONAL SECURITY	13
3.2 PHYSICAL OR ENVIRONMENTAL BARRIERS	14
3.3 ATTITUDINAL BARRIERS	20
3.4 MANAGING DISABILITY VIS -A-VIS THE RIGHT TO ACCESS AIDS	20
CHAPTER 4 ALMOST THERE: DISCUSSION AND CONCLUSION	22
4.1 ANALYSIS OF THE LEGAL FRAMEWORK IN RELATION TO FINDINGS	22
4.2 ANALYSIS OF THE HUMAN RIGHTS FRAMEWORK IN RELATION TO FINDINGS	23
4.3 CONCLUSION	25
BIBLIOGRAPHY	26
INTERNATIONAL HUMAN RIGHTS	27

Chapter 1

1.1 Introduction

Having noted from my studies at the Southern and Eastern African Regional Centre for Women's Law that there is this tendency of treating women as a homogenous group and such there are some groups of women whose needs are not addressed in the society we live in. I discovered that there are women living with disabilities whose voices are always ignored and they sometimes feel unequal as they are excluded even in the planning and implementation of different policies that benefit the members of the society at large. I decided to focus my research on the women with disabilities so that I would engage with them and find out from them how they are managing personal security in Kadoma urban. Women from Rimuka and Waverly were my main targets. The vulnerability of these women makes them susceptible to security risks or challenges.

Despite the high numbers of women and girls with disabilities especially in developing countries many women with disabilities are not included in the development context and are therefore largely absent from the development agenda. Even when gender considerations are incorporated into development projects, the specific perspectives and needs of women and girls with disabilities are seldom sought or incorporated. Women with disabilities make up a sizeable proportion of the global population and a majority of the population of persons with disabilities in developing countries. Although firm statistics have been difficult to acquire current researches estimate that women with disabilities make up at least ten percent of all women globally according to the World Health Organisation. Women with disabilities are comprise three quarters of all disabled people in low and middle-income countries and between sixty five and seventy percent of them live in the rural areas

1.2 What does it mean to be disabled?

1.2.1 The medical definition of disability.

According to the World Health Organisation, a disability is any restriction or lack (resulting from any impairment) of ability to perform an activity in the manner or within the range considered normal for a human being¹. This definition has given rise to the idea that people are individual objects to be treated, changed or improved and made more normal. The medical definition views people with disabilities as needing to fit in rather than thinking about how society itself should change so as to treat these people in an equal manner with

¹ <http://hcdg.org/definition.htm>

their able bodied counterparts. The individual with a disability is said to be having a sickness that results in him or herself being excused from the normal obligations of society for example going to school, getting a job taking on family responsibilities. They are therefore expected to come under the authority of the medical profession in order to get better. This definition has its own shortcomings in that it does not adequately explain the interaction between societal conditions or expectations and unique circumstances of an individual.

1.2.2 The social definition of disability.

Disability is defined as a highly varied and complex condition with a range of implications for social identity and behaviour. This definition emphasises that disability largely depends upon the context and is a consequence of discrimination, prejudice and exclusion which people with disabilities suffer as a result of their condition. I am very much inclined towards this social definition because it puts due regard to the shortcomings in the environment and in many organised activities in society, like on information, communication and education which prevent people with disabilities from participating on equal terms. Whilst people with disabilities may have medical conditions which hamper them and which may or may not require medical treatment, human knowledge, technology, and collective resources are already such that their physical or mental impairments need not prevent them from being able to live perfectly good lives. It is society's unwillingness to employ these means to altering itself that causes their disabilities. (Rieser and Mason 1992)

1.2.3 The moral definition of disability.

There are some cultures that associate disability with sin and shame. For the individual with a disability this moral definition is particularly burdensome and it is associated with shame on the entire family with a member with a disability. As a result of this some families have hidden away the disabled family member keeping them out of school and excluding them from any chance of having a meaningful role in society. Some people believe that for one to have a disability it will be due to God's displeasure thus it will be a form of punishment from God. Others say that it is a sign that one is possessed by evil spirits and is unclean as stated in the bible² or that it is as a result of witchcraft. It is also believed that people with disabilities automatically go to heaven upon death as they are said to have suffered enough on earth such

² Leviticus 21vs 16-20'And the Lord said to Moses none of your descendants throughout their generations who has a blemish shall draw near, a man blind or lame, or one who has a mutilated face or a limb too long, or a man who has an injured foot or an injured A hand, or a hunchback or a dwarf, or a man with defective sight or an itching disease or scabs or crushed testicles

that being sent to hell will result in a double jeopardy for them. This definition has resulted in general social ostracism and self-hatred.

People with a disability include those who are visually impaired, those with intellectual disabilities, those with a speech or hearing impairment, the ones with physical disabilities and the mentally challenged ones. Factors like inaccessibility to buildings, poverty, reliance on support services and isolation coupled with the social context of disability impact a lot on security of women with disabilities.

My research was conducted in Kadoma urban which is situated in Mashonaland West Province of Zimbabwe. Kadoma is 166 kilometres from the capital city Harare. According to the 2012 census report it was estimated to have a population of 90 000. I conducted my interviews in the central business district of Kadoma, Rimuka and Waverly high density suburbs. The research sought to find out how women with disabilities were managing their personal security in the high density areas as compared to their able bodied counterparts. Kadoma is mainly a mining town and the majority of the workforce is found in the mining industry.

1.2 Assumptions and research questions

My research group was made up of six members and we were all looking at the broad topic on security issues affecting women and girls in Kadoma. We each had a sub-topics stemming from the main topic and my sub-topic was on security issues affecting women and girls with disabilities. In order for me to conduct a meaningful research I had to formulate research assumptions and questions which guided me on what I had to research on. I based my research on the following assumptions:

- ❖ Women with disabilities may find managing personal security especially difficult in high density areas.
- ❖ The poor state of the roads and street lighting may affect the personal security of some women with disabilities.
- ❖ The architectural designs of some buildings may affect the personal security of some women with disabilities.
- ❖ The lack of access to assistive devices may affect the personal security of some women with disabilities.

These assumptions were used to formulate the following research questions:

- ❖ Do women with disabilities find managing personal security especially difficult in high density areas?
- ❖ Does the poor state of the roads and street lighting affect the personal security of some women with disabilities?
- ❖ Do the architectural designs of some buildings affect the personal security of some women with disabilities?
- ❖ Does the lack of access to assistive devices affect the personal security of some women with disabilities?

This research was carried out in five days and in a very unfamiliar area so this space of time was too limited for me to come up with a very comprehensive research paper. The other contributory factor was that I had to rely on local people to help me locate the people with disabilities. People with disabilities constitute a small proportion of the total population in Kadoma urban. Kadoma has very few non-governmental organisations operating there and there is no organisation which deals specifically with women and or women with disabilities. The other limitation of this study is that my respondents are targets for those who want to form organisations and seek international funding due to the empathy people normally show to these people thus they really wanted me to clarify on the purpose for the research and the reason why I had focused on the people with disabilities. I then clarified to them that the reason for conducting this research was solely for information purpose and my respondents were pleased and they opened up although some reiterated that they had been researched to death and had not benefited anything tangible from those researches.

When I was reviewing literature which is available about women with disabilities I discovered that a lot has been written on some issues pertaining to women and girls with disabilities and some research has been done on the specific right to water for the visually impaired women in Epworth and Mabvuku Suburbs in Harare³, on challenges in accessing primary education by girl children with profound visual impairments⁴, and on the right to maternal health care for the physically disabled women in Tanzania⁵. Although my research paper is on women with disabilities the point of departure is that I was focusing on security issues affecting women in Kadoma and this area has never been explored before.

³ Dissertation by Winnet Kanyerere submitted in 2012 to SEARCWL in partial fulfilment of a Master's Degree in Women's Law.

⁴ Dissertation by Samuel Deme submitted in 2010 to SEARCWL in partial fulfilment of a Master's Degree in Women's Law.

⁵ Dissertation by Sakina Hussein submitted in 2010 to SEARCWL in partial fulfilment of a Master's Degree in Women's Law.

Chapter 2 Accessing the disabled: Research Methodology and Methods

This chapter will focus on the methodologies used to arrive at the findings on the research topic. It will also focus on the methods used to arrive at such findings and conclusions. When I embarked I was assuming that due to the vulnerability of women with disabilities their security was at risk and this however was not the case as evidenced by the findings I made .A lot of issues and fears later emerged as I was carrying out my research and I realised that these issues if not addressed will end up exposing my respondents to security risks. From the people I interviewed only one confirmed the fact that she was finding managing personal security difficult while the majority only expressed the fears that they have because of their vulnerability which emanate from my research assumptions.

2.1 Grounded Theory Approach

I decided to first of all carry out interviews to ascertain the official version from my key informants and these are the officials from the Social Welfare Department, the prosecution the police and some non- governmental organisation. While I was carrying out my interviews I would take down important points in my notebook and when I got back to the place we were staying I would then compile all the information in my diary so this helped me to capture everything I was doing daily. I categorised my respondents according to the types of disabilities and I noted how some issues specifically affected a certain group of women for example I noticed that some of the buildings were inaccessible to women using wheel chairs but the visually impaired women could access these structures with the help of an assistant. I grouped my respondents according to the type of disabilities and these included the physically challenged, the visually impaired, the ones with speech and hearing impairments and the mentally challenged.

This method made me account for all the time I spent doing my field research. The discussions we had with my supervisor whereby we would update her on the daily findings made me focus on new leads and emerging issues some of which I had not even thought of for example, after I interviewed the prosecution and the police I discovered that the two departments had not dealt with any cases concerning women with disabilities and this surprised me and I wondered why that was the position .I then had to follow up with the women in the community so as to establish from them what the situation was on the ground. When I went to the community that is when I discovered that women with disabilities had their own fears which resulted in them failing to access the police and the courts. From the

Social Welfare I got to know of the programmes the department carries out for the vulnerable groups to which women with disabilities belong.

2.2 Women's Law Approach

This approach entails that the starting point is women's lived experiences. It is an approach centred on women, focusing on the differences between women and men with a view of establishing and understanding how laws and policies may have different impacts or that laws and policies affect men and women differently. The purpose of women's law is to describe, explain and understand the legal position of women with the specific aim of improving the position of women in law and society. (Dahl 1987: 17)

In this research, the women's law approach brought out how women with disabilities are more vulnerable compared to their able bodied counterparts because of the laws and policies on governing people with disabilities. The women's law approach made me explore more on the available legislation which governs the rights of women with disabilities starting with the supreme law of Zimbabwe that is the old Constitution and the recently enacted Constitution, Disabled Persons Act and the Social Welfare Assistance Act. Using the women's law approach I managed to find out the gaps between what these pieces of legislation and what the actual women with disabilities experience on the ground that is their lived experiences or reality. The Disabled Persons Act does not have a specific section that deals with women with disabilities. I also noted that some laws were just there on paper and there was no implementation on the ground and this greatly affects the rights of women with disabilities and it shows the degree to which these people are marginalised. I also noticed that there was specific policy which dealt with disability issues on a national level that is the National Policy on Disability.

This approach is useful to the policy and law makers as it involves building up legal and social science knowledge which encompasses the practices and perceptions of women and men. (Bentzon A.W. et al 1998:25)

2.3 Sex and Gender Analysis

Sex is used to describe physical differences between a man and a woman. Gender is described as socially constructed. It was through this approach that I investigated the lived realities of both women and men with disabilities. It also becomes imperative to study both men and women because some security challenges women with disabilities face might not be faced by men with disabilities.

I also took into consideration the fact that there are some security risks which women because of their sex are targets and these do not affect their male counterparts at all. Since I used a focus group discussion as a way of obtaining information from my respondents I felt there was need for me to do one on one interviews with women in the privacy of their homes so that maybe they will open up and say whatever they could have left out because of the presence of men in the group discussion.

2.4 Human Rights Approach

Women's rights are human rights. When I was carrying out my research I was constantly referring to all the international instruments which are relevant to aspects relating to women with disabilities. Zimbabwe has not yet signed the Convention on the Rights of Persons with Disabilities (CRPD) which details the rights that persons with disabilities should enjoy, and obligations of States and other actors to ensure they are respected. Given the size of the population of women and girls with disabilities and given the multiple types of discrimination typically faced by women and girls with disabilities the CRPD drafters considered it vital to include an article expressly dedicated to this important group. The rights of women with disabilities are specifically mentioned under Article 6 of the treaty⁶. This means that the provisions of this Article should be taken into account in the interpretation and implementation of all other substantive obligations in the CRPD. The Convention recognises that disability is an evolving concept and that legislation may be adapted to reflect positive changes within society.

Using this approach I found that the Disabled Person's Act falls short on meeting the international standards on people with disabilities which are specifically provided in the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities 1993. Zimbabwe signed and ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1991 and it is therefore guided by the General Recommendation No 18⁷ which was passed by the Committee on CEDAW after noticing that the Convention did not explicitly mention women with disabilities. The CEDAW Committee came up with General Recommendation 18 after having noted that after considering more

⁶ Article 6(1) provides that States Parties recognise that women and girls with disabilities are subject to multiple discrimination and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms. (2) States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

⁷ General Recommendation 18 (x) requests state parties to provide information on disabled women in their periodic reports and on measures to ensure that they have equal access to education and employment, health services and social security and to ensure that they can participate in all areas of social life and culture.

than sixty periodic reports of State parties there was scarce information on women with disabilities. The current combined report for Zimbabwe which was submitted to the CEDAW Committee and was considered last year did not have any statistics on women with disabilities. The Recommendation was brought about as a result of the Committee's concern of the situation of women with disabilities who suffer from a double discrimination linked to their special living conditions. These women are discriminated first by virtue of them being women and further by the fact that they are disabled.

The Women's Protocol provides for the special protection of women with disabilities under Article 23 which states that;

The State Parties under take to:

- a) Ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision making.
- b) Ensure the right of women with disabilities to freedom from violence including sexual abuse, discrimination based on disability and the right to be treated with dignity.

The Protocol also provides for remedies available to any woman whose right or freedoms as recognised therein have been violated and this includes violations made against women with disabilities. Zimbabwe is a party to this Protocol and is therefore bound by it.

Achievement of the Millennium Development Goals (end poverty and hunger, universal education, gender equality, child health, maternal health, combat HIV/AIDS, environmental sustainability and global partnership) rely on the full inclusion of women and girls thus women and girls cannot be said to be fully included where women and girls with disabilities are not meaningfully involved and their specific issues are not taken into account

2.5 Actors and Structures

My main area of focus was women with disabilities and these were the main actors involved in my research area. I interviewed women and some men with various types of disabilities including those with physical disabilities, speech impairments and the visually impaired. It was important for me to use an actors and structures approach because it enabled me to start with women's experiences in managing their security and then looking at the official actors and structures that impinge on their daily lives. This approach helped me to identify the role played by the following actors that is the police, the prosecutors and the various officials

from the government departments in Kadoma. The structures that I identified are the courts, the police stations and the Social Welfare Department. The approach enabled me to relate with these players and understand their experiences with women with disabilities. Using this approach, I discovered from these various actors that the police and the courts have never handled any matter concerning women with disabilities and this perspective led me to probe further as to why this was the position from the women on the ground.

2.6 The research methods

2.6.1 Focus Group Discussions

Having noticed that my respondents were difficult to locate, I thought of having a focus group discussion so that I would get more information in one place and it would be corroborated by other community members. The purpose of such a discussion is to make sure one gains knowledge about a particular need by interviewing a group of people directly affected by the issue. With the assistance from one Joshua Banda who is physically disabled and lives in Rimuka I reached women and men with various types of disabilities located and informed about the focus group discussion which I held on the 24th of April 2013 at Sarudzayi Sports Complex in Rimuka. Mr Banda had also referred me to Mrs Agnes Masanga who uses crutches because she has a physical disability and with her help I located to have five women from Waverly who have different types of disabilities. We secured transport and moved around picking up those people who were willing to attend the focus group discussion at various pick up points as they could not make it to the venue on their own. I then held a discussion with a group of twenty three members. Thirteen of which were women, three were children and seven were men. All the twenty three members had different types of disabilities and I had an insightful discussion as the members were open and participatory. This method was useful as I got much information in one place and some of my findings were corroborated by other group members. I tried by all means to have an interactive discussion in just two hours so that I would not keep my respondents stuck at the venue for long.

2.6.2 One on one interviews

This type of interview was used to explore more information on a one on one basis with the interviewee. In obtaining the crucial information with the key informants we conducted in-depth interviews. Interview is a mode of communication between a researcher and the interviewee. The aim of the research is to obtain certain vital information for the research topic. I used this method when I interviewed the Acting Director of the Social Services Department and my other group members also used this method when they had a workshop

with the various representatives from the Kadoma Town Council. Through the interview we managed to obtain information about the challenges faced by women with disabilities which result in them fearing for their security.

In conducting these in-depth interviews we would make appointments with the various key informants. With this approach we got undivided attention as the interviewees would clear their schedules to accommodate us. We also had to get proper authorisation to conduct some of the interviews and this was done on our behalf. The very first day of the research week was set aside for making appointments with the different government officials, church leaders, church members and some non- governmental organisations. Below is a table which shows the categories of disabilities and numbers of the respondents I interviewed.

Nature of disability	Number of Females	Number of Males
Visually impaired	6	0
Physically disabled (using wheelchairs)	6	2
Physically disabled(using crutches)	5	3
Speech and hearing impairment	0	1
Mentally challenged	0	1

2.6.3 Observation

There are instances when I would just go around viewing the nature of the buildings and roads in order to see whether these were user friendly for the women with disabilities. When I was Rimuka I noticed how a woman who was being pushed in a wheel chair was struggling to move around and negotiate her way through the dusty and pot-holed road. I found the road not user friendly to women and even men who use wheel chairs and this contributes to a rapid wear and tear of the wheelchair. I also noted how some major service providers were completely inaccessible to some of my respondents due to the absence of ramps for example the Police Stations both in town and in Rimuka, the Social Welfare Department and the Magistrate court have staircases all over. The public toilets which are in the central business district have a ramp but however the toilets have not been functional for close to seven years and the responsible authorities are not seeing this as a matter which calls for urgent attention.

Chapter 3 Fear and Apprehension: Security challenges facing women with disabilities

Introduction

Security of the person is a basic entitlement guaranteed by the Universal Declaration of Human Rights⁸ and also by the Protocol to the Charter on Human and People's Rights on the Rights of Women in Africa.⁹ Personal security is defined as the legal and uninterrupted enjoyment by a man of his life, his body, his health and his reputation. It also reflects upon the safety of a human being in whatever environment he or she might find himself or herself in.

3.1 Major barriers faced by women with disabilities in managing personal security

When I went to conduct my research in Kadoma I was working on the major assumption that women with disabilities were finding managing personal security difficult in high density suburbs but it turned out from my findings that very few women had been exposed to security risks, however the majority were living in fear of being subjected to security risks because of their disability. Women with disabilities live with this perpetual fear because they are in a vulnerable position. They expressed fear which is because they fail to access some buildings because of the architectural design which does not accommodate those who use wheel chairs or crutches. They fear that if some people are to commit crimes against them they, might end up just resorting to staying at home with their unreported cases because the police station and the courts are not accessible to them. This is a security risk as the women with disabilities fail to be accorded the right to protection of the law. From the research I figured out that disability resides in society, not in the person and this is as a result of the environmental barriers that exist. Below is an analysis of the physical and attitudinal barriers which the women of Kadoma are exposed to and these result in them being exposed to security risks.

The principle of accessibility seeks to dismantle the barriers that hinder the enjoyment of rights by people with disabilities. Accessibility is not limited to physical access to places but also access to information, technologies, such as the internet, communication and economic and social life. Without access to information or the ability to move freely, other rights of persons with disabilities are also restricted.

⁸ Article 3 of the Universal Declaration of Human Rights

⁹ Article 4 of the Women's Protocol.

From the field research that I carried out in Kadoma I noted how women with disabilities were finding managing personal security difficult in the high density suburbs and this was mainly due to the exclusion they face from the society. I found that there were both physical and attitudinal barriers which contributed to them having security fears.

3.2 Physical or Environmental barriers

From my research I discovered that what some of my respondents might consider as a physical barrier might not be a barrier to others. Some of the common physical barriers for people with mobility and agility problems include the following

- ❖ Absence of ramps which will be adjacent to stairs for buildings hence rendering it inaccessible to people who use wheelchairs.
- ❖ Lack of grab bars, handrails and resting places both inside and outside public facilities.
- ❖ Sufficiently large and unblocked corridors and doors.
- ❖ Steep slopes for example my respondents complained about the ramp which is at the Kadoma General Hospital which is very steep and therefore not user friendly.
- ❖ Narrow widths of sidewalks and paths.
- ❖ Dusty and unlevelled roads or surfaces.
- ❖ Narrow entrance doors which will make it difficult for wheelchair users to use.
- ❖ Lack of barrier free public transportation.

From the interviews I carried out I discovered that most of my respondents were concerned about the inaccessibility of the magistrate court. The building shows that it was recently renovated as it had a new coating of paint. The Court was built in the 1930s and it has no elevator despite being a high rise building. As one enters the main gate there are three to four steps and there is no ramp at all therefore rendering the building not user friendly for some of my respondents who use wheelchairs. When I discovered that the vetting office¹⁰ is situated in the first floor I then inquired from Area Prosecutor whether they had once handled a case of someone who uses a wheelchair as I wanted to know how that person had accessed the vetting office. He confirmed relatives of a woman who had been subpoenaed as a witness was using a wheel chair had to lift her up in her chair to the vetting office. He even confirmed that the situation was just not good and he indicated that at times if they are made aware of the

¹⁰ An office in the prosecution department where matters from the police are assessed to determine whether to prosecute or decline prosecution.

fact that there is someone who has to be vetted but because of his or her physical disability the person cannot make it to the first floor the Prosecutor is the one who will opt to go down the stairs and assist that person without the relatives hassling to bring that person up the stairs.

Women with disabilities indicated their concern on the inaccessibility of the courts and the police later on confirmed that this might be the reason why there were no cases which had been reported to the police or the courts which related to women with disabilities.

Mrs Agnes Masanga has a physical disability and she uses crutches .She works in town at a building called Sam Levy and her office is in the first floor and the building has no elevator and it has very steep staircases. She had this to say,

I dread going to work each time I wake up as I know the hassles I encounter going up and down the office daily. I take thirty minutes to make it to my office and I will be blocking the whole path such that no one will be able to pass while I will be negotiating my way. When I knock off at 4:30pm I also take another thirty minutes to get down the steps again and this is very inconvenient to me but I have no choice as I have to fend for my children, even if a thief is to grab any valuable item from me he will easily get away with anything as I am an easy target because of my disability.

These words are proof that the building is not user friendly for people with disabilities and it shows that when it was being constructed the plan itself totally excluded the people with physical disabilities as it can be accessed by the able bodied ones only.

Some of the officials I interviewed were actually responsible for creating some of these physical barriers as they are the ones tasked with the town planning. The Engineering Department of the Kadoma Town Council is the one which is responsible for the designing of roads and planning of certain structures in Rimuka Town. A Mr X from this department confessed that when they construct roads they do so without bearing in mind the various needs of people with disabilities. And when quizzed on why some buildings were designed without having the people with disabilities in mind he said:

When we do the planning of buildings in town we do not consider the fact that the building should be user friendly to people with various forms of disabilities and only the recent buildings are the ones with ramps.

This confirmed my assumption of the presence of buildings whose architectural design rendered them inaccessible to women with disabilities and these are Mashayamombe Building which houses the Department of Social Welfare, the Central Police and the

Magistrate Court itself. These offices offer very crucial services yet they remain inaccessible to women with disabilities hence this poses a lot of insecurity in their lives as they might not access these offices when need arises.

Some buildings are designed for the able bodied only. At the back of these engineers' minds is the thought that people are a homogenous group and they were not considerate of the people with disabilities. Recent buildings are the ones which now have ramps and they are designed in a way which is user friendly for this vulnerable group.

An interview was also carried out with the Department of Housing and Community Services and the representative Mrs P advised us of the Kadoma City Council Housing Policy 2012 which caters for those people with disabilities. Women with disabilities are at a greater risk of being even raped in these overcrowded areas. Some of my respondents who are visually impaired indicated to me that they always hear that so and so has been raped and they fear that for them it would be worse as they will not be in a position to even identify the assailant. This policy provides for the setting aside of fifteen percent of the total number of stands which will be on offer to orphans and vulnerable children¹¹, elderly women and people with disabilities and they will be sold to them at a subsidised rate. The policy allows for twelve month payment period which has to be considered for these vulnerable groups. Although this is a welcome move the majority of women with disabilities I interviewed are not employed and they cannot afford to pay for these stands even if they are to be allocated to them.

She also acknowledged that the roads are in bad state and that people with disabilities especially those who use wheelchairs cannot manage to walk because the roads are filled with pot holes and they are not tarred and in some areas there is no longer a sign that the roads were once tarred. This alone contributes to a security risk as the condition of the roads might end up hindering mobility for the women with disabilities.

From this research I found that the different types of disabilities pose different problems for my respondents. For those people with hearing impairments the barriers which I discussed above were not an issue to them as they were not affected in any way but their concerns are the following:

¹¹ Reference is made to (a classmate) Kenneth Mulife's research paper which focused on inadequate urban housing and the risk of some women and girls to sexual predation in Kadoma.

- ❖ Lack of interpreter for example in the courts, police stations and any major service provider.
- ❖ Poor and or lack of lighting.
- ❖ Lack of enhanced listening systems

I managed to have an interview with one respondent Fungai Musoni who has both a hearing and speech impairment. The interview was possible because he could read and write. Fungai stays with his grandfather since both parents are deceased. He is capable of using sign language. He was very open throughout the interview and he raised quite pertinent issues concerning the fact that at times he fails to have the attention of people as few people are trained in the use of sign language hence he faces a lot of communication barriers. This was rather worrying to me as he indicated that even if he was to be in trouble one day it is difficult for him to even make a police report as there were slim chances of him finding an officer who would be readily available with the knowledge of sign language. Although he has never faced any security risk he expressed fear that if this was to happen he would face some obstacles in trying to have his matter reported or brought before the courts due to the presence of the communication barriers. This can also affect women who will be having the same condition as that of Fungai.

The lack of barrier free public transport for women with disabilities especially the ones who use wheelchairs poses a security threat for these women as they risk being robbed when they will be carried or assisted to board the public transport especially when one does not have a personal assistant. When I held a focus group discussion there was a 54 year old lady Tambudzai Shayanewako who uses a wheel chair and when we were moving around picking up my respondents in Rimuka we had challenges to have her aboard the kombi. She had this to say,

We are easy targets by thieves as they know that they can snatch away any valuable items from us without being pursued. Where I stay there are no tarred roads and the dusty roads are full of pot holes and this hinders my mobility. If strangers assist me to get into the kombi I will be afraid that they can steal from me since they will be total strangers to me.

These words confirmed my assumption that women with disabilities were indeed finding managing personal security difficult in high density areas. Fear on its own shows the extent to which women with disabilities are insecure in Rimuka. Below is a picture showing how it is difficult for women using wheel chairs to access public transport since the Commuter

Omni bus is not designed in a way which accommodates women with such a disability.



Figure 1 Mrs Tambudzai Shayanewako being assisted to board a Commuter Omni Bus by well wishers.¹²

The picture above shows the vulnerability women with disabilities are exposed to as a result of the type of public transport they use which is not designed to cater for wheelchair users. This affects one's dignity and such a treatment is degrading to say the least. Valuable items may be robbed by those people who will be assisting people in similar situations. In developed countries like the United Kingdom the transport system is designed in a way that it is accessible even to wheelchair users who will be travelling by themselves.

Among the different respondents that I interviewed were women with visual impairments and they also have barriers which they face which are specific to them. This means that even the women with disabilities have to be treated differently as they too are not a homogenous group. The visually impaired women rely on assistance from relatives and husbands and they too had their own security fears. Since they depend solely on helpers they sometimes risk being involved in accidents due to the misjudgement on the part of the helper when they are crossing busy roads.

I interviewed Erina Nhando who is a female with visual impairments and from my observation she was using a metal stick instead of a white can and when I asked why she was using such a stick which was not visible to motorists she told me that she could not afford to buy the white can and hence she relies on the metal stick which she got from a certain well wisher who owns a garage. She said,

We face a lot of stigma from our sighted counterparts who even utter words like "*mazipofu aya*" which simply means those blind people and this angers me to the

¹² I was granted the permission to use this picture by the respondent named above.

extent that I end up exchanging words with them. If we were getting some form of assistance from the government there was no need for us to go around asking for alms. As women we have to fend for our families hence we have to risk our lives for the sake of the family. Charles Gumbo who was visually impaired died on the spot after being involved in an accident but his helper who is sighted survived the accident. These are some of the dangers we face because of our disability. Ever since the dollarization of the economy we have never paid for the utility bills because we cannot afford. When we ask for alms people nowadays pay in kind as they have no money to spare for us or if we are getting the money our helpers are not being honest with us as we always share our proceeds for the day equally. This is where we face the greatest challenge as we have to be content with whatever share would have been apportioned to us. Poverty is the main reason why we go around asking for alms even in buses exposing ourselves to accidents.

This shows that indeed women with visual impairments have their own fears and they are finding managing personal security difficult compared to their sighted counterpart. The fact that they rely on assistance from someone means that without the helper one has her mobility curtailed.

When I was in Rimuka I interviewed Beauty Sakhala who is a victim of domestic violence, emotional and verbal abuse. This is my only respondent who confirmed having actually experienced a security threat in the form of domestic violence. She is visually impaired and is married to a very abusive husband who is sighted. She stated how her husband shouts abusive words at her when she gets home from Waverly Bus Terminus where she will be asking for alms. He accuses her of having boyfriends who are visually impaired as she spends more time with these men who will also be asking for alms at the terminus. She stays in the Single Quarters area in Rimuka which is a highly populated area and the standards of living there are just deplorable.

Beauty finds it difficult to approach the courts to get protection from the law as according to her she cannot report the abuse because of her fear and dependency on the abuser. At times her husband just refuses to provide essential personal assistance to her and she also cited this as a form of her abuse which she suffers by virtue of her being visually impaired. For her to go and make a report to the police she has to be accompanied by someone who is very close as this involves a very sensitive issue according to her. She has tried to seek the help of her sister who later on withdrew her assistance after she had had an altercation with her brother-in-law and had her index finger bitten by him. Beauty cannot even approach the magistrate court for a protection order as there are no forms which are available in Braille so that she will read and fill in the forms on her own. She has now given up on ever finding

protection from the law and the courts as she cannot do this because of all the physical barriers ahead of her.

3.3 Attitudinal barriers

Attitudinal barriers refer to the attitude or reaction the society has for people with disabilities and these often lead to illegal discrimination. It has been established that the most difficult barriers to overcome are the attitudes with which people with disabilities are perceived. From my field research many respondents expressed concern on how people tend to focus on their disability rather than on their abilities. Among the respondents I interviewed is a lady who is visually impaired and has obtained five passes at Ordinary Level but she has failed to secure employment due to her disability and this is due to the attitude by people that disabled people are not able to perform any professional work.

People with disabilities suffer a lot of stigma and stereotypes and these results in many being shun away from the community and they are kept in secluded areas. It is in this private space that they might be exposed to security risks but just because they are separated from the rest of the family or society no one will be there to listen to their worries. When I was conducting my research one respondent mentioned the fact that people tend to trivialise their problems because of their condition. Some people believe that for one to have a disabled child it will be a sign that the parents sinned against God and hence the disability will be a form of punishment for their deeds.

3.4 Managing disability vis -a-vis the right to access aids

The right to have access to aids is provided for under Article 20 of the Convention on the Rights of Persons with Disabilities. According to the official from the Social Welfare Department people with disabilities are supposed to bring three quotations they want to be assisted with cash to buy aids like wheelchairs, crutches etcetera. From the women with disabilities I interviewed I discovered that not even one respondent had managed to access aids through the Social Welfare Department contrary to the official position regarding access to aids. One respondent I interviewed had this to say:

The wheelchair I am using I inherited it from my relative who had a physical disability who died and left a wheel chair, so when his clothes were being distributed among us the relatives, that is when I was given this chair.

This shows some discrepancy on the official version and the views of the community members. Some respondents felt that the non availability of aids to manage their disability

resulted in them being excluded from the rest of the society as they have to be stuck at home. Wheelchairs (motorised ones) and crutches are supposed to make mobility easy for people with physical disabilities and with good roads it means one will be in a position to access the police if there is need to do so. If one has a wheelchair which is not motorised it means that he or she will have to find services of an assistant for her to be mobile and this deprives one of privacy.

Chapter 4 Almost There: Discussion and Conclusion

4.1 Analysis of the Legal Framework in relation to findings

Some concerns and fears which were raised by the respondents I interviewed concerning their personal security were exacerbated by the fact that the laws which are available for people with disabilities are inadequate. The discrimination clause in both the old and new Constitution specifically provides for non discrimination on basis of disability and this is a great step in the right direction of advancing and recognising the rights of people with disabilities.

The new Constitution now covers in depth the rights of people with disabilities. The rights of women with disabilities have been strengthened in the new Constitution. Section 22 thereof calls upon the State to recognise the rights of persons with disabilities. Women with disabilities have been offered double protection in the supreme law, first under section 80 which provides for the rights of women in general and under section 83¹³ where there is a specific provision for rights of persons with disabilities. However an analysis of section 83 shows the extent to which the State has limited its commitment towards ensuring the full enjoyment of rights of people with disabilities. The inclusion of the phrase “within the limits of the resources available” provides a defence mechanism in the event that the State fails to uphold the rights of these people. The new Constitution provides for two senators who shall be elected to represent people living with disabilities¹⁴ and only time will tell whether these senators will stand for their rights. The new Constitution has gone at length in detailing the rights of people with disabilities and as a result it has rendered the main Act for people with disabilities which is the Disabled Persons Act archaic.

The Disabled Persons Act¹⁵ does not specifically provide for the rights of women with disabilities and this is a major gap as it becomes difficult for women to put the Act into good

¹³Section 83 provides that the State must take appropriate measures, within the limits of the resources available to it, to ensure that persons with disabilities realise their full mental and physical potential, including measures—

- (a) to enable them to become self reliant;
- (b) to enable them to live with their families and participate in social, creative or recreational activities;
- (c) to protect them from all forms of exploitation and abuse;
- (d) to give them access to medical, psychological and functional treatment;
- (e) to provide special facilities for their education; and
- (f) To provide State-funded education and training where they need it.

¹⁴ Section 120 (1)(d)

¹⁵ Chapter17:01

use. The Act prescribes accessibility to buildings¹⁶ but this is not the situation on the ground. The Act provides for the establishment of a National Disability Board which is tasked among other things to issue adjustment orders to owners of buildings which are inaccessible to people with disabilities. Although this is a commendable move it is disheartening to note that this Board is heavily underfunded and thus it fails to carry out most of its mandates. From my findings this Board has never issued adjustment orders to any one despite having buildings which remain inaccessible to people with disabilities as is the case in Kadoma. The fact that there is no National Policy on Disability shows the lack of political will on the part of the government. The Social Welfare Department no longer gives the monthly allowance it used to give to people with disabilities because of financial constraints that the country is currently facing and again this leaves a lot to be desired as we leave these vulnerable groups to be exposed to security risks by failing to take care of them.

4.2 Analysis of the Human Rights Framework in relation to findings

The adoption of the Convention on the Rights of Persons with Disabilities without a vote by the United Nations General Assembly is an indication that the international community acknowledges the need to promote and protect the right of persons with disabilities. This means that when a country undertakes to carry out law reforms the Convention can be used as a standard against which national legislation and policies can be reviewed. This means that once there are good policies for example on promoting accessibility by people with disabilities which is specifically provide for under Article 9 of the Convention, the greatest barrier which is physical barrier would be dealt with. Women with disabilities are human beings just like anybody else and they do not have to be treated in a degrading and inhuman manner. Carrying someone in a wheelchair up the stairs or assisting someone to board public transport is inhuman and degrading treatment hence there is need to have user friendly facilities so that women with disabilities will find managing personal security easy.

The International Covenant on Civil and Political Rights¹⁷ provides for equal recognition before the law and the same right is encompassed under in the Convention on the Rights of Persons with Disabilities and from my findings the fact that the courts and the police are

¹⁶ Section 5(1)(b)(i) to achieve equal opportunities for disabled persons by ensuring, so far as possible, that they obtain education and employment, participate fully in sporting, recreation and cultural activities and are afforded full access to community and social services;

¹⁷ Article 16 provides that ,”Everyone shall have the right to recognition everywhere as a person before the law”

inaccessible to women with disabilities shows that there is deprivation of this right on their part and this as indicated earlier own poses a security risk to them.

Women with disabilities suffer what can be termed a double jeopardy in the sense that, in the first place they are othered by men and then by some women who are able bodied as postulated by Simone De Beauvoir. The fact that this group of women is often excluded from the mainstream of society show that they are the other group which is often forgotten about. Women with disabilities end up being more vulnerable to security risks because of the exclusion they suffer because of their disability. They are not treated at an equal basis with the men first and then with the able bodied women.

From my research I discovered that the liberalist theory fits well in my analysis. This theory is about having an equal playing field and in the case of women with disabilities for them to enjoy their rights fully, disability has to be mainstreamed in the laws and policies so that they will not be excluded in fully participating in any societal activity. The design of products and environments has to be usable by all people without the need for adaptation or specialised design so policies have to be available which target at removing all the barriers which are faced by people with disabilities. This will enable them to access all buildings like courts the police station and the hospital and this bring s about an equal playing field for both the able bodied and those with disabilities. There has to be National Disability Policy which aims at addressing the needs and security concerns of the people with disabilities with specific mention of women with disabilities.

In dealing with security issues for women with disabilities the essentialist theory does not hold water at all as there is no single or a one size fits all approach to the needs and worries of this vulnerable group. My research makes it very plain that an essentialist approach is inappropriate in any context. Although I fully appreciate that we cannot have various legislations for specific groups the needs of women with disabilities are best addressed when their concerns and rights are specifically provided for in a separate piece of law. Women are not a homogenous groups and this means that even though the starting point is that the sex is the same but the fact that some women have disabilities and others are able bodied calls for a difference in the way of treating these two kinds of women. Indeed we cannot have one explanation for all groups of persons.

4.3 Conclusion

Although the majority of women with disabilities in Kadoma have not experienced any security risks, the fear which they have is cause for concern. Women should live in any environment which is conducive to their various disabilities. A lot has to be done to remove the barriers both physical and attitudinal which render it impossible for women with disabilities to fully enjoy their rights. Fear results in one becoming insecure in life and hence the discussed barriers have to be addressed so that women with disabilities are not discriminated against. The society has to come together and fight stigmatisation since disability is said to be in the society and not in the person. Disability is something we have to actively manage so that one suffers least adverse effects through compensating for their disability.

At the time of submission of this research paper a motion had been moved in the House of Assembly by the Minister of Labour and Social Welfare for accession of the CRPD by the government and the Senate had not yet deliberated on this move. It is my hope that the Senate would rubberstamp this motion and adopt it .What would be left is for the government to accede to the CRPD.This Convention and its Optional Protocol will provide individuals with recourse to the regional and international courts when there is an infringement of their rights and when there is no available local remedy. However, it is not enough to sign and ratify treaties a lot has to be done to monitor its implementation, for a law which is good on paper alone yields no tangible rights. There is need to mainstream disability in all developmental plans and policy formulations so that women with disabilities so that they move from exclusion to equality. I hope that all the progressive sections on disabilities which are enshrined in the new Constitution will be used as a basis by women with disabilities to fight exclusion in the society so that the physical and attitudinal barriers discussed in this research paper will be addressed and managed.

BIBLIOGRAPHY

Banks, M.E and Kaschak E editors (2003) *Women with Visible and Invisible Disabilities: Multiple Intersections, Multiple Issues Multiple Therapies*, the Haworth Press New York City

Bentzon, A.W., et al. (1998) *Pursuing grounded theory in law: South-north experiences in developing women's law*, Mond Books Oslo, Tano- Aschelong

Dahl, T.S (1987) *Women's Law: An introduction to feminist jurisprudence*. Oslo, Norwegian University Press

Deegan, M.J and Brooks N.A editors (1985) *Women and Disability the Double Handicap* New Brunswick, New Jersey.

Degener T and Koster-Dreese editors (1995) *Human Rights and Disabled Persons Essays and Relevant Human Rights Instruments* Kluwer Academic Publishers Netherlands.

Deme, S (2010), Access by a girl with profound visual challenges to primary education in Zimbabwe. Dissertation, submitted in partial fulfilment of MWL UZ Unpublished.

Hellum, A. Et al., eds. (1999) *Women's Human Rights and Legal Pluralism in Africa. Mixed Norms and Identities in Infertility Management in Zimbabwe*. Harare Mond Books, Oslo, Tano-Aschelong.

Hussein's (2010) A comparative study on the right to maternal health care of the physically disabled women in Tanzania. Dissertation, submitted in partial fulfilment of MWL UZ Unpublished.

Kanyerere, W (2012) Water in theory, not in practice: Interrogating the provision of water to women managing visual disability in Epworth and Mabvuku Zimbabwe.

Rieser R and Mason M (1992) *Disability Equality in the Classroom; a Human Rights Issue* London

Samwel.A (2008) *Blind women and HIV AIDS information rights in Tanzania .A critical analysis of neglected issues .A case study of Dar-es-salaam*

Tsanga, A.S. (2003) *Taking the Law to the people. Gender, Law Reform and community legal in education in Zimbabwe*. Harare, Weaver press

INTERNATIONAL HUMAN RIGHTS

Convention on the Elimination of all Forms of Discrimination against Women

Convention on the Rights of Persons with Disabilities

General Recommendation No 18 to CEDAW

International Covenant on Civil and Political Rights

International Covenant on Economic Social and Cultural Rights

Millennium Development Goals

Optional Protocol to the Convention on the Rights of Persons with Disabilities

Standard Rules on the Equalisation of Opportunities for Persons with Disabilities

The Protocol to the African Charter on Human and Peoples Rights of Women in Africa

Universal Declaration on Human Rights

World Programme of Action concerning Disabled Persons

NATIONAL LEGISLATION AND POLICIES

Constitution of Zimbabwe 2013

Disabled Persons Act

Old Constitution of Zimbabwe

Kadoma City Council Housing Policy 2012

Social Welfare Assistance Act