



the global voice of  
the legal profession®

# Lex:lead Group annual scholarship competition **2020**

Published by the International Bar Association on behalf of the IBA Foundation





## 2020

### Lex:lead 2020 annual scholarship winning articles

How can laws promoting gender and disability rights support economic development? <i>Gloria Korankyewaa Nyarko</i>	3	How can laws promoting gender and disability rights support economic development? <i>Tina-Fiona Mloza</i>	36
How can laws promoting gender and disability rights support economic development? <i>Divine Selase Agborli</i>	7	How can laws promoting gender and disability rights support economic development? <i>Hillary Mushota</i>	39
How can laws promoting gender and disability rights support economic development? <i>Musenge Kapandula</i>	11	How can laws promoting gender and disability rights support economic development? <i>Bwalya Milunga</i>	43
How can laws promoting gender and disability rights support economic development? <i>John Siame</i>	16	How can laws promoting gender and disability rights support economic development? <i>Angellah Mwafulirwa</i>	47
How can laws promoting gender and disability rights support economic development? <i>Jemimah Chisomo Banda</i>	20	How can laws promoting gender and disability rights support economic development? <i>Clive Siankanga</i>	52
How can laws promoting gender and disability rights support economic development? <i>Josephine Ngulube</i>	25	How can laws promoting gender and disability rights support economic development? <i>Lincoln Majogo</i>	56
How can laws promoting gender and disability rights support economic development? <i>Getachew Bezu Gayzibayso</i>	28	How can laws promoting gender and disability rights support economic development? <i>Faith Sumani</i>	61
How can laws promoting gender and disability rights support economic development? <i>Busiku Simoonga</i>	32	How can laws promoting gender and disability rights support economic development? <i>Natasha Kapuka</i>	67
		How can laws promoting gender and disability rights support economic development? <i>Muleta Korme Negasa</i>	71

## International Bar Association

4th Floor, 5 Chancery Lane,  
London WC2A 1LG

Tel: +44 (0)20 7842 0090

[www.ibanet.org](http://www.ibanet.org)

© International Bar Association 2020.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, or stored in any retrieval system of any nature without the prior permission of the copyright holder. Application for permission should be made to the Director of Content at the IBA address.

The views expressed are not necessarily those of the International Bar Association.

Please direct any queries to:

**Anne Bodley**

Formerly Publications Editor, IBA Foundation, President and Founder of Lex:lead, London  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

Gloria  
Korankyewaa  
Nyarko  
University of Ghana,  
Accra  
lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic development?

## Introduction

Very often, persons living with disabilities are denied fundamental freedoms and basic socio-economic opportunities because of the traditional notion that their impairments render them unproductive and fruitless. Gender inequality is a social state whereby those with disability are treated not as equals arising from a distinction in their biological, psychological, or cultural make-up. Gender inequality, with respect to persons living with disabilities (hereinafter referred to as PWDs) has been a global challenge, especially in developing countries, in spite of existing laws that seek to protect persons deemed to be vulnerable and less privileged. This adversely affects the individuals concerned and increases their dependency on government services, which impedes economic development as they are unable to work to fend for themselves or are left in isolation from social stigma. This paper, therefore, discusses the relationship between disability rights and economic development and suggests that effective legislation, when it comes to both gender and disability, can reduce dependency rates on governments, increase countries' eligibility to apply for foreign aid, ensure more effective skill acquisition and training, and generally increase government revenue to boost economic development.

## Gender and disability

The World Health Organization defines 'gender' as 'the socially constructed characteristics of women and men – such as the norms, roles and relationships that exist between them'.<sup>1</sup> It is derived from the Latin word 'genus' which means race or kind. People who do not describe themselves as either masculine or feminine refer to themselves as non-binary, agender, genderqueer, or bigender.

'Gender may' also be influenced by legal status, social interactions, public persona, personal experiences and psychological settings. People are sometimes bullied or discriminated against based on their gender.

By contrast, 'A disability is any condition of the body or mind (impairment) that makes it more difficult for a person with that condition to do certain activities (activity limitation) and interact with the world around them (participation restrictions)'.<sup>2</sup> 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.<sup>3</sup> In as much as gender inequality affects many people in Africa and even worldwide, people living with disability face even greater challenges vis-à-vis exercising their rights. This is simply because such persons suffer from an impairment, activity limitation or participation restriction.

## Economic development

Economic development comprises a collaborative effort involving industry, government and myriad community stakeholders<sup>4</sup> and is, therefore, broader than 'economic growth'. Simply put, economic development means improving the living standards of people. It includes a broad range of activities to attract, create and retain jobs, and to foster a resilient, regrowth tax base and an inclusive economy. The 2020 African Economic Outlook highlights, however, that growth has generally been less than inclusive. Despite Africa's solid growth performance, only about a third of its countries achieved inclusive growth, reducing both poverty and inequality.<sup>5</sup> This suggests that, if human resources are well-developed and more high-productive jobs created, irrespective of a person's gender or disability, the living standards of the people will improve, as well

as economic development at large. As a result, there would be little or reduced dependence on the respective government for individual basic needs.

### **The relationship between gender, disability and economic development**

Human rights, fundamental freedoms and norms apply to all persons and be enjoyed by everyone without discrimination or restriction. However, women and girls with disability (W&GWD) have not enjoyed these rights and freedoms to the fullest on equal basis vis-à-vis others. Statistically, more than one billion people or 15 per cent of the world's population live with some form of disability.<sup>6</sup> Eighty per cent are of working age; and 80 per cent live in developing countries. The 2011 World Report on Disability<sup>7</sup> indicated that the female disability prevalence rate is 19.2 per cent, whereas it is 12 per cent for men. Further research shows that in 2019, there were more than two billion PWDs in the world, representing 37.5 per cent of the world's population.<sup>8</sup> These figures show that PWDs constitute a substantial portion of the world's population and that there is, therefore, a dire need for gender/disability inclusiveness in sectors of the economy to boost per capita income and economic development. To buttress the writer's point, the International Labour Organization found that excluding persons with disabilities from the labour market in some low and middle-income countries costs economies as much as seven per cent of their potential gross domestic product (GDP).<sup>9</sup>

It is disheartening to know that women and girls living with disabilities often suffer the most from double-discrimination, from both gender-based violence, abuse and marginalisation, as well as from their disability which makes them a more vulnerable class in the community. In consequence, a woman living with disability experiences greater disadvantages even in comparison with men living with disability.<sup>10</sup> For that matter, the United Nation's Convention on the Rights of Persons living with Disabilities (CRPD) concludes that women and girls with disabilities are prone to multiple levels of discrimination and so it is incumbent on all states parties to ensure the full and equal enjoyment of their fundamental freedoms and all human rights.<sup>11</sup>

Persons living with disability live in poverty and may suffer forms of discrimination

because of their disability. 'Discrimination on the basis of disability' refers to any form of exclusion based on a person's disability with the effect of impairing the recognition or enjoyment, on an equal basis, with others of all human rights and basic freedoms in any field; be they political, economic, social, cultural or civil.<sup>12</sup> Many people living with disabilities are denied or have reduced access to education, employment, healthcare, social and legal support systems. Many typically women, live in poverty; given that they are more likely to be unemployed and those who are employed may be limited to working in marginal, seasonal and/or menial jobs.<sup>13</sup> Although all persons with disabilities face barriers to employment, men with disabilities have been found to be almost twice as likely to be employed as compared to women with disabilities.<sup>14</sup>

### **Existing laws promoting gender and disability rights in Africa**

The CRPD was adopted on 13 December 2006, by resolution of the General Assembly, with the aim of protecting the rights and fundamental freedoms of PWDs. The CRPD was the most rapidly ratified international treaty with 168 states and the European Union (representing, in total, 87 per cent of the United Nations member states) had ratified the treaty as of 11 November 2016.<sup>15</sup> It then entered into force on 3 May 2008, marking its twelfth year in effect as of 2020. The CRPD highlights its principles as enabling accessibility and equality between men and women, non-discrimination, respect for inherent dignity, individual autonomy and independence of persons, amongst others.<sup>16</sup> Most importantly and for the purpose of this article, the CRPD recognises that women and girls with disabilities face greater risks, both within and outside the home, of violence, abuse, negligent treatment or exploitation. For this reason, it seeks to ensure that effective women-and-children-focused legislation and policies, as well as social protection and poverty reduction programmes, are implemented.

Despite several challenges that inhibit the full realisation of the CRPD, it has brought significant positive changes in public policy and legislation, discussed below. These challenges include the negative perception of disability by many societies in which people live, misrepresentation of occupational health and safety frameworks, mostly by employers,

and a revival of the call to live in health care facilities or congregate settings.

Aside from the CRPD, some developing countries have implemented laws and policies to ensure that PWDs are not discriminated against and are being included in the country's economic development programmes. Such countries include, but are not limited to, Ghana, Kenya and Zimbabwe. The Kenyan Constitution, 2010, explicitly prohibits discrimination on the grounds of health status and disability, among other laws. Ghana has, among its laws, the Persons with Disability Act ('Act 715') to provide for rights such as unrestricted access to public places and buildings, free healthcare, employment, education and transportation. In Zimbabwe, the Disabled Persons Act serves as the basic law that addresses disability and provides rehabilitation and welfare to PWDs.

Furthermore, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is an international treaty also adopted by the UN General Assembly, that outlines the economic and social rights of women and girls includes its main focus on non-discrimination against women. CEDAW includes the rights of women and girls living with disability as they face double challenges of what women without disabilities face.

Additionally, the Sustainable Development Goals (SDGs) implicitly include persons with disabilities. Goal 5 focuses on gender equality and disability-inclusive development, with the aim of ending discrimination and all forms of violence against women and girls everywhere, ensuring participation and leadership in decision-making, as well as reforming legislative and policy blocks which prevent women from having equal rights to economic resources.<sup>17</sup> Similarly, Goal 4 seeks to ensure an inclusive and equitable quality education and to promote lifelong learning opportunities for all. Therefore, if there is a successful implementation of these goals, there would be gender equality irrespective of sex, disability, economic or any other status.

### **The growing effects of these laws on economic development**

The implementation of these laws has, to some extent, shed light on the importance of involving PWDs in nation building and has, therefore, provided avenues for education and skills training. For instance, in education, special schools like those for the deaf, dumb

and the crippled, have been built for people living with visual impairment, hearing impairments and for wheelchair-users, respectively. Similarly, in sports, there are sports teams such as wheelchair basketball, rugby, sailing, skiing, equestrianism and so on for physically disabled persons. Participating in sporting activities has a positive impact on economic development, as it not only provides revenue to the individual but also the country of which he/she is a national, through taxes and participation quotas.

In Kenya also, the Free Primary Education Act, 2003, has been extended to special education and schools for children with disabilities, through the provision of additional funding to meet the needs of children with disabilities in schools.<sup>18</sup> Again, persons living with disabilities are granted a tax exemption on their monthly or annual income.<sup>19</sup> The effect of this exemption is that these PWDs get more money to keep, save and spend, which in the long run goes back to the economy through the market cycle.

With the adoption of these laws, including the CRPD in 2006, some progress has been made in improving the situation of persons with disabilities. However, despite such gains, disability remains largely invisible in most mainstream development processes, including the Millennium Development Goals.<sup>20</sup> Greater efforts are needed to ensure that development processes actively include persons with disabilities to help realise the overall objective of the full and equal participation of persons with disabilities in society.<sup>21</sup>

### **The way forward**

Now that the connection between gender, disability rights and economic development has been inextricably established, and the various laws that protect and promote the former and latter respectively have been laid out, this writer emphasises the importance of further developing laws protecting gender and disability rights and, most importantly, how they can support economic development.

Some benefits of gender and disability laws on economic development include the eligibility of countries to receive foreign aid, the ability of states to focus more on providing good infrastructure, the potential for a lowered dependency rate on government services, greater income through increased taxes, the benefits of awareness creation and education, translating into

training and skills acquisition.

### Eligibility to receive foreign aid

Countries with laws focusing on and protecting gender and disability rights can have easier access to foreign aid resources. International conventions like the CRPD have been assented to by most developing countries. The effect of signing and ratifying such treaties and conventions is that it becomes incorporated into the local laws of the party states. The UN and other international organisations designate funds to support gender and disability rights programmes and schemes. A country becomes eligible to apply for such funds if it has put in place laws to protect persons living with disability and it has also created an enabling environment for them to thrive. The same may apply to developed countries like the United Kingdom and the United States, who may offer financial assistance based on the policies receiving states have adopted. In essence, once a country is able to put in place laws to preserve and protect the rights of disabled people, it serves as a means to better attract foreign aid from these international organisations. Foreign aid is vital to the economic growth of developing countries as many countries rely heavily on it as budgetary support.

### Effective training and skills acquisition

Laws promoting gender and disability rights, especially advocating for PWDs to be enrolled in schools and skills-training centres, can also help improve economic development. It has been established above that such persons constitute a substantial portion of the world's population. It is also well known that disability does not translate to inability. Therefore, if there is disability inclusion in our educational sectors, a larger number of people will be employed in the long run to better contribute to the economy leading to an increase in output and improved human resources. Agriculture is considered the backbone of the economy of most developing countries. Therefore, if there are more people to help modernise agriculture to increase agricultural productivity, it could also contribute a massive quota to economic development.

### Reduced dependency rate

When persons living with disabilities are

involved in developmental activities without recourse to their gender or without thinking they are useless, they will be able to work to earn a living. If this happens, there will be little or less burden on the country to provide them with basic necessities. Invariably, the families of such persons (who usually act as their care-givers) are also burdened with the day-to-day needs of PWDs and that automatically puts them at a disadvantage. If laws are enacted to ensure that such persons are not isolated and discriminated against, they will also be economically eased and the per capita income of the country can also rise.

### Increase in government revenue

Human resource development can raise the per capita income of a country from the formation of human capital. This can be achieved when there is a significant number of people on the labour market and, in essence, no exclusion. Their ability to engage in all kinds of economic activities, agriculture (including fishing and forestry), manufacturing and service (especially in wholesale and retail), means that there will be more products on the market and exporting such goods can increase government revenue.

### Increased infrastructure

The net effect of the country not providing for the basic needs of persons living with disabilities is that they can, in turn, focus more resources on providing good infrastructure and other social amenities to improve the living standards of people, whether or not they live with any form of disability. Instead of providing shelter for such groups, it can equip them with skills and allow them to go to school with others so they can provide for themselves. Thus, if a country has effective laws to protect the minority, specifically PWDs, the country itself shall benefit from infrastructural development. The presence of industries and other amenities to facilitate business speeds up economic progress.

### Conclusion

To conclude, this writer posits that laws encouraging gender and disability-inclusion can play a positive role in economic development. Even though most countries have such laws, they need to be strengthened, in order to bridge the gap that has been

created between persons living with and without disability and to ensure disability-inclusion. It is through this practice that countries can be eligible to special foreign aid, have a lower dependency rate, increase revenue and infrastructure, as well as have a strong human capital to support economic development. Disability is a part of the human condition; almost everyone will be temporarily impaired at some point in life.<sup>22</sup>

The sponsor supporting Gloria Korankyewaa Nyarko's award is The Hon. Dame Linda Dobbs DBE

#### Notes

1. World Health Organization, Gender, *Equity and Human Rights*, Factsheet No 403, [www.who.int/gender-equity-rights/news/factsheet-403/en](http://www.who.int/gender-equity-rights/news/factsheet-403/en), accessed 10 November 2020.
2. Centres for Disease Control and Prevention, *Impairments, Activity Limitations and Participation Restrictions*, available at [www.cdc.gov/ncbddd/disabilityandhealth/disability.html](http://www.cdc.gov/ncbddd/disabilityandhealth/disability.html), accessed 10 November 2020.
3. Article 1, United Nations Convention on the Rights of Persons with disabilities and optional protocols.
4. *Championing Economic Development – EDRP Research Report*, available at [www.iedconline.org/web-pages/inside-iedc/championing-economic-development](http://www.iedconline.org/web-pages/inside-iedc/championing-economic-development), accessed 10 November 2020.
5. *African Economic Outlook 2020, Developing Africa's Workforce for the Future*, available at [https://au.int/sites/default/files/documents/38116-doc-african\\_economic\\_outlook\\_2020\\_.pdf](https://au.int/sites/default/files/documents/38116-doc-african_economic_outlook_2020_.pdf), accessed 15 November 2020.
6. World Health Organization and World Bank, *World Report on Disability* (Geneva, 2011). Estimate based on 2010 population.
7. Secretary-General's Statement at the High-Level Meeting of the General Assembly on Disability and Development, 23 September 2013.
8. Inclusive City Maker; *Disabled people in the world in 2019: Facts and Figures*, [www.inclusivecitymaker.com/disabled-people-in-the-world-in-2019-facts-and-figures](http://www.inclusivecitymaker.com/disabled-people-in-the-world-in-2019-facts-and-figures), accessed 15 December 2020.
9. *Ibid* note 6.
10. Inputs from UN women, *Addressing gender equality in the context of disability*, background paper for informal session on women with disabilities.
11. Article 6, CRPD.
12. Article 2, CRPD.
13. Augustina Naami, *Disability, Gender, and employment relationship in Africa: A case study in Ghana*.
14. Arthur O'Reilly, *The Right to Decent Work of Persons with Disabilities* (pp 31–33), Skills Working Paper No 14, Geneva, International Labour Organization, 2003.
15. UN, *10th anniversary of the adoption of Convention on the Rights of Persons with Disabilities (CRPD)*, [www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/the-10th-anniversary-of-the-adoption-of-convention-on-the-rights-of-persons-with-disabilities-crpdcrpdc-10.html#:~:text=On%2030%20March%202007%2C%20the,the%20CRPD%20entered%20into%20force.&text=The%20CRPD%20has%20been%20the,States%20in%20the%20United%20Nations](http://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/the-10th-anniversary-of-the-adoption-of-convention-on-the-rights-of-persons-with-disabilities-crpdcrpdc-10.html#:~:text=On%2030%20March%202007%2C%20the,the%20CRPD%20entered%20into%20force.&text=The%20CRPD%20has%20been%20the,States%20in%20the%20United%20Nations), accessed 26 November 2020.
16. Article 3, CRPD.
17. SDG 5: Gender equality and Disability Inclusive Development in the SDGs, CBM News, accessed 3 December 2020.
18. *Inclusion of People with Disabilities in Kenya*, International Labour Organization, Skills and Employability Department.
19. Kenya Revenue Authority, reference available at [www.kra.go.ke/en/individual/special-needs/your-situation/people-with-disability](http://www.kra.go.ke/en/individual/special-needs/your-situation/people-with-disability), accessed 19 November 2020.
20. Millennium Development Goals (MDGs) are eight goals with targets and clear deadlines signed by 189 countries at the United Nations Millennium Summit in 2000 with the aim of improving the lives of world's less-privileged people. MDG Achievement Fund, [www.mdgfund.org/node/922](http://www.mdgfund.org/node/922), accessed 14 December 2020.
21. Department of Economic and Social Affairs, *The way forward: a disability inclusive development agenda towards 2015 and beyond*.
22. *Ibid* note 6.

Divine Selase Agborli  
University of Ghana,  
Accra  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

# How can laws promoting gender and disability rights support economic development?

## Introduction

'But I ask no favours for my sex. I surrender not our claim to equality. All I ask of our brethren is that they will take their feet

from off our necks, and permit us to stand upright...' (Sarah Grimke, quoted in Ceplair, Public Years, 208)

*The United States' Declaration of Independence states that 'We hold these truths to be self-evident,*

*that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are Life, Liberty and the pursuit of Happiness.’ This same principle of equality has been espoused by several international instruments. The Convention on the Elimination of All Forms of Discrimination against Women<sup>1</sup> (CEDAW), the Convention on The Rights of Persons with Disabilities<sup>2</sup> (CRPD), the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa<sup>3</sup> (hereinafter referred to as the ‘Maputo Protocol’) and many national constitutions enshrine it in their texts.*

And yet, as rife as this principle of equality is, the world continues to bear great inequality –whether on the basis of sex, disability, race, class or sexual orientation. This paper focuses specifically on gender and disability rights and how the promotion of these rights can support economic development.

### **Disability rights, gender rights and economic development**

Disability is defined as a physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person’s ability to engage in certain tasks or actions or participate in typical daily activities and interactions.<sup>4</sup> The CRPD recognises that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.<sup>5</sup> Disability rights are basically rights that protect persons with disabilities from discrimination on the basis of disability. Discrimination on the basis of disability means any distinction, exclusion or restriction on the basis of disability that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.<sup>6</sup>

According to the United Nations Development Programme (UNDP), while gender inequalities can affect anyone, it is women who face the most discrimination.<sup>7</sup> ‘Women’ means persons of female gender, including girls.<sup>8</sup> Gender rights are essentially rights that protect women

from discrimination on the basis of sex. Discrimination against women means any distinction, exclusion or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>9</sup>

Economic development goes beyond economic growth. It reflects social and economic progress and requires economic growth.<sup>10</sup> According to Amartya Sen, development is about creating freedom for people and removing obstacles to greater freedom. Greater freedom enables people to choose their own destiny. Obstacles to freedom, and hence to development, include poverty, lack of economic opportunities, corruption, poor governance, lack of education and lack of health.<sup>11</sup>

It is worth noting that discrimination on the basis of disability and sex are not mutually exclusive and that, at a point, intersectionality comes into play. Going by Sen’s definition, it would be realised that the obstacles to greater freedom still exist even though some countries have made more progress than others. The obstacles can be as explicit as laws prohibiting women from participating in economic life; and they can also be subtle, such as unconscious bias when it comes to (not) promoting women in the workplace. For instance, a report on Equatorial Guinea revealed that women were paid less than men for the same work and the terms of their contracts often were not honoured. Women rarely complained due to a fear of reprisal.<sup>12</sup> In Russia, women aren’t allowed to drive trains or pilot ships.<sup>13</sup> These are but a few of the indignities that women around the world face. These indignities are not exclusive to women only; disabled persons also suffer such indignities and to be a woman and be disabled is to experience the worst of both worlds. Most of these discriminatory acts and practices are rooted in cultural norms. According to the UN Committee on the Elimination of Discrimination against Women, the prevalence of negative stereotypes and adverse cultural norms and customs has resulted in discrimination against women.<sup>14</sup> The African Child Policy Forum (ACPF), based on its field studies in Cameroon, Ethiopia, Senegal, Uganda and Zambia, reports that common beliefs about



the causes of childhood disability include the presumed sin or promiscuity of the mother, an ancestral curse; or demonic possession.<sup>15</sup> In Nigeria, beliefs about the causes, of disability include a curse from God, ancestral violations of societal norms, offences against the gods of the land, breaking laws and family sins; misfortune, witches and wizards, and adultery, among others.<sup>16</sup>

Allowing these cultural norms to prevail means permitting the norms to shape the discourse pertaining to gender and disability issues and policies. However, if we are to attain equality and improved economic development in our age, then we have to challenge these norms and be committed as individuals and societies to making equality a reality.

### The way forward

In order to promote gender and disability rights and, by extension, economic development, the writer recommends advocacy, making education and jobs accessible and even mainstreaming these opportunities, making justice accessible as well as securing the property rights of the groups in question. However, before any substantial improvement can be made, we have to understand that these issues – particularly disability rights and policies – are human rights issues and not charity cases. Persons with disabilities are first and foremost persons who have rights like everyone else – even though they might have special needs – and not objects that from time to time receive society’s well-meant care.<sup>17</sup> If we acknowledge this then we can understand why it behooves states to secure these rights for their constituents. To quote the US Declaration of Independence, ‘That to secure these rights, Governments are instituted among men...’.

### Advocacy

Advocacy is defined as the act or process of supporting a cause or proposal.<sup>18</sup> The object of advocacy as used in this context includes the promotion of social justice and inclusion (for women and persons with disabilities), the empowerment of people with disabilities (and women), respect for autonomy and the use of advocacy to influence systemic reform.<sup>19</sup> Since it has been identified that most discriminatory acts stem from cultural norms, advocacy would focus mainly on disproving these norms with science and data. States,

Disabled People’s Organisations (DPOs) and gender organisations must actively undertake to advocate for these rights, using the media in particular and other feasible methods. It is only when mind-sets are changed that the enforcement of gender and disability rights becomes easier. DPOs have found that, by working within communities, negative attitudes and harmful practices can also be transformed into more positive perceptions.<sup>20</sup>

### Making education accessible to all and mainstreaming schools

*‘The true wealth of a nation lies not in its gold or silver but in its learning, wisdom and in the uprightness of its sons’ (Khalil Gibran).*

For the purposes of this paper, ‘son’ as used in the quotation should be replaced by ‘children’. Despite knowing that a nation’s true wealth lies in the learnings of its children, data shows that many girls and disabled persons all over the world are either not in school or drop out very early. In low income countries, less than two-thirds of girls complete their primary education and only one in three completes lower secondary school.<sup>21</sup> Low educational attainment for girls (and disabled persons) has potential negative impacts on a wide range of other development outcomes not only for the girls (and disabled persons) themselves, but also communities and societies; not educating girls is especially costly, in part because of the relationships between educational attainment, child marriage and early childbearing, and the risks that they entail for young mothers and their children.<sup>22</sup> This is why several international instruments insist that states must eliminate all forms of discrimination against women and disabled persons and guarantee equal opportunity and access in the sphere of education and training.<sup>23</sup>

Advantages and disadvantages compound. It is mostly people who have attained higher levels of education who can access high paying jobs; attain higher qualities of life and, by virtue of their earnings, purchase property. The higher percentages of women and disabled persons, when not fully educated, limits their access to such opportunities and hence makes them more likely to become dependants. This then leads to a low rate of saving since dependants are more than those producing output. A low savings ratio will mean that fewer funds are available for investment and

economic growth may suffer.<sup>24</sup> This is just one of the many ways that the absence of gender and disability rights negatively affects economic development.

With regard to persons with disability, the CRPD makes it clear that it supports a mainstream approach towards policymaking.<sup>25</sup> Mainstreaming in this context means placing disabled children in regular school classes. This approach ensures that disabled persons have access to the same kinds of opportunities as others since specialised schools do not often provide such opportunities. Mainstreaming, though new and difficult, can be implemented by states and organisations making reasonable accommodation for disabled persons. ‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.<sup>26</sup>

### **Making jobs accessible**

Every year, countries lose a lot, either by not employing women and disabled persons or by under-employing them. An International Labour Organization study estimated that between US\$1.37 trillion and US\$1.94 trillion of gross domestic product (GDP) is lost annually from under-employment of people with disabilities.<sup>27</sup> This, along with the fact that disabled persons and women are humans deserving of rights, is the reason that several international instruments provide for their economic rights. Most of these provisions are to the effect that states parties shall adopt and enforce legislative and other measures to guarantee women and disabled persons equal opportunities in work and career advancement and other economic opportunities.<sup>28</sup> With regard to women, the barriers faced at work are both procedural and substantive. The procedural aspects can be dealt with simply by passing laws that make it easy for women to access any field of economic activity. But beyond that, women face issues of sexual harassment, gender pay gap, bias when it comes to promotions and problems related to maternity. Passing specific laws to deal with each of these problems would go a long way to advancing women’s rights and economic development. States

can also set the ball rolling by setting aside an employment quota in state institutions for women and disabled persons.

### **Access to justice**

Passing legislation alone would not solve the problem faced by women and disabled persons. There must be means to enforce the legislation passed, as well as holding non-compliant persons accountable. First of all, states must ensure that women and disabled persons have the same legal capacity as men to bring actions before the judiciary.<sup>29</sup> Implicit in making justice accessible is the duty of the state to provide legal aid to both women and disabled persons. Such aid would enable women to assert their rights to equal pay, education, jobs and reproductive rights, as well as bringing actions against all who sexually harass them in school or at the workplace, and also perpetrators of gender-based violence and criminal customs like child marriages and female genital mutilation.

### **Property rights**

Economic development, as explained earlier, has to do with removing obstacles to freedom. One of the obstacles to women and disabled persons having economic freedom is often the lack of control over factors of production such as land and capital. It is in light of this that several international instruments provide to the effect that states parties shall take appropriate measures to promote women’s (and disabled persons’) access to and control over productive resources such as land and guarantee their right to hold property.<sup>30</sup> Also, bank loans should be made accessible to women and disabled persons. Control over factors of production is integral to the reduction of poverty and, as such, states must revise their land tenure and credit systems to accommodate women and disabled persons.

### **Conclusion**

We should be primarily concerned about the quality of life of women and disabled persons because of our shared humanity. Beyond, our shared humanity, however, we need women and disabled persons on board to develop our families, societies and the world at large, both socially and economically. It is evident that women and disabled persons having economic rights, educational rights, property rights and access to justice leads to economic growth and development in the long run.

The sponsor supporting Divine Selase Agborli's award is Allen & Overy

#### Notes

1. Article 1, CEDAW.
2. Article 1, CRPD.
3. Article 8, Maputo Protocol.
4. [www.merriam-webster.com/dictionary/disability](http://www.merriam-webster.com/dictionary/disability), accessed 30 December 2020.
5. Paragraph (e) of the Preamble to the CRPD.
6. Article 2, CRPD.
7. [www.undp.org/content/undp/en/home/2030-agenda-for-sustainable-development/people/gender-equality.html#:~:text=UNDP%20works%20to%20eliminate%20gender,girls%20and%20men%20and%20boys](http://www.undp.org/content/undp/en/home/2030-agenda-for-sustainable-development/people/gender-equality.html#:~:text=UNDP%20works%20to%20eliminate%20gender,girls%20and%20men%20and%20boys), accessed 30 December 2020.
8. Article 1(k), Maputo Protocol.
9. Article 1, CEDAW.
10. [www.economicsonline.co.uk/Global\\_economics/Economic\\_development.html](http://www.economicsonline.co.uk/Global_economics/Economic_development.html), accessed 30 December 2020.
11. *Ibid.*
12. Equatorial Guinea 2017 Human Rights Report (pp 26–27).
13. [www.weforum.org/agenda/2018/08/104-countries-have-laws-that-prevent-women-from-working-in-some-jobs](http://www.weforum.org/agenda/2018/08/104-countries-have-laws-that-prevent-women-from-working-in-some-jobs), accessed 30 December 2020.
14. Equatorial Guinea 2017 Human Rights Report (pp 20–21).
15. African Child Policy Forum, *Violence against Children with Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia* (2011).
16. M Eskay, V C Onu, J N Igbo, N Obiyo, L Ugwuanyi, *Disability within the African Culture*, at 478, University of Nigeria, Nsukka, US-China Education Review B 2 (2012).
17. C Harnacke, (2013), *Disability and Capability: Exploring the Usefulness of Martha Nussbaum's Capabilities Approach for the UN Disability Rights Convention*, in *Journal of Law, Medicine & Ethics* (pp 768–780).
18. [www.merriam-webster.com/dictionary/advocacy](http://www.merriam-webster.com/dictionary/advocacy), accessed 31 December 2020.
19. E Flynn, (2013), *Making human rights meaningful for people with disabilities: advocacy, access to justice and equality before the law*, in *The International Journal of Human Rights* (pp 491–510).
20. *Toolkit on Disability for Africa, Culture, Beliefs, and Disability*, [www.un.org/development/desa/dspd/2016/11/toolkit-on-disability-for-africa-2](http://www.un.org/development/desa/dspd/2016/11/toolkit-on-disability-for-africa-2).
21. Wodon, Q, Montenegro, C, Nguyen, H, and Onagoruwa, A (2018), *The Cost of Not Educating Girls, Missed Opportunities: The High Cost of Not Educating Girls*.
22. *Ibid.*
23. Article 12, Maputo Protocol and Article 10, CEDAW and Article 24, CRPD.
24. [www.economicsonline.co.uk/Managing\\_the\\_economy/Saving.html#:~:text=A%20low%20savings%20ratio%20means,and%20economic%20growth%20may%20suffer](http://www.economicsonline.co.uk/Managing_the_economy/Saving.html#:~:text=A%20low%20savings%20ratio%20means,and%20economic%20growth%20may%20suffer), accessed 31 December 2020.
25. Paragraph (g) of the Preamble to the CRPD.
26. Article 2, CRPD.
27. T N Mwendwa, A Murangira and R Lang, *Mainstreaming the Rights of Persons with Disabilities in National Development Frameworks*, in *Journal of International Development*, (2009).
28. Article 13, Maputo Protocol and Article 11, CEDAW and Article 27, CRPD.
29. Articles 12 and 13, CRPD and Article 8 of the Maputo Protocol.
30. Article 19, Maputo Protocol and Article 12(5) of CRPD.

**Musenge  
Kapandula**

University of Zambia,  
Lusaka  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

# How can laws promoting gender and disability rights support economic development?

## Introduction

Women and (as another group) persons with disability have, since time immemorial, been marginalised groups of society in spite of their substantial numbers. Statistics indicate that 15 per cent of the world's population is made up of persons living with some form of disability;<sup>1</sup> while 49.6 per cent of the world's population is made up of women.<sup>2</sup> Nonetheless, the laws, conventions, policies, traditions and customs in the past have disfavoured these groups, potential held by these two (overlapping) groups to grow economies massively went largely unnoticed in law. However, this has been changing with the adoption and enactment of laws that

support the participation of these groups in economic activities. To this effect, this essay seeks to provide a comprehensive overview on how gender and disability laws can support economic development. This will be done by firstly defining economic development, then identifying and defining the laws that promote gender and disability rights, and thereafter explaining how they support economic development. Lastly, a conclusion will be drawn which will show that, when effectively implemented, international, regional and local laws supporting gender and disability rights ultimately lead to economic development.

## Background

The discrimination openly practiced against women and persons with disability has existed for generations, leading to the degradation of these groups' positions in society. However, the narrative held by past generations is changing and, in due course, a complete fallout altogether may be seen. This is because the current generation may be seen as tapping into potential of these two marginalised groups instead of perpetuating the practices and condemnation previously inflicted upon them. Accordingly, laws have been enacted to ensure that women and persons with disability get equitable treatment in order to make it easier for them to attain a position equal to that of other 'normal' human beings.

## Economic development

Early development scholars defined economic development as growth of per-capita income. However, this definition did not reflect the true position on the ground. Thus, according to scholars Todaro and Smith, the modern definition of economic development is 'reduction or elimination of poverty, inequality, and unemployment within the context of a growing economy.'<sup>3</sup> Therefore, in order for a country to undergo economic development, they must eliminate poverty, inequality and unemployment. Accordingly, whenever the implementation of gender and disability laws leads to the creation of employment and reduction of inequality and poverty, then there is economic development.

## Gender laws and how they support development

Laws supporting gender rights are those advocating for equality between men and women. Such laws are aimed at ensuring that men and women living in similar circumstances are treated equally without any favour or unwarranted advantage (or disadvantage) on either part. However, as noted by the International Labour Organisation (ILO), women and girls are usually disadvantaged.<sup>4</sup> Therefore, the fight for gender equality focuses more on promoting and uplifting the rights and freedoms of women and girls to bring them to the same level as men and boys. Subsequently, as will be seen, most of the gender laws support women rather than men.

One of the major laws in support of gender

rights is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This convention is a United Nations instrument adopted in 1979 and which came into force in 1981. The goal of CEDAW, as suggested by its name, is to end all forms of discrimination against women in society. To this end, the CEDAW compels states parties to take measures by enacting legislation, introducing government policies, and establishing legal frameworks that prohibit discrimination and promote equality both expressly and by implication. In CEDAW, discrimination is defined as, 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'<sup>5</sup> with this definition then also widely accepted. For instance, it is adopted in the *Zambian Gender Equity and Equality Act*<sup>6</sup> and the *Maputo Protocol*<sup>7</sup> where a slightly modified version of this definition is given. Both of the above-mentioned statutes, albeit territorial in their application, are laws that aim at promoting gender equality by, inter alia, fighting discrimination.

Once discrimination is obliterated through enforcement of the above laws, more women will have access to opportunities in different sectors of the economy. With the greater inclusion of women in the different sectors, the total number of people providing services and manufacturing goods, increases. This entails an increase of labour. Subsequently, labour costs reduce and the production of goods and services becomes cheaper. As a ripple effect, many manufacturers and service providers gain greater access to cheap labour and this allows them to produce more and increase their net income which, in turn, increases the nation's gross domestic product (GDP). This means the country is able to achieve increases in economic growth in the form of increased GDP, an indicator of economic development. This is evidenced in a report by the European Institute for Gender Equality (EIGE) which asserts that improvements to gender equality would generate additional jobs and the GDP of countries per capita would rise.<sup>8</sup> Even though the EIGE makes predictions for the European Union (EU), these predictions essentially have universal application.

Other laws also support gender equality

in their particular territory. For instance, the Southern African Development Community (SADC) Protocol on Gender and Development, which applies in the SADC region, is aimed at promoting gender equality. In its Article 7, the SADC Protocol provides that women must have equal civil and customary rights, which include contractual capacity, rights to acquire and hold property, and encouragement by public and private institutions for women to exercise their legal capacity. Rights similarly outlined are also guaranteed in the Zambian Gender Equity and Equality Act,<sup>9</sup> which applies in Zambia. More wide-reaching, the Maputo Protocol<sup>10</sup> has jurisdiction over all African countries that are States parties. It provides in its section 14 that access to land, property and training skills are guaranteed rights for women.

As can be seen in the laws just highlighted, women are increasingly afforded the same legal capacity as that of men. This means legally they can perform any acts they wish to; such as entering into contracts with who ever they wish. Also, women are guaranteed protection from discrimination in the acquisition of family benefits, bank loans, mortgages and other financial services. The result is that women have access to capital when they need it to start or grow businesses that have the potential of contributing to the nation's GDP. Moreover, states parties are compelled to ensure that women in rural areas 'have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land.'<sup>11</sup> The women must also have proper housing and sanitation, electricity, transport and communication adequately provided for them.<sup>12</sup> Access to all these facilities means that women can start and expand businesses to the extent of being employers. Once a woman starts a business and it becomes big enough to require extra support, more people will be employed and this will reduce the unemployment rate in the country. The net benefits of this are innumerable and economic development is boosted.

Additionally, laws advocate for equal job opportunities and conditions of service.<sup>13</sup> A UN report states that companies benefit from having women in leadership positions.<sup>14</sup> It has also been reported that having more women on boards 'improves decision-making and shareholder value, increases sales revenue and profits.'<sup>15</sup> Once appropriate laws are implemented and this is achieved, women will be motivated and this will make them render

more services, produce goods of higher quality in greater quantities. As already mentioned, an increase in the quantity of goods and services produced leads to increased GDP. Additionally, increase in the quality of goods produced leads to increased demand and may lead to greater exports, thus increasing foreign exchange earnings and also strengthening the local currency. These laws also advocate for the inclusion of women in all national programmes. For instance, they advocate for women to be included in all levels of governance in the same way that men are.<sup>16</sup> The application of these laws can lead to women holding high positions of governance, such as seats in parliament. This affords them the opportunity to enact laws that uplift women in society thereby bringing them up to par with men and eradicating inequality.

Furthermore, studies have revealed that more women invest their income in their families than men.<sup>17</sup> Thus, there is a higher likelihood that families will be better educated and healthier when headed by a woman with a decent income. This leads to healthier and more educated, more responsible individuals in society who can venture into productive activities such as commercial farming and contribute adequately to the national food basket.

Similarly, while discrimination against women is strongly condemned, affirmative action in favour of women is highly commended. It is defined as 'any policy, programme or measure that seeks to redress past discrimination to ensure positive outcome in all spheres of life of women.'<sup>18</sup> This is so in order to facilitate the quick(er) elevation of women to the same tier as men. Once the intended goal is achieved, all measures that are taken in the form of affirmative action must be discontinued. For instance, in 2010, pursuant to the SADC Protocol,<sup>19</sup> the Government of the Republic of Zambia introduced affirmative action measures. These ordered for the reservation of 25 per cent of bursaries, (as they were called then) for female students, while the remaining 75 per cent was to be competed for by both male and female students.<sup>20</sup> This enabled many women and girls the opportunity to acquire tertiary education, equipping them with skills that would help them acquire employment and even start businesses. Therefore, unemployment and, subsequently, poverty will be reduced and this is economic development.

### Disability laws and how they support development

Laws supporting disability rights are those that advocate for equality between persons with disability vis-à-vis the rest of society. Such laws aim at putting persons with disability on the same level as un-affected people. They focus on making it possible and easier for persons with disability to lead a normal life in spite of their incapacity. One of the most significant laws to advocate for the rights of persons with disability is the United Nation's Convention on the Rights of Persons with Disabilities (CRPD). This international convention, ratified by over 100 states all over the world, promotes the full integration of persons with disabilities in society. It has many provisions supporting disability rights, which ultimately promote development.

It can be argued that one of the paramount provisions of the CRPD which is a stepping stone towards development, is its Article 9, that provides for accessibility. Article 9 in effect entails that the environment, transport, communication and all kinds of goods and services must be made accessible to persons with disability. This is a first step to securing greater independence for this marginalised group in society. States parties have the duty to ensure that they configure the environment to create suitable conditions for persons with disability to live freely and independently. For instance, where an institution has staircases, they are to install an elevator or a slanting slab to allow persons who in wheelchairs to move around freely. This helps persons living with disability to have free and open minds, leaving room for creativity and their increased productivity. This provision also enables the enforcement of other rights such as *yo health*<sup>21</sup> and *education*<sup>22</sup> in the sense that, once schools and hospitals are made accessible for persons with disability, they can then freely enjoy their rights to quality education and good health on an equal footing with other people. It also becomes practicable to employ persons with disability once institutions are made accessible for them.

It has been stated that 'global development targets cannot be achieved unless disability is treated as a cross-cutting, priority issue.'<sup>23</sup> This entails the mainstreaming of disability rights in all sectors of the economy. In Zambia, for example, issues concerning disability rights are governed by the Persons with Disabilities Act.<sup>24</sup> The Act has mainstreamed disability rights into many sectors of the economy including

the inclusion of persons with disabilities in primary and secondary schools, as well as tertiary institutions equal conditions of work and equal pay for equal work, labour and trade union rights, the access to vocational training programmes, creation of self-employment and entrepreneurship opportunities, and employment in the public sector, among other things. This presents multiple fronts over which disability rights are promoted and stands to lead to greater development prospects. For instance, mainstreaming these rights may lead to increased employment and more businesses, which are indicators of economic development. Further, there will be more equality in the different sectors in accordance with the law.

The Act also provides that those who employ persons with disabilities in their companies are given certain incentives. This is the same for persons with disabilities who start businesses. These incentives may be in the form of tax rebates or stipends.<sup>25</sup> This encourages employers to employ persons with disability. Likewise, many persons with disabilities are encouraged to start-up businesses knowing they have government support. This increases the number of employees and entrepreneurs in the country, thus leading to more revenue collection by the government and, subsequently, increased economic growth.

The inclusion of persons with disability in a country's production and service industry has profound results with potentially astounding ripple effects. If more persons with disability are employed, the amount of people working increases. This leads to higher production of goods and services and subsequently, higher GDP. The International Labour Organization (ILO) states that excluding persons with disability from work has costs for the society in terms of their productive potential and this may cost countries from between one to seven per cent of their potential GDP.<sup>26</sup> This means that a failure to implement and enforce disability rights is, in fact, a loss incurred by the country in that the extra GDP that could have been generated is lost. Therefore, inequality increases, unemployment increases while economic growth reduces.

Inasmuch as persons living with disability must be treated equally, equity in their treatment cannot be overlooked. There are some jobs which cannot be undertaken by persons with disability due to the inherent nature of these jobs. This means that persons with disability can only be given jobs which they have the capability to perform.

Nonetheless, it is often possible for persons with disability to be given some type of work unless they completely lack mental capacity or are incapable of performing any type of work at all due to their disability. Hence, once persons with disability are employed, a significant number may be given permanent jobs due to the fact that they have limited capacity to perform other types of jobs. This phenomenon may lead to high specialisation due to long periods of doing the same work. In other words, the workers become experts. The effect of this is that it increases the quality of goods and services provided by the workers. Ultimately, more demand will be generated and this can lead to higher exports which translate into higher foreign exchange earnings. This then increases the value of the local currency and the nation's economic growth.

### Conclusion

In summary, it is indubitable that laws promoting gender and disability rights ultimately lead to economic development. As can be seen in the main text, there are quite a number of international, regional and local laws that promote gender and disability rights. Once these laws are enforced effectively by the bodies with the mandate to do so, inequality will reduce and, thus, more women and persons with disability will have jobs, more will venture into different businesses and this means more informal jobs, revenue collection, export earnings, inter alia. Further, the cost of living reduces while the standard of living increases, thereby reducing poverty among the marginalised groups. Ultimately, more money is raised, more infrastructure built, more investments made and all this economic development results from the enforcement of gender and disability laws.

The sponsor supporting Musenge Kapandula's award is Bryan Cave Leighton Paisner

### Notes

- World Bank, *Disability Inclusion*, [www.worldbank.org/en/topic/disability#:~:text=Results,One%20billion%20people%2C%20or%2015%25%20of%20the%20world's%20population%2C,million%20people%2C%20experience%20significant%20disabilities](http://www.worldbank.org/en/topic/disability#:~:text=Results,One%20billion%20people%2C%20or%2015%25%20of%20the%20world's%20population%2C,million%20people%2C%20experience%20significant%20disabilities), accessed 18 December 2020.
- World Bank, *Population, female (% of total)*, <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?end=2019&start=2019&view=bar>, accessed 14 December 2020.
- M Todaro, S Smith, (2012), *Economic Development 11th ed*, Pearson Publishing: Boston, p 15.
- ILO, *Gender and Development*, available at: <http://ilo.org/global/topics/economic-and-social-development/gender-and-development/lang-en/index.htm>, accessed 17 December 2020.
- Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.
- Section 2 of the Gender Equity and Equality Act no 22 of 2015 of the Laws of Zambia.
- Protocol to The African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
- European Institute for General Equality, Gender equality boosts economic growth, 8 March 2017, available at: <https://eige.europa.eu/news/gender-equality-boosts-economic-growth>, accessed 17 December 2020.
- Gender Equity and Equality Act no 22 of 2015 of the Laws of Zambia.
- Protocol to The African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 19.
- Ibid*, Article 14
- Ibid*.
- See Article 11, CEDAW.
- UN Women, *Facts and Figures: Economic Empowerment Benefits of economic empowerment*, available at: <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>, accessed 17 December 2020.
- K Pettersson, *Inequalities Risk Hampering Economic Development*, Nordregio News Issue #2, March 2013. Available at <https://www.diva-portal.org/smash/get/diva2:700299/FULLTEXT01.pdf>, accessed 16 December 2020.
- See Article 7, Protocol to The African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
- Women Deliver, *Girls and Women are Drivers of Development*, available at <https://womendeliver.org/infographics>, accessed 21 December 2020. See also Thompson, D, *Women are more responsible with money*, The Atlantic, January 2011. Available at <https://www.theatlantic.com/business/archive/2011/01/women-are-more-responsible-with-money-studies-show/70539>, accessed 28 December 2020.
- See note 6.
- Article 5 of the SADC Protocol on Gender and Development.
- University World News, *ZAMBIA: Higher education gender disparities reduced*, 5 September 2010. Available at: <https://www.universityworldnews.com/post.php?story=20100905073145660>, accessed 14 December 2020.
- Article 25, CRPD.
- Article 24, CRPD.
- Disability and Development*, available at: <https://gsdrc.org/professional-dev/disability-and-development>, accessed 19 December 2020.
- Act no 6 of 2012.
- See note 19, section 37.1.
- ILO, *Promoting equal opportunities and outcomes in employment for persons with disabilities*, available at: [http://ilo.org/suva/areas-of-work/WCMS\\_212132/lang-en/index.htm](http://ilo.org/suva/areas-of-work/WCMS_212132/lang-en/index.htm), accessed 18 December 2020.

# How can laws promoting gender and disability rights support economic development?

## Introduction

Issues of gender and disability have a common denominator when it comes to discussing economic development. This is because in the past and in many places in the world, economic development has excluded people and left them behind based on gender and disability and, even worse, when combined and the disabled persons are women or girls.<sup>1</sup> This is a form of inequality and discrimination that has hindered those affected to fully participate in, contribute to and benefit from the economic development of their countries. Thus, it is important to understand how inequality and discrimination based on gender and disability adversely affects economic development.

This essay shall address how laws promoting gender and disability rights can support economic development. In order to do that, it is important to define key concepts such as economic development, gender and disability, and to identify the laws dealing with equality and non-discrimination. After establishing these concepts, the essay shall demonstrate how the laws promoting gender and disability rights can support economic development.

## Economic development

To explain how economic development is impacted by laws promoting disability and gender rights, economic development must, itself, first be understood. Economic development is not easy to define and must be distinguished from economic growth which involves an increase of quantifiable aggregate output.<sup>2</sup> Nevertheless, economic development is defined as activities that increase the capacities to realise potential that, among others, an individual has in the quest of producing goods and services in society.<sup>3</sup> Economic development should, therefore, translate into prosperity and a better quality of life of all concerned<sup>4</sup> as per Article 1 of

the Universal Declaration of Human Rights, 1948, which provides that 'all human beings are born free and equal in dignity and rights...'. Thus, when one discusses economic development, such development should be premised on the inclusive improvement of people's lives without leaving anyone behind.

## Gender

Gender refers to socially constructed norms, roles and behaviours, across one society to another, associated with being a woman, man, girl or boy, at a particular given time.<sup>5</sup> In discussing gender, it is important to identify various needs between men and women, as well as between girls and boys, through gender analysis which is a process of collecting and analysing of sex-disaggregated information.<sup>6</sup> Other key aspects of gender are gender equality and gender equity. Gender equality means women and men having equal conditions for realising their full human rights, and attaining economic, social, cultural and political development on the one hand; while gender equity refers to fairness in ensuring that a level playing field is provided for both women and men, taking into account the historical and social aspects which have, for centuries, tilted the playing field to between women and men, generally in favour of men.<sup>7</sup> It is the quest for levelling the playing field in which gender mainstreaming, which is basically the steps taken to achieve equality through policy formulation and the enactment of legislation, among others,<sup>8</sup> has taken prominence in gender discussions.

## Disability

There are many reasons that may underlie discrimination against a person or group of persons in society. Disability is one such reason. It is argued that women or girls who are disabled are worse off than



similarly disabled men and against non-disabled men and women.<sup>9</sup> Disability, although challenging and, for the purposes of economic development, defined as the ‘physical, intellectual mental health, sensory, or other types of impairments that limit one or more of the major life activities and put individuals and their family at risk of being in poverty’.<sup>10</sup> It follows, then, that disability can cause and does cause poverty to at least some of its victims. That, however, should not be the case as no person should potentially be deprived of their right to development based on a disability and, consequently, subjected to poverty which itself may increase the occurrence of more disabilities and exacerbate existing disabilities. This is due to the fact that there is a link between disability and poverty<sup>11</sup> as disability in certain circumstances may lead to exclusion from social services such as education and access to healthcare of those who are disabled.

### Laws promoting gender rights

One’s gender or disability should not be the basis upon which such a person is denied a right to economic development. It should not be the basis upon which one’s capacity to realise their development potential is stifled. As far as gender is concerned, equality between men and women must be maintained and provided for in various pieces on legislation and international law instruments to take on board the Charter of the United Nations’ reaffirmed faith in the equal rights of men and women, as provided for under its preamble.

Women have often been marginalised and deprived of opportunities to participate fully in development for centuries, as evidenced by historical limitations on voting or on owning property. Thus, recognising that discriminating against women violates the principle of equality and being aware that such discrimination against women stands to limit their access to food, health, education, training and opportunities for employment and other needs, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981.

Under CEDAW, states parties are required to condemn discrimination, in all its forms, against women. States parties are also mandated to embody the principle of equality between men and women and to enact domestic legislation prohibiting gender

discrimination.<sup>12</sup> Many countries have, to this end, promulgated legislation prohibiting gender-based discrimination.<sup>13</sup>

Further, Article 3 of the International Covenant on Civil and Political Rights (ICCPR), 1966, requires states parties to ensure the observation of equal rights of men and women and the enjoyment of civil and political rights as set out in the ICCPR. Effectively, this means that humanity should be looked at as one, without gender being used as a tool to accord different treatment to men and women in terms of one’s right to enjoy their civil or political rights.

Furthermore, the equality of men and women is restated by Article 3 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, which guarantees the enjoyment of all economic, social and cultural rights set forth in the ICESCR by both women and men without regard to their gender.

Even at regional level, many countries have come to adopt instruments that look at integrating and mainstreaming gender issues into their development agenda, as can be seen from the provisions contained in the Southern Africa Development Community (SADC) Protocol on Gender and Development, 2008. The Purpose of this Protocol is to empower women, to eliminate discrimination, to achieve gender equality and to lobby for the domestic legislation of harmonised, gender-responsive laws.<sup>14</sup>

Accordingly, many countries, such as Rwanda and Zambia, to name just two have enacted laws that demonstrate the spirit of the international instruments intended to eliminate gender-based discrimination and promote gender equity and equality.<sup>15</sup>

### Laws promoting disability rights

The principal instrument addressing disability on the international plane is the United Nations Convention on the Rights of Persons with Disabilities (CRPD) which entered into force in 2008. CRPD has brought about the recognition of the rights of disabled persons. This is because persons with disabilities, for far too long, have been or are being or are still likely to be discriminated against, excluded or indeed ignored in the development agenda of society.<sup>16</sup> It is based on the aforesaid findings that the United Nations, through the CRPD, adopted a human rights approach to address discrimination, exclusion and a somewhat

neglectful approach to persons with disabilities as relates to development.

The human rights-based approach requires that States parties promulgate laws that promote equality, non-discrimination and the inclusion of all persons. This means that persons with disabilities are, just as persons without disabilities, entitled to education, healthcare, employment and social protection, as well as to economic development, among other rights.<sup>17</sup>

Accordingly, States parties have been urged to pass legislation that enables the unhindered participation of persons with disabilities in the economic development activities of their country. In that regard, countries such as Zambia have put in place relevant legislation<sup>18</sup> to promote the participation of persons with disabilities in civil, political, economic, social and cultural spheres, as well as mainstreaming disability issues in development, and to look to eliminate physical barriers to persons with disabilities where infrastructure development is concerned.

### **How laws promoting gender and disability rights support economic development**

Together, the laws mentioned promoting gender and disability rights support economic development by advocating and providing for the equality, non-discrimination and inclusion of all persons in the area of economic development. These laws seek to increase opportunities for persons with disabilities and assist such persons to realise their full potential, which increases the quantity and quality of goods and services a given country can produce, thereby raising its gross domestic product (GDP). Persons with disabilities cannot realise their full potential without laws that provide for their unhindered access to education so that they acquire relevant knowledge and skills, physical and mental health, which helps one to save, to find employment opportunities to earn a living, and reduces dependency on others for financial aid, access to credit facilities, to found a family, and to participate in civil and political decision-making processes.

In addition, it is equally important to have in place laws and that encourage the full participation of everyone irrespective of gender and/or disabilities. Such participation enables greater access to information, as well as the chance to contribute in

decision-making for certain actions, such as infrastructure development which is accommodative to the disabled. To enable this participation, it is equally important to bring to the awareness of those protected by these laws so that they can enjoy the rights afforded by them. For instance, if someone is discriminated against based on their gender and they cannot read or appreciate the legal provisions that spell out their rights, then it becomes very difficult to bring to light or to the attention of the authorities such discrimination.

Accordingly, in Kenya, the German international development agency (GIZ) has been offering support to the Kenya Union for the Blind (KUB) in translating Kenya's Sexual Offences Act into braille to enable visually impaired persons to be able to read it. This is seen as an important measure, particularly for visually impaired girls and women, to have access to information on their rights and on the legal framework regarding sexual offences.<sup>19</sup> Effectively, this may lead to reduced cases of rape and unwanted pregnancies. This demonstrates that more literature can be translated into accessible forms such as audio and be considered as cardinal learning tools.

Education is a great equaliser, it has been said,<sup>20</sup> and it is for that reason that the laws promoting gender and persons with disabilities must be an educational priority in their agenda of promoting these persons' economic development. For centuries, women and those disabled have been denied opportunities to participate fully in economic development. The tool that would change that is education. It is through education that one can become employed in a formal job setting, be able to earn an income and to lead a full, financially independent life without being a burden to relatives in what is sometimes termed a 'black tax', provide for his or her family, save, and start a business venture and create opportunities for others to excel.

Many governments are calling for participation of women and those disabled in the governance affairs of their countries. For instance, Article 9 of the Constitution of Rwanda provides for at least 30 per cent of decision-making positions for women. This does not mean that the said threshold and above requiring participation of women in the governance of the country will be given on a silver platter. Those who have to fill the said 30 per cent will be better off being

equipped with the necessary education tools to effectively participate, contribute and represent other women whose voices are stifled in governance issues, which effectively lead to a sound participation of all in economic development without exclusion based on gender or disability.

It is by providing girls, women and those who are disabled with education that they will better understand how to stay healthy, develop their entrepreneurial skills such as carrying out organic farming, design accessible buildings and other facilities. It is through education that girls, women and persons with disabilities can be taught how to develop various computer software applications which find use in our daily lives such as online payment systems. Education is indeed the long-term game changer and it is in this regard that the existing instruments and laws prioritise it and call for the respect of other rights, such as the right to health for one cannot attain the required quality education when not healthy.

However, education, equaliser that it is, needs to be accompanied by other rights as well. The right to education for those marginalised and excluded from the economic agenda based on their gender or disability must be supported by the enjoyment of other rights as earlier stated. Education should present opportunities of employment. Employment opportunities ought not to be withheld based on arbitrarily gender and disabilities.

Merle Frosch, *et al.*,<sup>21</sup> rightly observe that women with disabilities are significantly poorer as a group than men with disabilities and women without disabilities. However, all things being equal, where a man and a woman are both of the same disability, but a woman is more educated or qualified than a man, the woman stands a better chance of being considered for a given job opportunity than a man. This clearly shows that the participation in economic development can be significantly bridged by providing education to girls, women and those with disabilities.

It follows that the laws promoting gender rights and persons with disabilities rights appear to serve the same purpose, which is to highlight the discrimination, exclusion and inequality that girls, women and those with disabilities encounter in relation to their full participation in economic development. Logically, it would then be argued that these laws require to be

harmonised as they serve the same purpose which is to actualise the principle of equality of women and men, with no single exception, without discrimination or exclusion for any reason whatsoever.

The foregoing cannot be achieved in the absence of the international, regional and national laws. It is in that regard that these various pieces of law, as demonstrated above, promote gender and disability rights by ensuring that principles of equality, non-discrimination, empowerment and participation or inclusion of everyone are applied at every level of economic development activities to enable the full participation of all, without anyone being left behind. In line with that, the right to education, as well as other rights such as employment, are equally indispensable in ensuring that the gender rights and persons with disabilities rights translate to economic development, which in turn helps countries grow their GDPs and transform the lives of their people for better.

## Conclusion

This essay has demonstrated that various laws promoting gender and disability rights can actually support economic development. This is because these laws address many issues such as lack of access to education, health, employment opportunities and participation in civil and political affairs due to gender-based discrimination and disabilities of certain persons. The essay has also highlighted the fact that education is a key platform to attaining inclusive economic development, more when supported by other rights such as the right to employment. By addressing such gender and disability issues, the laws promoting gender and disability rights provide a platform by which equality of women and men or girls and boys, non-discrimination and inclusion of all persons in economic development are attainable.

The sponsor supporting John Siame's award is Clifford Chance

## Notes

1. Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender and Development, A Resource Tool for Action* (2008) at Roadmap – 1.
2. Maryann Feldman, *et al.*, *Economic Development: A Definition and Model for Investment*, University of North Carolina (2014) pp 1–3.

3. *Ibid*, p 20.
4. California Association for Local Economic Development, *What is Economic Development?* available at: <https://caled.org/economic-development-basics>, accessed 12 December 2020.
5. WHO, *Gender and Health*, available at: [www.who.int/health-topics/gender#tab=tab\\_1](http://www.who.int/health-topics/gender#tab=tab_1), accessed 12 December 2020.
6. UNESCO's *Gender Mainstreaming Implementation Framework*, 2003, p 1. Retrieved from: [http://portal.unesco.org/en/ev.php-URL\\_ID=15780&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15780&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 12 December 2020.
7. *Ibid*.
8. European Institute for Gender Equality, *Gender Mainstreaming*, <https://eige.europa.eu/gender-mainstreaming?what-is-gender-mainstreaming>, accessed 12 December 2020.
9. E J Kim, S L Parish, T Skinner, *The impact of gender and disability on the economic well being of disabled women in the United Kingdom: A longitudinal study between 2009 and 2014*, Soc Policy Admin (2019).
10. Lorna Jean Edmonds, *Poverty Reduction and Social Development Division Regional and Sustainable Development Department Asian Development Bank* (2005) p 1.
11. [www.scielo.org.co/scielo.php?script=sci\\_arttext&pid=S012000112015000500014#:~:text=All%20of%20this%20increases%20the,levels%20of%20individual%20human%20capital](http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S012000112015000500014#:~:text=All%20of%20this%20increases%20the,levels%20of%20individual%20human%20capital).
12. This is provided for under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 1981.
13. For instance, this can be seen from the anti-discrimination clause under Article 23 of the Constitution of Zambia.
14. Article 4 of the SADC Protocol on Gender and Development, 2008, dealing with the Constitutional Rights.
15. Zambia enacted the Gender and Equity and Equality Act, 2015, while Rwanda, in 2010, amended its Constitution to entrench the non-discrimination clause under Article 11 prohibiting any form of discrimination based on, among other factors, gender and disability.
16. Ilse Worm, *A human rights-based approach to disability in development*, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Germany (2012) p 4.
17. Articles 24, 25, 27, 28 of the Convention on the Rights of Persons with Disabilities.
18. The Persons with Disabilities Act No 6 of 2012.
19. Ilse Worm, *A human rights-based approach to disability in development*, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Germany (2012) p 22.
20. A summary of quotation by Horace Mann obtained from Roslin Growe & Paula S Montgomery, *Education Equity in America: Is Education the Great Equalizer?*, University of Louisiana (2003) p 23.
21. Merle Froschl, Ellen Rubin and Barbara Sprung, *Connecting Gender and Disability*, Women's Educational Equity Act (WEEA) Resource Center at EDC, 55 Chapel Street, Newton, MA (1999) p 1.

# How can laws promoting gender and disability rights support economic developments?

Jemimah  
Chisomo Banda  
University of Zambia,  
Lusaka  
lexlead@yahoo.com

The rule of law has a close relationship with development as it ensures works to protection of property rights, individual civil and political rights, the performance of contracts and fights corruption, which all promote security and stability necessary to enhancing economic development.<sup>1</sup> This essay will first define key terms that will be its basis. Then a discussion on how laws promoting gender equality and disability rights can support economic development will follow, first addressing gender equality, then disability rights. In the case of gender equality, the discourse will be mainly centred on women's rights

because women are recognised to be generally disadvantaged as compared to men. In discussing how laws can support economic development, this essay will focus on areas of society that evidence discrimination against one gender and against persons with disability.

Laws are legal rules that govern a society by ensuring order, the protection of rights and liberties of individuals. At the core of legal rules is the principle of the rule of law, which refers to a government based on principles of equality and fairness and not of men; this principle limits the arbitrary power of those in authority. Gender equality refers to women, men, boys and girls, all enjoying the same

rights, access to resources, opportunities and protection.<sup>2</sup> Discrimination, by contrast, refers to unequal or unfair treatment based on one's race, sex, gender, age or any other personal characteristic. Economic development is the process by which a country becomes wealthier in that the lives of citizens improve in terms of standard of living, better health care, a reduction in poverty, among other factors. Some measures of economic development are an increased per capita income, greater growth national product, higher growth domestic product, improved life expectancy rates and education.<sup>3</sup>

Underlying this theme, development alone does not improve either female labour force participation or dismantle discriminatory cultural and legal institutions that work against disabled persons. In fact, some feminist scholars suggest that development can strengthen patriarchal systems and further expose women to exploitative production practices and force them into comparatively low paying jobs, all of which continue to undermine gender equality. In the case of disability rights, development can, in fact, drive people further into poverty by excluding them from the benefits of economic growth. Hence, there is need for direct intervention to ensure that gender equality improvements support economic growth for every member of society – this can be done by effective legislation. Legislation must target areas in society that facilitate economic development such as the employment sector, land administration, education and institutions that administer justice.

### Laws on employment

Laws supporting gender equality and disability rights must guarantee the right to employment by prohibiting arbitrary discrimination that results in unequal chances. Enshrined in this right is one's right to freely choose employment and the right to just and favourable conditions of work, according to the International Labour Organisation.<sup>4</sup> Female workers are statistically more likely to be denied their rights to equal pay for equal work and are often estimated to be paid less than men for the same kind of work. Therefore, to prevent such discrimination, the laws must be transparent enough to disclose wages of employees, employers and government officials. Transparency laws on wages will help close the gender pay gap, which will help alleviate poverty as it will take steps to

ensure that women are paid the same as men for the same kind of work.

Laws must also be enacted to provide other minimum employee benefits such as paid sick leave, paid parental leave, medical and health insurance, and protection against wrongful dismissal from work – these are all anti-poverty policies striving to guarantee the economic wellbeing of employees. Poverty is a frequent cause or results of gender inequality and, therefore, employment laws must promote fairness, respect for all individuals, non-discrimination and ensure that both women and men have equal access to job opportunities. Moreover, rules must be implemented within the corporate sector to prevent the sexual harassment of women, laws must establish institutions within firms that secure the rights of women in an organisation. Laws should also provide for remedies that must be available to employees such as compensation, reinstatement, re-engagement, redundancy and retirement packages.<sup>5</sup>

In securing women's rights in employment, which is a driving force in economic development, it will not only improve standards of living but will raise the confidence of women into taking up careers in the formal employment sector when laws guarantee a safe working environment for women.<sup>6</sup> Moreover, employment rights and benefits must also be applicable to informal sectors of employment, which is largely made up of women. Securing a safe employment environment will maximise the productivity of human resources in an economy, which eventually leads to support wealth creation as increased and secure employee earning leads to higher rates of consumer spending which benefits the overall local economy and allows businesses to thrive.

On disability rights, it is important to note that economic development will not be successful if persons with disabilities are not included. People with disabilities have a more difficult time finding and retaining jobs than non-disabled persons. The World Health Organisation observed that, in many developing countries, employment prospects for women with disability are even more of a challenge than for men with disability.<sup>7</sup> Employment not only provides income but opportunities for social participation, which is especially important for persons with disabilities. Laws must be enacted that prevent qualified persons with disabilities from being discriminated against when searching for employment, working conditions and

job retention in the event that someone develops a disability. Further laws must establish vocational rehabilitation, job training institutions that increase the employability of disabled persons, including for those in rural areas. In addition, trades unions that support disability rights in the employment sector may be established to guarantee equality for disabled persons in the workforce. National laws must be revised concerning disabled persons to ensure national compliance with international conventions that deal with disability rights in the employment sector, like the International Labour Organization at the international level.<sup>8</sup>

Employing persons with disabilities allows businesses to better understand the needs of customers with disabilities, which encourages innovation to explore new opportunities in the economy, such as identifying suitable jobs for persons and services that cater to their needs. Recognising disabled persons as players in the economy contributes to the gross domestic product (GDP) and per capita income in country and helps get more people out of poverty.

### Land rights

Land is another key asset in economic development. In the fight for gender equality, many women, especially in developing countries, are major participants in the agricultural sector yet have little say on how it is managed. Access to resources and stable property rights is highly gendered in developing countries; women and girls suffer from inequitable land rights and often experience limited access to resources including through inheritance. When women have access to the assets it increases their abilities to start and grow their own businesses as assets act as collateral when securing loans. Therefore, in achieving gender equality, laws must enable women to access land more easily as it secures women's security in the homes and access to economic opportunities. In securing women's rights to land, laws must aim to eliminate discriminatory inheritance laws that are prevalent in many developing countries. Perpetrating male dominated traditions of property ownership has generally meant that women cannot take advantage of the benefits associated with the ownership and control of property.<sup>9</sup> Discriminatory family laws with regards to marriage, divorce and inheritance laws that prevent women from owning land and property rights must be abolished:

legislation must demand that women and girls get a fair portion of inheritance.

Additionally, the laws must support the creation of systematic registration and land titling, making it accessible to illiterate women and men as well by introducing, for example, legal tenure documents that can be validated by photographs or fingerprints in the registration process. Women under customary land tenure systems generally experience more discrimination against them as customary land in many developing countries is not registered, which makes it easier for indigenous persons to be easily dispersed from their lands. In response to this, legislation must adopt policies that give land rights to women, establish specialised agencies that investigate land disputes, and specialised land tribunals that will deal with land matters quickly and uphold gender equality. Customary laws relating to land are not subject to legislative processes and, therefore, efforts to improve women's land rights must support gender equality within customary systems by documenting customary tenure.<sup>10</sup> This will strengthen women's bargaining position and building their confidence will improve their participation in collective decision-making. Securing women's access to land is central to economic empowerment as land rights help reduce domestic violence and encourages participation in decision-making; land is a base for food production and a means of saving for the future. Land rights must be based on principles of gender equality.

Further, persons with disabilities are more likely to be denied land rights or inherit land and property. Laws must be put in place to ensure that disabled persons are given secure opportunities to access land.<sup>11</sup> Where persons with disabilities cannot manage their own land well, the laws must establish trustees who will use the land for the benefit of disabled persons. The denial of inheritance of property perpetuates poverty cycles that affect disabled persons. Moreover, harmful traditional customs that disregard the rights of disabled persons must be abolished. Persons with disabilities are among the worlds most marginalised people: they face stigma, prejudice and social isolation. There is need for laws that protect disabled persons' access to property as these will help increase the productive capacity of such persons and help end the poverty of persons with disabilities.<sup>12</sup>

### Laws supporting education

Gender equality aims to give everyone equal opportunities and education is vital to achieving this. Education provides greater access to freedom, greater chances of financial security; it encourages self-dependency and boosts the self-esteem of individuals.<sup>13</sup> In supporting education for girls, laws must remove barriers that prevent women from being educated. For example, child marriage is often the result of gender inequality as it robs girls of their childhood and threatens their health as it exposes them to physical and sexual violence. Some of the main causes of child marriages are poverty, traditional practices and a lack of employment opportunities especially for illiterate women – education is a key solution to empowering women. Despite many countries being part of international conventions such as the Convention of the Rights of Children (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), child marriages are still a widespread practice in many countries.

In this regard, laws must make child marriages illegal with no exceptions – legislation must identify problems that allow child marriages to continue. For example, many laws within developing countries contradict each other on the marriage age: in solving this problem, the laws must define a child without exceptions. Moreover, laws must establish institutions, especially in rural areas, that will raise awareness on the evils of child marriages, introduce strict rules on proof of age before persons marry, criminalise violence against children and establish forums that will receive reports specifically averting them to illegal child marriages and abolish harmful practices like female genital mutilation (FGM).<sup>14</sup>

Further laws must prevent child labour and promote children's education, for example, by putting quotas in place for the selection of more girls at universities for STEM fields (science, technology, engineering and mathematics) which are largely viewed as masculine. Evidence has shown that women are more likely than men to invest a large portion of their household income to education and to the health of their children, which is beneficial in reducing child mortality.<sup>15</sup> This makes women an integral part in ending the cycle of poverty as education provides income, which in turn helps alleviate poverty. Educating women promotes women

participation in political positions and, hence, strengthens women's bargaining position in the economy.

In addition, persons with disabilities must not be prevented from attaining a quality education and the government must establish institutions that allow children with disabilities to grow and develop into productive citizens who will be effective players in society. This can be done by legislation that establishes special schools that allow children with disabilities to achieve academic success similar to non-disabled children. Laws must also establish institutions that will train teachers who will be specialised in dealing with children with disabilities. For example, sign language schools, the construction of accessible buildings for the disabled, the presence of textbooks that are specifically designed for the educational needs for disabled persons.

### Access to justice

Justice refers to fairness. Administering justice is at the core of the rule of law and access to justice helps to reduce poverty. Most of the population living in poverty are women and, in a society that does not guarantee access to justice, persons living in poverty are trapped in a continuous cycle of deprivation of their basic human needs. In promoting access to justice, the courts must be gender sensitive, easily accessible to persons in remote areas as well as in cities and, hence, laws must establish judicial institutions in every district. Further, laws must avoid applying strict rules of procedures in court and instead employ substantive justice when dealing with indigenous persons. Legislation must impose punishments for crimes as a means of ensuring order in society, especially crimes that prevent women and persons with disabilities from participating in the economy. Legislation must impose penalties for gender-based violence (GBV), establish fast-track courts that deal with GBV cases and provide affordable legal services for victims of GBV. Without access to justice, persons living in poverty are unable to claim their rights and challenges crimes committed against them. Thus, laws must give the highest prestige to civil and political liberties of individuals, such as providing for the protection of the right to life, right to property, right to fair and speedy trial, and provide compensation for victims of human rights abuse to ensure gender equality, which should be enforced by the courts.

Additionally, laws must ensure that the courts

and businesses show special consideration for persons with disabilities by ensuring that adjudicators adjudicate cases with fairness by ensuring that discrimination is not encouraged in society. For example, in promoting the access to justice for persons with disabilities, laws must advocate that public institutions be considerate of the obstacles disabled persons may face by constructing accessible infrastructure, such as replacing stairs with ramps for those with limited mobility, and installing elevators and toilets that can easily be used by disabled persons. Laws must also make considerations for disabled persons in national activities like election processes by establishing facilities that include them, for example, low level polling booths, equipment for voters with visual impairments and entrance ramps. Courts must safeguard the rights of persons with disability in society by ensuring they fully participate in national activities.<sup>16</sup> It is important that they are integrated in the growth of the economy and society by enabling them to develop their intellectual and physical skills, so that they can contribute to the prosperity of society. If judicial systems are ineffective in serving justice, corrupt and politicised, it raises insecurity among business persons who wish to start businesses for the benefit of society if justice is not accessible. A society where a legal system and crime control is ineffective is unattractive to investors and economic development suffers.

That laws promoting gender equality support economic development can be seen from Norway and Rwanda, which are considered some of the most gender-equal countries in the world.<sup>17</sup> In the case of Rwanda, the idea of fairness arose after the 1994 genocide. The effects of the genocide led the government to be committed to ensuring gender equality by enacting laws to reform land rights and employment rights; educational and political quotas have been implemented which advocate for more women in high positions and laws that punish violent crimes such as rape. As a result both Norway and Rwanda have experienced a rise in the female labour force, which has boosted the growth domestic product of these countries, decreased the gender pay gap, seen more women in decision-making positions and boosted literacy levels by virtue of access to education for women.

Conclusively, the key to fostering economic development is to increase involvement of women and disabled persons in the labour market and in positions of responsibility and power. Having good laws is good for economic development as it creates stability,

certainty and predictability in both domestic and foreign investment, as well as supporting entrepreneurship and business development. Therefore, legislation must guarantee that participation in the economic development by women, men and persons with disabilities is secure by safeguarding their rights in sectors of society that encourage economic independence such as employment, access to justice, education and access to land.

The sponsor supporting **Jemimah Chisomo Banda's** award is **Launch Legal**

#### Notes

1. *The Rule of Law*, available at: <https://www.lexisnexis.com/en-us/rule-of-law/default.page> www.lexisnexis.co.uk, accessed on 10 December 2020.
2. S Jayachandran (2015), *The Roots of Gender Inequality in Developing Countries*, pp 66–80, available at: [www.annualreviews.org/doi/abs/10.1146/annurev-economics-080614-115404](http://www.annualreviews.org/doi/abs/10.1146/annurev-economics-080614-115404), accessed 10 December 2020.
3. *Ibid.*
4. International Labour Organization, *Global Wage Report*, available at: [www.ilo.org/global/research/global-reports/global-wage-report/lang-en/index.htm](http://www.ilo.org/global/research/global-reports/global-wage-report/lang-en/index.htm), accessed 10 December 2020.
5. *ABC of Women workers rights and gender equality*, available at: [www.ilo.org/gender/Informationresources/Publications/WCMS\\_087314/lang-en/index.htm](http://www.ilo.org/gender/Informationresources/Publications/WCMS_087314/lang-en/index.htm), accessed 10 December 2020.
6. Erica Field, *Entitled to Work: Informal Enterprise in Urban Peru, Development Outreach*, The World Bank Institute, (2005).
7. World Health Organization, *World Report on Disability*, available at: [www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf), accessed 10 December 2020.
8. OHCHR commissioned report on *Gender Stereotyping as a Human Right Violation*, available at: [www.ohchr.org/en/issues/women/wrgs/pages/genderstereotypes.aspx](http://www.ohchr.org/en/issues/women/wrgs/pages/genderstereotypes.aspx), accessed on 4 December 2020.
9. *Disability Rights: The UN Partnership to Promote the Rights of Persons with Disabilities*, available at: [www.internationaldisabilityalliance.org/UNPRPD](http://www.internationaldisabilityalliance.org/UNPRPD), accessed 5 December 2020.
10. OHCHR report: *Realizing Women's Rights to Land and Property*, available at: [www.ohchr.org/Documents/Publications/RealizingWomensRightstoLand\\_2ndedition.pdf](http://www.ohchr.org/Documents/Publications/RealizingWomensRightstoLand_2ndedition.pdf), accessed 10 December 2020.
11. United Nations: *Disability and Development Report*, [www.un.org](http://www.un.org), accessed 5 December 2020.
12. *Disability and Economics: The Nexus between Disability, Education and Economic Development*, DESA Briefing Seminar Series, 1 July, United Nations Headquarters.
13. UNESCO Global Education Monitoring Report 2020: *Inclusion and Education* available at: <https://en.unesco.org/gem-report>; Meeting our Commitments to Gender Equality, available at: [www.ungei.org/publication/meeting-our-commitments-gender-equality-education](http://www.ungei.org/publication/meeting-our-commitments-gender-equality-education), accessed 10 December 2020.
14. *Ending Child Marriages*, [www.unicef.org/protection/child-marriage](http://www.unicef.org/protection/child-marriage), accessed 10 December 2020.
15. United Nations Women Annual Report 2019-2020, [www.unwomen.org/en/digital-library/publications/2020/06/annual-report-2019-2020](http://www.unwomen.org/en/digital-library/publications/2020/06/annual-report-2019-2020), accessed 10 December 2020.
16. United Nations Development Program (2002), UNDP Role in Access to Justice. (Oslo, Norway).
17. World Economic Forum: *Global Gender Gap Report 2020*, [http://www3.weforum.org/docs/WEF\\_GGGR\\_2020.pdf](http://www3.weforum.org/docs/WEF_GGGR_2020.pdf), accessed 10 December 2020.



Josephine  
Ngulube  
Cavendish University  
Zambia, Lusaka  
lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Introduction

There is a nexus between human rights and economic development that cannot be ignored. The enjoyment of rights and its role in promoting progress and development establish a positive relationship approach, anchored in the proposition that rights serve as a gateway to attaining sustainable development by providing a congenial atmosphere where people have the opportunity to realise their potential.<sup>1</sup> Economic development is the strengthening of autonomy and substantive reforms, which allow individuals to participate in economic life<sup>2</sup> as realised through its most prominent driver, human development; this in turn requires empowerment, protection, inclusion, and recognition at law. The law, in its entirety and as the catalyst for these drivers, creates rights and obligations that must be acknowledged to attain the positive attributes that ensure economic development.

It is against this backdrop that this essay will endeavour to explore how laws supporting gender and disability rights support economic development. It will first examine the concepts of disability and gender equality. The essay will subsequently attempt to link the two concepts to economic development by discussing inclusive economic development in view of the law. Lastly, it will discuss a few recommendations and progressive laws on how to further harness legal frameworks in the context of the question at hand.

## Disability

There is no one term that fully encompasses what disability is. It is for this reason that the International Classification of Functioning and Disability (ICFD) was created, to provide a standard language and a conceptual basis for the definition and measurement of health

and disability. This then acts as a standard for all policy-makers and the public in general, based on non-biased wording and its universal nature, also taking into account other factors that surround disability, such as environmental and personal health factors respectively.

The World Health Organization (WHO) defines disability as ‘an umbrella term for impairments, activity limitations, and participation restrictions. It also acknowledges the negative aspects of the interaction between an individual (with a health condition) and that individual’s contextual factors (environmental and personal factors).’ According to the United Nations International Convention on the Rights of Persons with Disabilities (CRPD), ‘disability is an evolving concept that results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others’. In Article 1 of the CRPD, persons with disability are defined to be, ‘[p]ersons with long-term physical or mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder the full and effective participation in society on equal basis with others.’ The WHO only uses the term ‘persons with disabilities’ for purposes of the CRPD and instead uses the term ‘people with disability’ in all other WHO documents in a bid to raise the profile of disability from a public health perspective, connoting the notion that disability is not an intrinsic characteristic of an individual but rather a universal experience as a matter of degree, which is not limited in duration so as to provide for short-term disability.<sup>3</sup>

## Disability and economic development

Disability has shifted from being a public health issue to a human rights and a development issue respectively.<sup>4</sup> Various international instruments provide for it, such as the CRPD which is the principal charter responsible for the enhancing of the visibility of disabled people under international law,<sup>5</sup> and international standards for upholding the rights of people with disabilities as set out in the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities<sup>6</sup> (although the rules are not compulsory). All of the above imply, positively, a political appetite on behalf of leaders to take action towards the equalisation of opportunities for persons with disabilities.<sup>7</sup>

Over one billion people have some form of disability, with developing countries having greater numbers than developed countries.<sup>8</sup> It is hard to improve the lives of the most disadvantaged people in the world without addressing the specific needs of persons with disabilities.<sup>9</sup> People with disabilities are often denied chances to attend school, to work and to participate fully in society.<sup>10</sup>

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. Disability, though not explicitly mentioned in the 2030 Agenda is implied<sup>11</sup> in the Sustainable Development Goals and its central pledge to leave no one behind and to reach the furthest behind first.

Responses to disability have undergone a radical change in recent decades: the role of environmental barriers and discrimination in contributing to poverty and exclusion is now well understood. Previously, people with disabilities were largely provided for through solutions that segregate them, such as residential institutions and special schools. Policies have now shifted toward more inclusive, medically-focused solutions and interactive approaches.

As UN Secretary-General António Guterres said: ‘Societies will never achieve the SDGs without the full participation of everyone, including people with disabilities. We cannot afford to ignore or marginalise the contributions of 1.5 billion people.’<sup>12</sup>

### Data gaps

Efforts to understand the extent of disability

are marred by difficulties in data collection. One impediment to this is the diversity in definitions of disability, leading to different measurement strategies in data. The lack of a standard for information has prevented action by policy makers to provide for disability through law and incentives.<sup>13</sup> There is need of rapprochement in data collection standards to ensure effective monitoring and evaluation.<sup>14</sup> The result of this is that many of the disabled have been hampered in creating sufficient wealth.

The difficulty of quantifying the benefits of adopting a disability-inclusive development approach stems from the lack of data.<sup>15</sup> Technical advances are needed to achieve reliable national estimates of the cost of disability, in measuring the cost of productivity losses, lost taxes, health care, social protection and labour market programmes.<sup>16</sup> An accurate assessment of these costs at individual and household level would help determine the income needs that result from disability.<sup>17</sup> The lack of data also applies as to how much income the disabled have made globally.

### Gender rights: the current legal frameworks

Society, for the larger part of history, has been patriarchal in nature and some of the repercussions seen include the continuing disparities between women and men. This principle of gender equality is enshrined in the UN Charter, in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and in the International Covenant on Economic, Social and Cultural Rights (ICESCR). All of these clearly state that the rights they guarantee are applicable to all persons without distinction. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) spells out specific goals and measures to be taken in order to bring about full equality between men and women.

### *Gender parity and economic development*

The 2030 Agenda recognises that realising gender equality and the empowerment of women and girls will make a crucial contribution to the progress made across all goals and targets along with gender-responsive implementation of the entire agenda. In turn, the role that each SDG plays

in gender-responsive poverty reduction action is of crucial importance for the empowerment of women and girls.<sup>18</sup>

The regulatory environment for women's participation has improved over the past two years,<sup>19</sup> with 40 economies enacting 62 reforms that will help women.<sup>20</sup> Estimates show that women's equality in wages and labour force participation would boost global gross domestic product by an astonishing \$28 trillion by 2025.<sup>21</sup>

### *Inclusive economic development*

The human rights-based approach is one of the most critical frameworks for assessing and addressing human rights issues around the world. This perspective helps ensure that development programming is more sustainable, legitimate, equitable and effective.<sup>22</sup> Developing countries must aim to strengthen legal systems, making laws and policies based on evidence.

### *Access to justice and recognition at law*

Ensuring that court personnel understand the needs of the disabled will allow for faster and more effective judicial mechanisms. In Malawi, for example, Disabled Women in Africa (DIWA) provided court officers with sign language interpretation and communication training. Additionally, reforming criminal laws that limit access to justice for women and girls by, for example, allowing the perpetrators of rape to marry their victims in order to escape criminal responsibility and reviewing the evidentiary requirements for gender-based crimes and burdens of proof on them, will also be positive steps towards equality at law and, by extension, inclusive economic development.

### *Protection from discrimination and protection under the law*

In the first South African Equality Court discrimination case, Ms Esthe Muller, a South African lawyer who uses a wheelchair, filed a complaint against the South African Justice Department and the Department of Public Works because of the physical inaccessibility of court houses. The two government departments admitted that they had failed to provide appropriate wheelchair access and that this constituted unfair discrimination against Ms Muller and against other people

with similar accessibility needs.<sup>23</sup>

### *Freedom of movement*

Laws outlining new public building accessibility standards, as well as those for handicapped parking and handicapped driving, would go a long way in improving access in developing countries. When women can move more freely, work outside the home and manage assets, they're more likely to join the workforce and to strengthen the economy.<sup>24</sup> Reducing travel barriers for women in business will empower their ability for wealth creation, as can social services providing for aged care and child care.

### *Right to health*

Enacting comprehensive laws on abortion, access to sexual and reproductive health information and family planning, as well as mandating affordable healthcare, are all equally important steps to take along this path.

### *Right to work and access to finance*

Economic development programmes, such as microfinance, have revolutionised efforts to fight poverty by providing financial services to people previously regarded as dependent on charity.<sup>25</sup> In developing countries, self-employment and micro-enterprises are often the most effective means available to persons with disabilities in order to achieve self-sufficiency.<sup>26</sup>

## **Conclusion**

In conclusion, the laws that support the needs of women and the disabled have positive outcomes for economic development. The figures for both inclusion and exclusion are staggering, with compelling consequences. It is vital that women and the disabled are recognised, protected and empowered, both at law and in fact. Through their inclusion in development, they will be able to access social services and all other available tools to lift themselves out of poverty and to contribute to economic development on a macro level. Law makers and leaders should consider prioritising them in order to achieve sustainable development. There is need for the mainstreaming of development regarding these groups. Human rights issues are bigger

than economic development: they are a matter of justice.

The sponsor supporting Josephine Ngulube's award is Mayer Brown

Notes

1. K Appiagyei-Atua (2020), *Minority rights, democracy and development: The African experience*, The African Human Rights Law Journal.
2. M Feldamen et al, in *Economic Development; A Definition and model for investment* (2014), p 4.
3. World Health Organization: *People with Disabilities vs Persons with Disabilities*, (2020), available at: [www.who.int/news-room/q-a-detail/people-with-disability-vs-persons-with-disabilities](http://www.who.int/news-room/q-a-detail/people-with-disability-vs-persons-with-disabilities), accessed on 25 December 2020.
4. A human rights-based approach to disability, see: <https://relief.int/report/world/women-major-drivers-beneficiaries-poverty-eradication>, accessed on 30 December 2020.
5. Lucy Series (2015), *The development of disability rights under international law: from charity to human rights*, Disability and Society, [www.tandfonline.com/doi/pdf/10.1080/09687599.2015.1066975](http://www.tandfonline.com/doi/pdf/10.1080/09687599.2015.1066975), accessed on 28 December 2020.
6. Resolution (48/49) (UN, 1994).
7. Department for International Development (DFID), (2000), *Disability, poverty and development, poverty and disability – a vicious cycle*, p 7.
8. World Health Organization and World Bank, *World Report on Disability*, Geneva, 2011, preface p xi.
9. *Ibid.*
10. World Health Organization, *Why is the Convention on the Rights of Persons with Disabilities important?* (2020), [www.who.int/news-room/q-a-detail/why-is-the-convention-on-the-rights-of-persons-with-disabilities-important#:~:text=The%20Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities%20is,and%20opportunities%20as%20everybody%20else.&text=The%20Convention%20challenges%20people%20worldwide,as%20a%20human%20rights%20issue](http://www.who.int/news-room/q-a-detail/why-is-the-convention-on-the-rights-of-persons-with-disabilities-important#:~:text=The%20Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities%20is,and%20opportunities%20as%20everybody%20else.&text=The%20Convention%20challenges%20people%20worldwide,as%20a%20human%20rights%20issue), accessed on 27 December 2020.
11. World Health Organization and World Bank, *World Report on Disability*, Geneva, 2011, p.10.
12. António Guterres, UN Secretary-General, *Remarks to the 11th session of the Conference of State Parties to the Convention on the Rights of Persons with Disabilities*, 12 June 2018.
13. *Facts and Figures: Disabilities in Developing Countries*, [www.scidev.net/global/features/facts-figures-disabilities-in-developing-countries](http://www.scidev.net/global/features/facts-figures-disabilities-in-developing-countries), accessed on 25 December 2020.
14. *Ibid.*
15. Governance and Social Development Centre (GSDRC), *Helpdesk Research Report: Economic Benefits of Disability-Inclusive Development* (2012), p 5.
16. World Health Organization and World Bank, *World Report on Disability*, Geneva, 2011, at p 42.
17. Governance and Social Development Centre (GSDRC), *Helpdesk Research Report: Economic Benefits of Disability-Inclusive Development* (2012), p 2.
18. *Women: Major Drivers and Beneficiaries of Poverty Prevention*, <https://reliefweb.int/report/world/women-major-drivers-beneficiaries-poverty-eradication>.
19. The World Bank: *40 Economies Make 62 Legal Reforms to Advance Woman's Economic Participation* (2020), [www.worldbank.org/en/news/press-release/2020/01/14/40-economies-make-62-legal-reforms-to-advance-womens-economic-participation](http://www.worldbank.org/en/news/press-release/2020/01/14/40-economies-make-62-legal-reforms-to-advance-womens-economic-participation), accessed 31 December 2020.
20. World Bank, *Women, Business and the Law 2020*, World Bank Publications: doi:10.1596/978-1-4648-1532-4. License: Creative Commons Attribution CC BY 3.0 IGO p 1.
21. The McKinsey Global Institute, *The power of parity: how advancing women's equality can add \$12 trillion to global growth* (2015), p 8.
22. Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender, and Development – A Resource Tool for Action*, (2008).
23. 'Equality Court Victory for People with Disabilities', 24 February 2004, South African Human Rights Commission.in *Toolkit on Disability for Africa, Access to Justice for Persons with Disabilities*, p 19.
24. World Health Organization and World Bank, *World Report on Disability*, Geneva, 2011, at foreword.
25. *Mobility International USA: Economic Inclusion* (2018), [www.miusa.org/resource/tipsheet/economicinclusion](http://www.miusa.org/resource/tipsheet/economicinclusion), accessed 31 December 2020.
26. *Ibid.*

# How can laws promoting gender and disability rights support economic developments?

Getachew Bezu  
Gayzibayso  
Addis Ababa  
University,  
Addis Ababa  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

*'Disability need not be an obstacle to success. I have had motor neurone disease for practically all my adult life. Yet it has not prevented me from having a prominent career in astrophysics and a happy family life.'*

Professor Stephen W Hawking.

*'Empowering women is one of the best ways to promote economic growth and to achieve peace and security.'*

Julie Bishop MP.

## Introduction

The way laws treat gender and disability rights has a direct bearing on economic development. This essay aims to explore how laws that promote gender and disability rights can support economic development. To achieve this aim, the essay defines key terms such as gender, disability rights and economic development; shows the nexus between these three, and finally, discusses how laws promoting the former two support the latter.

## Definitions

Gender: the term gender and sex are often confused and taken to be interchangeable. However, 'gender' is a different concept to 'sex', referring to socially-constructed identities, attributes and roles for women and men, and society's social and cultural meaning for these biological differences, resulting in hierarchical relationships between women and men and, in the distribution of power and rights, usually favouring men and disadvantaging women.<sup>1</sup> In short, gender is a social and cultural construction of what it is to be male or female.<sup>2</sup> Sex, on the other hand, refers to the biological characteristics that categorise someone as either female or male. Therefore, gender rights are the rights of persons of both sexes, regardless of which one a person is. The term is essentially, normatively, about equality between men and women, boys and girls, in all walks of life: with regard to access to opportunity, access to quality education and health, access to economic resources and full participation in socio-economic and political life.

Disability: defining disability is complex, and can be controversial. The understanding of disability has evolved over the years, making a single definition for the concept a challenging task. The traditional definition of disability is narrow and known as the medical model. The UN Convention on the Rights of Persons with Disabilities (CRPD), rather than defining 'disability', defined 'persons with disabilities' to 'include those with long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, hinder the person's full and effective participation in society as compared to others not so afflicted.'<sup>3</sup> With this, the CRPD employed a social model perspective to the understanding of disability. This essay understands disability in its broad bio-psycho-social perspective as 'a state of

decreased functioning associated with disease, disorder, injury, or other health conditions, which, in the context of one's environment, is experienced as an impairment, activity limitation, or participation restriction.'<sup>4</sup> The foregoing discussion shows that disability has three dimensions: impairment, activity limitation and constraints on participation.<sup>5</sup> These limitations are constraints against the enjoyments of their rights as human beings.

Economic development: this concept can be defined as the expansion of capacities that contribute to the advancement of society through the realisation of individual, firm and community potential. It is usually measured by a sustained increase in prosperity and quality of life through innovation, lowered transaction costs, and the utilisation of capabilities towards the responsible production and diffusion of goods and services.<sup>6</sup> It is a broad concept entailing the raising of well-being and socioeconomic capabilities of peoples.<sup>7</sup>

## The nexus between gender and disability rights and economic development

How are gender and disability rights issues linked to economic development? What links the above three? Why are gender and disability rights dealt with together? Right answers to the above queries, or the right attempt forward in answering them, serves a lot in any effort made towards bringing economic development.

Statistical data show that women constitute approximately half of the nearly eight billion human beings on earth.<sup>8</sup> On the other hand, over one billion people (corresponding to about 15 per cent of the population) are estimated to live with some form of disability.<sup>9</sup> According to a recent World Health Organization (WHO) report, the number of persons living with disability is increasing, with diverse forms of disability recognised.<sup>10</sup>

Despite, together, constituting a significant number of the world's population, what women and persons with disability share in common is the 'insignificance' that the world has attached to them. Both groups have been substantively, procedurally and culturally marginalised, unequally treated and distanced from the functioning of society. In general, they are groups of persons who, as groups, have been unjustly dealt with. It is a tragedy that the world, by its attitudes and practices, has disabled the greatest number of populations from positively contributing to

economic development. Given the definition of economic development as raising the ‘wellbeing and socio-economic capabilities of peoples’, no genuine economic development can ever be imagined in the prevalence of injustice and discrimination against women and persons with disabilities. Ensuring gender and disability rights and empowering women and persons with disability mean unleashing more than half of the world’s potential. Therefore, laws that ensure women’s equal rights, access and opportunities for participation and leadership in the economy, society and political decision-making increase the share of women’s contribution to economic development. In the same vein, laws and policies that create enabling environments, develop rehabilitation and support services, ensure adequate social protection, create inclusive programmes, and enforce new and existing standards and legislation, to the benefit of people with disabilities, the wider community, and in support of economic development. It is true now that the three concepts are intrinsically interlinked.

### **How laws promoting gender and disability rights can support economic development**

Law can be seen as a double-edged sword, capable of both reinforcing existing relationships within a given society on the one hand, and serving as the best instrument for those who seek to resist, challenge and transform the existing relationships, on the other.<sup>11</sup> This is what is referred to as the instrumentalist function of law.<sup>12</sup> Over the years, legislative attempts and international policy statements have been made with a view to ensuring that women and disability rights are put in place and, thereby, to achieving economic development. This section discusses how laws promoting gender and disability rights can support economic development, among other things, by ensuring equality, abolishing discriminatory laws, institutions and cultural traditions, empowering society and by creating an enabling environment.

#### **Ensuring equality**

At the heart of the deprivation of both groups of persons is the absence of equal treatment and the perpetuation of injustice. Women and disabled persons often are denied equal access to economic opportunities, to education, to economic resources, to

power, land ownership and other mediums of influence. Laws promoting gender and disability rights ensure the equality of all human beings by prohibiting discrimination on the grounds of gender and disability. Since what women and disabled persons lack is not the ability to achieve but the opportunity, any law ensuring equality is providing equal access to opportunity, to quality education, economic resource, social-economic and political power. A society where equality prevails is the one where everyone flourishes and contributes to the betterment of his life and the world in general. It is in this light that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recognises that any discrimination hampers ‘the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.’<sup>13</sup>

Laws can play an immense role in dismantling the barriers that stand against realising the capabilities of women and disabled persons.

### **Abolishing discriminatory laws, institutions and cultural traditions**

Discrimination limiting the potential of women and disabled persons is not a concept in the abstract. Rather, such discrimination is well embedded in the legal, institutional and cultural landscape of every society. Women and persons with disability had not been considered as subjects of rights and obligations. There have been discriminatory laws in the areas of property law, succession law, labour law, the right to education, the right to participation and political leadership. Designed within the framework of anti-discriminatory legal rules, institutions, too, have direct as well as indirect roles in perpetuating discrimination against women and persons with disability.

Laws promoting gender and disability rights can support economic development by unshackling those groups from the legal, institutional and cultural constraints that withhold them from acting as agents of economic development. Laws can achieve such goals, for instance, by repealing legislations that exclude women and persons with disability from property and succession rights, legislations that deny them equal access to quality education, work and employment, and participation in all matters

that affect their good and the interest of the public at large. Laws support economic development, not just by prohibiting certain acts and practices, but also by obliging the compliance of rules and standards that would have the outcome of bringing equality to those groups and, ultimately, seeing greater economic development.

### Empowering society

The world's efforts to achieve meaningful change cannot be realised in the exclusion of women and persons with disability. It is a truism that family is a building block of any society. Within existing cultural orientations and other natural factors, children, during their formative age, are closer to their mothers than anybody else. Laws promoting gender rights can empower women in all aspects of life and also help them to lead a better quality life. This has a direct impact on a family. A well-educated mother can contribute better to society with a more creative, innovative and problem-solving family. Such developments cumulatively build a society that stands for equal rights of all human beings; a society that fights against gender-based violence and any other harmful traditional practice.

By the same token, laws that promote disability rights can have the impact of changing the perception of a society in dealing with them. Rather than presenting fellow human beings as burdens by denying them opportunity, laws that promote disability rights can set them to their right position as actors of economic development. By and large, empowering women and persons with disability is empowering the society at large.

### Creating an enabling environment

Laws promoting gender and disability rights can support economic development, not just by prohibiting discriminatory rules and practices against those groups, but also by creating an enabling environment for the exercise of such rights. Laws can achieve this, for instance, by obliging governmental or other institutions to create gender- and disability-sensitive work environments. By solving the external and society-driven challenges to their capabilities, laws can ensure their status as agents of tangible economic development.

### Concluding remarks

As a concluding remark, it can be said that laws dealing with gender and disability rights are interlinked to the issue of economic development. As economic development is a noble process and goal, focusing both on the quality of the life of the individual and the community at large, it is true that injustice that tramples on the capabilities of women and persons with disabilities does affect the development endeavour of the world as a whole. As 'an injustice anywhere is a threat to justice everywhere', any barrier to the economic development pursuits of women and persons with disability is threat to any development pursuit of the entire human family. With this understanding, it has been discussed that laws promoting gender and disability rights can support economic development by ensuring equality, abolishing discriminatory laws, institutions and cultural traditions, empowering the society and by creating an enabling environment.

Although both international and national legal instruments, policies and development programmes have given attention to the interlink between gender and disability rights and development, no significant success is recorded so far. This shows that the issue demands much more work than stipulating and promoting gender and disability rights in legal documents. A collaborative and participatory work of all stakeholders is needed in social, cultural, economic, political and any other spheres of life so as to fully realise the role that women and persons with disability can play in achieving a sustainable economic development.

The sponsor supporting Getachew Bezu's award is Travers Smith

#### Notes

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), General Recommendation No 28 (2010) on the core obligations of state parties under Article 2 of the Convention.
2. Hazel Reeves and Sally Baden, *Gender and Development: Concepts and Definitions*, Bridge Development-Gender Institute of Development Studies, Report No 55, 2000, p 3.
3. Convention on the Rights of Persons with Disability (CRPD), 2006, Art 1.
4. WHO, World Report on Disability, 2011, p 4.
5. *Ibid.*
6. Feldman, Maryann P, *Economic Development Defined*, available at: <http://maryannfeldman.web.unc.edu/files/2014/05/Definition-of-Economic-Development-one-page.pdf>, last accessed 6 December 2020.
7. *Ibid.*
8. *World Demographics 2020*, available at: [www.worldometers.info/demographics/world-demographics](http://www.worldometers.info/demographics/world-demographics), last accessed 12

December 2020.

9. WHO, *Disability and Health*, available at: [www.who.int/news-room/fact-sheets/detail/disability-and-health](http://www.who.int/news-room/fact-sheets/detail/disability-and-health), last accessed on 12 December 2020.

10. *Ibid.*

11. World Bank, *The Role of Law*, available at: [https://openknowledge.worldbank.org/bitstream/handle/10986/25880/9781464809507\\_Ch03.pdf?sequence=35&isAllowed](https://openknowledge.worldbank.org/bitstream/handle/10986/25880/9781464809507_Ch03.pdf?sequence=35&isAllowed), last accessed 20 December 2020.

12. *Ibid.*

13. See para 7 of CEDAW, 1979.

# How can laws promoting gender and disability rights support economic developments?

**Busiku Simoonga**  
University of Zambia,  
Lusaka  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

## Introduction

Women and people with disabilities are among, as a group, the most marginalised in today's society. Together they frequently face multiple forms of discrimination and prejudice, which puts them in a disadvantageous position vis-à-vis men and unaffected people. This often deprives them of political, social and economic opportunities and they can continue to be left out of decision-making processes, which in turn can stifle wider economic growth. This essay will explain how laws promoting gender and disability rights support economic development. It will first define the terms 'gender' and 'disability'. Thereafter, it will state some of the laws promoting gender and disability rights. Lastly, it will show how the said laws can support economic development.

## Definitions of terms

According to the World Development Report (WDR) 2012, gender is defined as 'socially constructed norms and ideologies which determine the behaviour and actions of women and men.'<sup>1</sup> As women are usually in a disadvantaged position vis-à-vis men, the promotion of gender equality implies explicit attention to women's needs and perspectives.<sup>2</sup> This includes creating deliberate policies and taking action aimed at identifying these needs and creating awareness of women's perspective. In the context of this essay, it means integrating these needs into economic policies and laws.

Disability on the other hand is a multifaceted, complex, evolving and an often-contested term. Generally, the term 'disability' refers to physical or mental impairments that limit a person's ability to participate in daily life activities. 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.'<sup>3</sup> The barriers referred to may pertain to limits on the enjoyment of economic, social or cultural rights. Nonetheless, it suffices to state that disability may also be shaped by attitudinal and environmental barriers that limit people's full social, political, and economic participation.

## Laws promoting gender and disability rights

Globally, more women than men and people with disabilities live in poverty, and in most cases are less likely to receive basic education, employment and access to opportunities. The United Nations and other leading international organisations have recognised that people experience poverty and economic challenges differently, and face different barriers in accessing services, economic resources and political opportunities. As the most prominent international organisation that promulgates and promotes gender and disability laws, the United Nations is instrumental in the establishment of a system based on the rule of law at an international level.



In the context of international human rights law, the rule of law requires that legal processes, institutions and substantive norms are consistent with human rights precepts, including the core principles of non-discrimination and equality under the law. Human rights are rooted in the recognition of the inherent dignity and equal worth of all human beings, regardless of their social background, gender, age, religion, sexual orientation, disability or other status. Every human being is entitled to the fundamental rights enshrined in the 1948 Universal Declaration of Human Rights (UDHR), and the subsequent nine core human rights treaties.<sup>4</sup> The UDHR sets out the fundamental human rights to be universally protected. Article 1 states that, 'All human beings are born free and equal in dignity and rights.' In addition, Article 2 stipulates that both men and women are entitled to all the rights and freedoms provided in the UDHR and prohibits discrimination on the basis of sex.<sup>5</sup>

In addition to the UDHR, at least four core human rights treaties address gender and disability rights. First, the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>6</sup> promotes gender and economic rights. The ICESCR recognises the equal rights of men and women to the enjoyment of all economic, social and cultural rights, and also prohibits gender-based discrimination. Its significance is that it advances and ensures gender equality and simultaneously points to ways in which the treaty can be utilised even more strategically and effectively to ensure that women's economic, cultural and social rights are fully respected, protected and fulfilled towards achieving the goal of gender equality and economic development.<sup>7</sup>

Second, the International Covenant on Civil and Political Rights (ICCPR)<sup>8</sup> in which Article 2(1) obliges states to ensure that all the individuals in their territory and subject to their authority enjoy all the civil rights and freedoms guaranteed in the covenant without distinction of any kind. This implicitly means that the ICCPR forbids discrimination on the basis of a person's gender or disability. Article 3 goes further to oblige states to ensure the equal rights of men and women to the enjoyment of all civil and political rights. In other words, the ICCPR recognises that gender or a person's disability must never, as an arbitrary matter, form the basis for the application of dissimilar treatment to them. This means that even when it comes to

access to empowerment schemes, gender and disability must never form the basis for the application of dissimilar treatment.

Third, the Convention on Elimination of All Forms of Discrimination against Women (CEDAW)<sup>9</sup> specifically promotes non-discrimination against women, including those with disabilities. This treaty takes an important place in bringing the female half of humanity into the focus of human rights concerns. The treaty reaffirms the faith in fundamental human rights, in the dignity and worth of the human person and, in the equal rights of men and women.<sup>10</sup> Articles 10, 11 and 13 affirm women's rights to non-discrimination in employment, education and economic and social activities. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed at restricting women's legal capacity shall have no legal effect.<sup>11</sup>

Fourth, the United Nations Convention on the Rights with Persons with Disabilities (CRPD) contains provisions that specifically promote the rights of people living with disabilities. Article 1 of the CRPD sets out its purpose, which is 'to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.'<sup>12</sup> The CRPD marks a shift from viewing persons with disabilities primarily as recipients of charity, medical treatment, special services and social protection, towards recognising them as 'right holders' and active members of society. The convention reaffirms that persons with disabilities are entitled to all civil, political, economic, social and cultural rights enshrined in the core conventions.<sup>13</sup> It specifies the content of these rights in the content of disability, and includes new dimensions, affirmed in Articles 3, 17 and 19, as the right to live independently and to be included in the community and the right to respect for physical and mental integrity, and draws a positive concept of disability, reaffirming that persons with disability constitute part of human diversity and humanity.<sup>14</sup>

Importantly, Article 27 of the CRPD explicitly obliges states parties to ensure that there is reasonable accommodation for people with disabilities in the labour or employment sector. It specifically prohibits all forms of discrimination in job-related matters in respect to people with disabilities and obliges states to facilitate such people's

self-employment and entrepreneurship activities. It further obliges states to ensure that persons with disabilities are employed in the public sector and that they are not denied employment in the private sector.<sup>15</sup>

### How laws promoting gender and disability rights support economic development

Since the introduction of laws promoting gender and disability rights there has been an increase in economic development through implementation of these rights. The increase has been seen in gender equality, education, employment and empowerment of women and disabled people.<sup>16</sup> Firstly, some of the four UN core human rights treaties discussed in the section above have outlined that education should be accessible to everyone regardless of gender or disability. It is evident that countries around the world have been taking steps to close the gender gap in early childhood education through affirmative action or positive discrimination. This practice takes the form of a government deliberately enrolling more female than male pupils. In addition, it has been evident that educated women have now started to have fewer children, experience a lower rate of child mortality and provide for their children with better education. Educational reforms for women ensure that it is not just women who benefit but their children as well. This in turn entails that more women and children are educated and attain good jobs in the future, thereby promoting economic development in their societies.<sup>17</sup>

In addition, laws promoting gender and disability rights (including CRPD, ICESCR, ICCPR and CEDAW) help achieve economic development through the implementation of state obligations arising under them. They also enable women and disabled people to receive skills training so that they can better participate in the labour market. This attribute is a direct result of the state obligations for states who are party to these core UN human rights treaties. People with disabilities have been able, in some countries and progressively in others, to fully access educational facilities.<sup>18</sup>

Some states have transformed their educational institutions to ensure that they are physically accessible, to provide training and support services such as braille, sign language and special education for those with learning impairments. This has greatly contributed to improving the education

opportunities of people with disabilities. The majority of countries in the world have begun to favour the idea that the economic growth of nations is dependent on schools training a productive labour force, which the law has now started to include especially women and people with disabilities.

When women and disabled people are educated, it expands their roles in society and brings about a diversity of skills and viewpoints in both economic and political sectors. When women and disabled people enter the workforce and are able to compete on an even plane, there is greater potential to see creativity and innovation. Greater gender diversity and inclusiveness in the workplace has also been shown to increase organisational effectiveness. This has been seen to greatly improve economic development.

Secondly, some of the UN Covenant treaties, such as ICESCR, CEDAW and the CRPD, have led to an increase in employment levels for women and persons with disabilities. The ICESCR and CRPD have helped reaffirm the rights of women and persons with disability to be placed in regular, salaried or formal jobs. This recognition of their rights has seen a shift from the traditional alternative of formal employment, which was unpaid or poorly paid work on family farms or other enterprises or petty vending, to regular, salaried or formal jobs. Additionally, women and people with disabilities involved in income generating activities now have more regular incomes. Clearly, these legal developments have altogether boosted the ability of women and people living with disabilities to contribute to better economic development.<sup>19</sup>

Governments around the world have embraced the principles of the recognition of equal rights for all in the core UN human rights treaties and formulated inclusive policies. For example, the government of India developed a five-year plan for inclusive growth to improve the economic conditions of the Indian population through economic means. This was seen to improve the status of women, children and vulnerable populations such as peoples living with disabilities. Similarly, the Government of Nepal's National Policy and Plan of Action on Disability (2006) identified the need to contribute to Nepal's economy and society. The national policy was successful as it brought about access to basic services, facilities and opportunities for equal participation of women and people with disabilities.

Thirdly, through the implementation of their CEDAW obligations, states have turned to empowering women as a means of enhancing economic development.<sup>20</sup> It has been argued by many world leaders that economic development in the 21st century has been made possible through the advancement of gender equality and women-empowerment policies. It has been evident that the full participation and awarding of opportunities to both men and women is critical for development. Stepping away from the old norm of only acknowledging men's participation has been beneficial to economic development. In this context, empowerment includes more choices for women to make their own decisions. Without gender quality and empowerment, the countries cannot be just, and social change would not occur. Therefore, women's empowerment plays a huge important role in economic development and is a significant contributing factor to it.<sup>21</sup>

Lastly, both the UDHR and ICESCR have spurred greater economic development by lessening discrimination towards women and persons with disabilities and providing for equal opportunities for education, employment, empowerment and equality. UN Women has reported that over half of the economic growth over the last 45 years is attributed to women and girls having better access to education. It has been established that projects and local legislation that put emphasis on education for girls has made it possible for under-developed countries to support economic development. A growing body of evidence shows that placing women and people with disabilities in the centre of development can increase efficiency in the management of institutions and resources, thereby promoting economic development.<sup>22</sup>

### Conclusion

In conclusion, this essay explained how the laws promoting gender and disability rights support economic development. It found that the UN core human rights treaties that support gender and disability rights also support economic growth. This is done by educating, empowering and employing women and persons with disabilities. This in turn helps promote economic growth. Therefore, if states can implement their obligations under international human rights

law and national law regarding the rights of women and people living with disability, they will inevitably see improved levels of economic growth.

The sponsor supporting Busiku Simoonga's award is LEX: Africa Alliance

### Notes

1. World Development Report 2012, *Gender Equality and Development*.
2. *Ibid.*
3. Article 1 of the United Nations Convention on Rights of Persons with Disabilities (CRPD).
4. International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; International Convention on the Protection of the Rights of All Migrant Workers and Members of Theirs Families; and the Convention on the Rights of Persons with Disabilities.
5. UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).
6. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.
7. Article 2 (2) and Article 3 of the ICESCR.
8. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49.
9. UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol 1249.
10. *Ibid.*
11. *Ibid.*
12. UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution/ adopted by the General Assembly, 24 January 2007, A/RES/61/106.
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. Ilse Worm, *A Human Rights Based Approach to Disability in Development*, pp 10–30.
17. *Ibid.*
18. *Ibid.*
19. Gupta Kamla and Yesudian Princy (2006). 'Evidence of women's empowerment in India: a study of socio-spatial disparities', *Geojournal*, 65 (4): 365–380. DOI:10.1007/s10708-006-7556-z. S2CID 128461359.
20. UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol 1249.
21. Naila Kabeer, 'Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1', *Gender & Development* 13.1 (2005): 15–54.
22. *Sustainable development goals – United Nations Women*, United Nations Sustainable Development. Archived from the original on 13 March 2018.

# How can laws promoting gender and disability rights support economic developments?

## Introduction

Karl Seidman defines development as a process of creating and utilising physical, human, financial and social assets to generate improved and broadly-shared economic wellbeing and quality of life for a community or region.<sup>1</sup> Daphne Greenwood and Richard Holt look at economic development as a broadly-based and sustainable increase in the overall standard of living for individuals within a community.<sup>2</sup> This essay will look at how economic development is supported by laws promoting gender and disability rights. It will look at the link between gender and disability rights and economic development, then at disability rights and how they support economic development, followed by gender rights and how they support economic development, before concluding.

## Background

The United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>3</sup> recognises the right of persons with disabilities to work, to have equal opportunities to choose work, to be accepted in the labour market, and to participate in an open, inclusive and accessible work environment.<sup>4</sup> The CRPD emphasises that mainstreaming disability issues is an integral part of establishing relevant strategies towards sustainable development.<sup>5</sup> Promoting the disability rights that are in the CRPD can support economic development on a local and global level. The Convention on the Elimination of Discrimination against Women (CEDAW),<sup>6</sup> recognises and promotes the rights of women with regards to economic development, which includes work, economic and social life. The CRPD, however, also recognises the intersection that exists between the two groups of rights and acknowledges the rights of women with disabilities.

## Disability rights and economic development

The CRPD is the main instrument that provides for the rights of persons with disabilities. These rights can support economic development. The CRPD recognises the right of people with disabilities to work, to have equal opportunity to choose work, to be accepted in the labour market, and to participate in an open, inclusive and accessible work environment.<sup>7</sup> Article 2 of the CRPD states that discrimination on the basis of disability includes all forms of discrimination, including denial of reasonable accommodations. ‘Reasonable accommodation’ means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms. Reasonable accommodation would mean adjusting facilities and services to enable persons with disabilities to participate in activities that lead to economic development.

CRPD Article 9 on accessibility states that there should be provisions to eliminate obstacles and barriers to accessibility in national laws. This is to enable persons with disabilities to live independently and participate in different aspects of life. This supports the right to work and employment in Article 27. For persons with disabilities to work and be employed there is need for reasonable accommodation in the workplaces that exist.<sup>8</sup> The committee of the International Convention on Economic, Social and Cultural Rights (ICESCR) noted that most governments lack measures that would improve the situation of people with disabilities.<sup>9</sup> Persons with disabilities are employed at significantly lower rates than those without disabilities. However, according

to the World Health Organization,<sup>10</sup> Some 15 per cent of the world's population lives with disabilities.

The ICESCR General Comment No 5 on Persons with Disabilities states that the United Nations has estimated the number of persons with disabilities in the world to be above 500 million. Ensuring there is reasonable accommodation in different institutions will ensure that everyone equally participates in activities that increase economic development. This will mean that the 15 per cent of the world's population with disabilities should also be able to access employment to improve their share of a wider economic wellbeing. States have the obligation to ensure full enjoyment of relevant rights by persons with disabilities.<sup>11</sup>

### Gender and economic development

Gender inequality remains in the education and formal employment sectors among other places, and income remains a significant constraint to growth in many countries.<sup>12</sup> In today's low and middle-income countries, female participation in the labour force remains disproportionately low and large pay differentials continue to prevail between men and women.<sup>13</sup> Gender equality, however, has an important role to play in the economic development of a country.<sup>14</sup> In 2008, the Organisation for Economic Co-operation and Development (OECD) revealed that sustainable economic growth at the national and global levels depends on the involvement of women as workers and the full use of their skills and qualifications.<sup>15</sup> Several studies have also indicated that there is a negative impact of gender inequality in work on economic development.<sup>16</sup> Education of the population has a positive impact on economic development.<sup>17</sup> However, because women are part of the population, the level of female education will determine the level of education population.<sup>18</sup> CEDAW provides states parties are to take appropriate measures to eliminate discrimination against women in order to ensure equal rights compared to men in the field of education. This is aimed at ensuring that men and women have equal opportunities to access or obtain education. In return, this can increase population which will push economic growth upwards.<sup>19</sup> CEDAW also states that states are to take measures to ensure there is no discrimination against women on the basis of equality in the field of employment.

It states that there should be the same rights – in particular, the right to the work as an inalienable right, the right to same employment opportunities, a free choice of employment and equal remuneration. This will ensure that more women are employed and are able to contribute to economic development. These rights will help work towards a larger number of total population in employment which will push economic development upwards.

In 2020, the number of men and women in the world is almost equal with men being 50.4 per cent of the population and women being 49.6 per cent of the population.<sup>20</sup>

However, at 48.5 per cent of the total, global population in 2018, women's global labour force participation rate was fully 26.5 per cent below that of men. Equalising employment rights and education rights, which are under gender rights, will increasingly ensure that a larger number women are able to participate in activities that improve economic development, leading to the general improvement of economic development as the total population participating in economic development will increase.

### Intersection of gender and disability rights with regard to economic development

The CRPD recognises that women and girls with disabilities are subject to multiple levels of discrimination and, in this regard, state parties shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.<sup>21</sup> It is estimated that 19 per cent of the total number of women around the world live with some kind of disability and the lack of proper access to resources, education and the perpetuation bias in society hinders the full exercise and enjoyment of their human rights.<sup>22</sup> Most women with disabilities, especially in low and middle-income countries, remain confined as they lack the necessary education or support to lead an independent life.<sup>23</sup> This makes it difficult for women with disabilities to contribute to economic development. They are then unable to participate full in society which has an adverse impact on economic development.

Women with disabilities are particularly disadvantaged when it comes to employment in most countries. According to a World Health Organisation (WHO) Survey, conducted in 50 countries, it was seen that

the general employment percentage for men with disability was 52.8 per cent and that of women with disability was only 19.6 per cent.<sup>24</sup> The causes of this included lack of reasonable accommodation.<sup>25</sup> This hinders the contribution that the side-lined women with disabilities can make to economic development if they were employed.

Persons with disabilities belong to a group of the vulnerable as they are subject to discrimination. This also applies to women. Women with disabilities, however, face even greater discrimination than people who belong to one of the two groups. Considering that the number of women in the world is almost equal to that of men and that 15 per cent of the total percentage of the world comprises of persons living with disabilities,<sup>26</sup> the promoting of disability and gender rights would lead to increased and improved economic development. This can be done through the implementation of the instruments that provide these rights, which are the CEDAW and the CRPD.

### Conclusion and solutions

In 2009, after research was conducted in the European Region, it was found that the countries with the best employment rates for women with disabilities were Finland, Norway and Sweden.<sup>27</sup> These countries also have high rates of economic development.<sup>28</sup> This is evidence that promotion of disability and gender rights supports economic development. To achieve equality in economic rights for women with disabilities, which can lead to economic development, there is need for countries to come up with ways of ensuring that the instruments are implemented. This is to go beyond stating that the states are to ensure that the rights in the instruments are followed. There should be a period after which states that have these statutes in force should be checked to see their progress in ensuring that disability and gender rights are upheld. This will then support economic development as everyone will be able to equally participate in activities that improve economic development.

The sponsor supporting Tina-Fiona Mloza's award is LEX: Africa Alliance

### Notes

1. Seidman, Karl F (2005), *Economic Development Finance*, Thousand Oaks: Sage Publications, p 5, ISBN 9780765628176.
2. Greenwood, Daphne T; Holt, Richard PF (2010), *Local Economic Development in the 21st Century*, Armonk and London: ME Sharpe, pp 3–4, ISBN 9780765628176.
3. Convention on the Rights of Persons with Disabilities (2008).
4. *Disability and Economics: The Nexus between Disability, Education and Employment*, DESA Briefing Seminar Series 1, July 2011, United Nations Headquarters
5. The preamble of the Convention on the Rights of Persons with Disabilities.
6. Convention on the Elimination of Discrimination Against Women (1979).
7. *Disability and Economics: The Nexus between Disability, Education and Employment*, DESA Briefing Seminar Series 1, July 2011, United Nations Headquarters.
8. *Disability and Economics: The Nexus between Disability, Education and Employment*, DESA Briefing Seminar Series 1, July 2011, United Nations Headquarters.
9. Convention on Economic, Social and Cultural Rights General Comment Number 5: Persons with Disabilities.
10. *World Report on Disability*, by World Health Organisation ([www.who.int](http://www.who.int), accessed on 7 September 2020).
11. Convention on Economic, Social and Cultural Rights, General Comment Number 5: Persons with Disabilities.
12. World Development Report 2012 by the World Bank, *Gender Equality and Economic Growth: A Framework Policy Analysis*, by Pierre-Richard Agénor, Otaviano Canuto, 24 April 2013 ([www.voxeu.org](http://www.voxeu.org), accessed on 7 September 2020).
13. UN Women (2011), *Progress of the World's Women 2011–2012: In Pursuit of Justice*, United Nations, New York. International Labour Organization (2012), *Global Employment Trends for Women*, ILO Publications, December 2012.
14. *Gender Equality and Economic Development*, by Hardius Usman and Fitri Catur Lestari in International Conference on Social and Political Issues (ICSPA 2016), ([www.knepublishing.com](http://www.knepublishing.com), accessed on 7 September 2020).
15. *Ibid.*
16. *Gender Equality and Economic Development*, by Hardius Usman and Fitri Catur Lestari in International Conference on Social and Political Issues (ICSPA 2016), ([www.knepublishing.com](http://www.knepublishing.com), accessed on 7 September 2020).
17. *Ibid.*
18. *Ibid.*
19. *Ibid.*
20. Institut National D'études Demographiques, *Are There More Men or More Women in The World?* states that, in 2020, for every 1,000 people 504 are men and 496 are women ([www.ined.fr](http://www.ined.fr), accessed on 7 September 2020).
21. Article 6 of the Convention on Rights of Persons with Disabilities.
22. *Women with Disabilities and Economic Rights*, Gabby De Cicco, 21 September 2012 ([www.awid.org](http://www.awid.org) accessed on 7 September 2020).
23. *Ibid.*
24. *Women with Disabilities and Economic Rights*, Gabby De Cicco, 21 September 2012 ([www.awid.org](http://www.awid.org) accessed on 7 September 2020). This was also compared with the employment percentage of men and women without disability 64.9 per cent and 29.9 per cent respectively.
25. *Ibid* (eg, accessing workplaces and accessible transport, intersectional bias and discrimination, lack of appropriate modifications and adaptations that do not place an unjust burden and that guarantee all persons with disabilities enjoy and exercise all their rights).
26. *World Health Organization World Report on Disability* ([www.who.int](http://www.who.int), accessed on 7 September 2020).
27. *Women with Disabilities and Economic Rights*, Gabby De Cicco, 21 September 2012 ([www.awid.org](http://www.awid.org), accessed on 7 September 2020).
28. *Economic Development in the Nordic Countries*, 13 June 2019 ([www.nordics.info](http://www.nordics.info), accessed on 10 September 2020).

**Hillary Mushota**  
 University of Zambia,  
 Lusaka  
 lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Introduction

It is important, but often understated, to ensure that persons with disabilities and women are part of development activities in order to advance international development goals. In that regard, this essay seeks to discuss how laws promoting gender and disability rights can promote economic development. This will be achieved first by defining key terms: economic development, gender and disability. Secondly, this paper will give a brief explanation of the laws promoting gender and disability rights; it will further explain the correlation between laws promoting gender and disability rights and economic development. Thereafter, an analysis of how laws promoting gender and disability rights can support economic development will be set out and, finally, a concise conclusion will be drawn.

## Definitions: economic development, gender and disability

Economic development is a process of creating and utilising physical, human, financial and social assets to generate improved and broadly-shared economic wellbeing and an improved quality of life of a community or region.<sup>1</sup> The term ‘economic development’ is often used as a synonym for economic growth.<sup>2</sup> According to Robert Solow, economic growth is an outcome of two factors: the first one is an increased of endowments and their accumulation, including physical and human capital, and population growth or labour supply and the second one is productivity.<sup>3</sup> Women have a unique place in these supply-side models, as women have long been acknowledged as a potential untapped labour supply, for market growth, with little thought given to the implications of this transfer of labour for non-market production.<sup>4</sup>

Gender refers to the roles and responsibilities of men and women that are created in our families, our societies and our cultures. This concept also includes the expectation held about the characteristics, aptitudes and likely behaviour of both women and men.<sup>5</sup> Disability, for the purposes of development, includes physical, intellectual, mental, health, sensory or other types of impairments that limit one or more of the major life activities and put individuals and their families at risk of being in poverty. This risk of poverty for disabled persons is related to the barriers to knowledge and participation, inter alia, discrimination and abuse because of gender, age, language, colour, race, culture, education, healthcare, transportation, communication, housing and employment.<sup>6</sup>

## Laws promoting gender and disability rights

Laws that promote gender and disability rights consider women and persons with disability as rights-bearers who are capable of claiming those rights. The International Convention on the Rights of Persons with Disabilities (CRPD) includes provisions that address women with disabilities. In its preamble parties, it provides that states should recognise that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.<sup>7</sup> The CRPD also provides in its Article 32 that development programmes should be inclusive and accessible to persons with disabilities.

Additionally, General Recommendation 18 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) recommends that states parties to CEDAW take measures to address the

equal access of women with disabilities to education, employment, health services and social services, and ensure the participation of women with disabilities in all areas of political, social and cultural life.<sup>8</sup>

### **The correlation between laws promoting gender and disability rights and economic development**

There is a correlation between laws promoting gender and disability rights and economic development. This part of the essay will consider three points – education, employment and ownership of land – as the main points in establishing the correlation between laws promoting gender and disability rights and economic development.

#### *Employment*

Most laws that promote gender and disability rights advocate for the inclusion of women and disabled persons in employment opportunities. For example, CEDAW recommends that states parties should take measures that provide equal access to employment. The World Bank has estimated that the annual cost of so many persons with disabilities being out of work is between US \$1.37 to 1.94 trillion.<sup>9</sup> Many persons with disabilities are not active in the labour market. Therefore, when persons are marginalised from employment opportunities, the cycle of poverty is reinforced and it adversely affects economic development.

Therefore, increasing employment opportunities for women has a positive impact on economic development. Increasing the female employment rate in the Organisation for Economic Co-operation and Development (OECD)'s member countries to match that of Sweden, can boost annual gross domestic product (GDP) by over US \$6 trillion. In that regard, gender gaps cost the economy 15 per cent of GDP each year.<sup>10</sup> It is estimated that companies with more women in senior management functions score higher in all dimensions of organisational performance.<sup>11</sup> In that regard, laws promoting gender and disability rights support economic development by providing for equal employment for both genders and persons with disability.

#### *Education*

Similarly, laws that promote gender and

disability rights promote educational opportunities for women and disabled persons. Article 24 of the CRPD provides for the right to education of persons with disabilities.<sup>12</sup> Ensuring educational opportunities for all children, including girls with disabilities, is important for economic development. This is because education raises people's productivity and creativity and promotes technological advances.<sup>13</sup> In OECD member countries, half of the economic growth over the past 50 years is attributed to girls having better access to education.<sup>14</sup>

#### *Land rights*

There is a strong correlation between economic development and women's legal rights in areas as diverse as property rights and access to land. Improving the property rights of women is not only a matter of human rights and gender equity but also a fundamental principle underlying the economic development of all people.<sup>15</sup> Land is one of the cornerstones of economic development on which farmers, pastoralists and other communities base their livelihood. According to the African Development Bank, agriculture accounts for a third of its total GDP, employing 65–70 per cent of the total workforce.<sup>16</sup> Land is also a significant component of business assets, which play a significant role in business investment strategies. Securing land rights can have an impact on economic development. Therefore, unequal access to land for women puts women at a disadvantage and perpetuates cycles of poverty.<sup>17</sup> Women produce more than 80 per cent of the food in Africa but only own one per cent of the land.<sup>18</sup> From this point of view, it is very clear that there is a correlation between laws promoting gender and disability rights and economic development, because such laws provide for equal access to land and, having such access to land, puts women in a position that they are better able to generate income.

### **Analysis of how laws promoting gender and disability rights can support economic development**

According to statistics, female disability prevalence rate is 19.2 per cent whereas it is 12 per cent for men.<sup>19</sup> The global literacy rate is as low as three per cent for all adults with disabilities and, even worse, is only one per cent for women with disabilities.<sup>20</sup>



Although all persons with disabilities face barriers to employment, men with disabilities have been found to be almost twice as likely to be employed as women with disabilities.<sup>21</sup> Women and girls with disabilities experience higher rates of gender-based violence, sexual abuse, neglect, maltreatment and exploitation than women and girls without disabilities. And, women and girls with disabilities are statistically three times more likely to experience gender-based violence compared to non-disabled women.<sup>22</sup> Yet many laws promoting gender and disability rights are weak on ensuring access to education, employment and land rights, among other things. Therefore, this part of the essay will give recommendations as to how laws promoting gender and disability rights can promote economic development.

Laws promoting gender and disability rights can support economic development by breaking the cycle of poverty and disability. This can be achieved by developing the economic potential of persons with disabilities. Their potential to contribute to economic growth must be mainstreamed into disability policies. In order to break this pattern of exclusion, inclusive programmes and policies at all levels and affirmative action policies must be implemented to address the legacy of discrimination in a comprehensive manner.<sup>23</sup>

Further, laws promoting disability rights should promote policies that are inclusive of persons with disability when it comes to employment. The World Bank has estimated that the cost of so many persons with disabilities being out of work is between US \$1.37 to 1.94 trillion annually.<sup>24</sup> According to 1980 United States census data, women with disabilities working full time earned only 56 per cent as much as similarly-situated men with disabilities with full time jobs.<sup>25</sup> Many persons with disabilities are not active in the labour market. Therefore, when persons are marginalised from employment opportunities, the cycle of poverty is reinforced and it negatively affects economic development. Systematic steps must be taken to help persons with disabilities reach their potential through education, employment opportunities and the chance to participate in all aspects of public life.<sup>26</sup> Similarly, according to statistics, 650 million people live with disabilities.<sup>27</sup> In order to have economic development, such huge numbers of people should be part of development policies and programmes.

Additionally, the laws promoting gender rights can support economic development by establishing laws that provide for equal employment opportunities. Increasing the female employment rate in OECD member countries to match that of Sweden, can boost GDP by over US \$6 trillion. In that regard, gender gaps have been estimated to cost the economy 15 per cent of GDP each year.<sup>28</sup> Companies with more women in senior management functions have been shown to score higher in all dimensions of organisational performance.<sup>29</sup> Therefore, by providing for equal employment opportunities, laws promoting gender rights can support economic development.

Similarly, the laws promoting gender and disability rights can support economic development by allowing equal access to education. Affirmative action policies on education should be adopted to achieve equality for women and persons with disability. Ensuring educational opportunities for all children, including girls with disabilities, is important for economic development. This is because education raises people's productivity and creativity and promotes technological advances.<sup>30</sup> In OECD member countries, half of the economic growth over the past 50 years is attributed to girls having better access to education.<sup>31</sup> From this point of view, by allowing equal access to education for women and persons with disability, laws promoting gender and disability rights can support economic development.

Additionally, by providing for equal access to property, laws promoting gender and disability rights support economic development. Land is one of the cornerstones of economic development on which farmers, pastoralists and other communities base their livelihood. According to the African Development Bank, agriculture accounts for a third of its total GDP employing 65–70 per cent of the total workforce.<sup>32</sup> Women produce more than 80 per cent of food in Africa but only own one per cent of land.<sup>33</sup> Therefore, from this point of view, laws prompting gender rights can promote economic development by providing for equal access to land rights for women. Having such access to land by women puts them in a position that they are able to generate income.

## Conclusion

In summary, this essay has established how

laws promoting gender and disability rights can support economic development with the aid of authorities. This was achieved by first defining key terms: economic development, gender and disability. Secondly, this paper gave a brief explanation of laws on gender and disability rights; thirdly, it established a correlation between laws promoting gender and disability rights and economic development and, finally, an analysis of how laws promoting gender and disability rights can support economic development. Seeing that there is a correlation between laws promoting gender and disability rights, the laws promoting gender and disability rights can support economic development by providing for equal access to education, employment and access to land, among other things. Given that roughly half of the population is female and that nearly a third of the population live with disabilities, it is reasonable to state that the failure of laws promoting gender and disability rights to provide for equal access to education, employment and land, among other things, would be negatively reflected in the economic development of that state.

The sponsor supporting Hillary Mushota's award is the Society of English and American Lawyers

#### Notes

- Seidman, Karl F, *Economic Development Finance*, Sage Publications: 2005, p 5.
- Krueger, Anne O, *Economic development*, Encyclopedia Britannica, p 201.
- Solow, Robert M, *A Contribution to the Theory of Economic Growth*, The Quarterly Journal of Economics 70(1), (1956), pp 65–94.
- UN-HABITAT, *The Global Urban Economic Dialogue Series: Gender and Economic Development*, (UN-HABITAT, Nairobi, 2010).
- UNESCO's Gender Mainstreaming Implementation Framework, 2013.
- Jean, Lorna, *Disabled People and Development*, Asian Development Bank: Philippines, 2005.
- The Convention on the Rights of Persons with Disabilities (CRPD), 2008.
- CEDAW General Recommendation No 18 of 1992.
- Metts, Robert L, *Disability Issues, Trends and Recommendations for the World Bank*, World Bank, Washington, 2000.
- Cuberes, D, *Aggregate Effects of Gender Gaps in the Labor Market: A quantitative Estimate*, Journal of Human Capital 10(1)(2016).
- McKinsey & Company, *Women Matter – Time to Accelerate and Women Matter – Ten Years of Insight into Gender Diversity*, 2017.
- Convention of Persons with Disabilities 2008.
- Öztürk, İlhan, *The role of education in economic development: a theoretical perspective*, MPRA Paper 9023, University Library of Munich, Germany, 2001.
- Closing the Gender Gap: Act Now*, OECD 2012.
- Mikkola, Anne, *Development and Gender Equality: Consequences, Causes, Challenges and Cures – discussion paper No 159*, April 2007.
- African Development Bank, *Africa Fast Track Fund*, available at: [www.afdb.org/en/news-keywords/agriculture-fast-truck-fund](http://www.afdb.org/en/news-keywords/agriculture-fast-truck-fund), accessed 20 December 2020.
- Odeny, Millicent, *Annual World Bank Conference on Land and Poverty*, The World Bank, Washington DC, April 2013.
- SOFA Report 2011, *Women in Agriculture: Closing the Gender Gap for Development*.
- Addressing gender equality in the context of disability (Inputs from UN Women)*, available at: [www.un.org/disabilities/documents/hlmdd/hlmdd\\_unwomen.doc](http://www.un.org/disabilities/documents/hlmdd/hlmdd_unwomen.doc).
- Background Paper for Informal Session on Women with Disabilities*, note by the Secretariat, Fifth Session of the Conference of States Parties to the Convention, on the Rights of Persons with Disabilities (New York, 12–14 September 2012), cites: Helander, E, *Prejudice and dignity: an introduction to community based rehabilitation*, 2nd Edition, New York, UNDP, 1998, available at: <https://digitallibrary.un.org/record/696355>.
- O'Reilly, Arthur, *The Right to Decent Work of Persons with Disabilities*, Skills Working Paper No 14, Geneva: International Labour Organization, 2003, pp 31–33.
- The United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences*, A/61/122/Add.1, para 152, citing to Human Rights Watch, *Women and girls with disabilities*, available at: <https://www.hrw.org/legacy/women/disabled.html>.
- Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender, and Development – A Resource Tool for Action*, 2008.
- Metts, Robert L, *Disability Issues, Trends and Recommendations for the World Bank*, World Bank, Washington, 2000.
- US Census: *Wage Gap for Women with Disabilities*.
- Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender, and Development – A Resource Tool for Action*, 2008.
- Ibid.*
- Cuberes, D, & Teignier, M, *Aggregate Effects of Gender Gaps in the Labor Market: A quantitative Estimate*, Journal of Human Capital 10(1), 2016.
- McKinsey & Company, *Women Matter – Time to Accelerate and Women Matter – Ten Years of Insight into Gender Diversity*, 2017.
- Öztürk, İlhan, *The role of education in economic development: a theoretical perspective*, MPRA Paper 9023, University Library of Munich, Germany, 2001.
- Closing the Gender Gap: Act Now*, OECD 2012.
- African Development Bank, *Africa Fast Track Fund*, available at: [www.afdb.org/en/news-keywords/agriculture-fast-truck-fund](http://www.afdb.org/en/news-keywords/agriculture-fast-truck-fund), accessed 20 December 2020.
- SOFA Report 2011, *Women in Agriculture: Closing the Gender Gap for Development*.

**Bwalya Milunga**  
University of Zambia,  
Lusaka  
lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Introduction

There is a clear interplay between law and economic development. This ongoing interaction is one in which scholars have taken a keen interest. For instance, toward the end of the 1990s, a group of economists conducted cross-country econometric research to determine what legal rules best contributed to strength in the financial sector and thereby to economic growth.<sup>1</sup> Their work led to a vast increase in research, not only by other economists but also by lawyers, into the role of legal institutions in economic development.<sup>2</sup> Can laws promoting gender and disability rights support economic development? If the question is answered in the affirmative, the next question would be ‘how do laws that promote gender and disability rights support economic development?’

## Laws promoting gender and disability rights

Laws promoting gender and disability rights are laws aimed at curbing discrimination and ensuring fair or equal treatment for men, women and disabled people. International human rights treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) aim solely to promote gender and disability rights and ensure equality is achieved in the process. For instance, Article 11<sup>3</sup> of CEDAW provides that states parties should ensure equality in employment opportunities for both men and women. Article 27<sup>4</sup> of CRPD requires states parties to recognise the right of persons with disabilities to work on an equal basis with others not similarly disabled and this includes the right to opportunity to gain a living by work accepted in a labour market. At a

domestic level, constitutions promote gender and disability rights with specific provisions set out expressly. These provisions prohibit discrimination on the basis of sex or gender and disability.

## What is economic development?

Development generally encompasses concepts such as change, progress, growth and improvement. Economic development can be associated with an increase in a country’s wealth, standard of living and the development of a country’s economy. In economic terms, economic development can be defined as economic growth accompanied by changes in output distribution and economic structure.<sup>5</sup> According to E Wayne Nafziger, ‘These changes may include an improvement in the material well-being of the poorer half of the population, a decline in agriculture’s share and an increase in services and industry’s share of GNP, an increase in the education and skills of the labour force, and substantial technical advances originating within the country.’<sup>6</sup> The economic growth referred to here is increases in a country’s production or income per capita; production is usually measured by gross national product (GNP), which is an economy’s total output of goods and services.<sup>7</sup>

## The relationship between law and economic development

The rule of law and the judiciary are avenues that establish, maintain and illustrate the link between law and economic development. The core theoretical insight linking law to economic development runs through two channels which are distinct but closely related.<sup>8</sup> These channels are the effects of property rights on investment and the effects of contract enforcement on trade.<sup>9</sup> Haggard, MacIntyre and Tiede state that ‘[the] core

logic is that security of property rights and integrity of contract underpin, respectively, investment and trade, which in turn fuel economic growth and development.<sup>10</sup> With regard to the judiciary, the judiciary is as important for sound economic development as are infrastructure and factories since the judicial system includes all the mechanisms needed to interpret and apply laws and regulations.<sup>11</sup> Thus, it is the main link through which the economic impact of the legal system is felt and the three most important productive activities of the judicial sector within the economic system are: resolving conflicts, upholding the principles of legality and penalising legal infringements.<sup>12</sup> Legislation is dependent on an effective judicial system to interpret and apply it.<sup>13</sup>

### How laws promoting gender and disability rights support economic development

#### *Removal of barriers hindering movement, communication and access to social services*

Disabled people are better able to contribute to economic development once barriers to movement and communication are and there are improvements to access in health services. This is made possible by non-discrimination laws which promote equality. Laws that promote disability rights make it possible for disabled people to participate in economic development through removal of barriers. Barriers to movement and communication in the physical environment prevent people with disabilities from contributing fully to the economic and cultural life of their communities.<sup>14</sup> Inaccessible environments and a lack of appropriate assistive technology (AT) present significant barriers for people with disabilities, not only accessing work but also social protection services.<sup>15</sup> Effective social protection systems can support the economic empowerment of people with disabilities by promoting income security.<sup>16</sup> Improvements in access to health services would increase the functional and social capacities of disabled people and improve their ability to contribute to the economy.<sup>17</sup> In many countries, domestic law contains discriminatory provisions that hinder full participation in society for people with disabilities.<sup>18</sup> To make sustainable economic development a reality, people with disabilities must benefit from economic development programmes such as micro-level interventions

aimed at income generation, along with macro-level interventions designed to create legal and regulatory frameworks that foster economic inclusion.<sup>19</sup> The legal frameworks are laws intending to reinforce economic inclusion for disabled people. In this way, laws promoting disability rights become a necessary element in supporting economic development.

#### *Reform of property rights*

Laws promoting gender rights through reform in property rights support economic development. In particular, the promotion of women's property rights has been shown to support economic development. Property rights include the 'the legal rights to acquire, own, sell and transfer property, collect and keep rents, keep one's wages, make contracts, bring lawsuits, and, if seeking divorce, maintain some of the marriage assets and keep control and guardianship of the children.'<sup>20</sup> Married women in Europe and the United States did not have property rights until the legal system was reformed.<sup>21</sup> According to Adam Smith, 'security of property rights against expropriation by fellow citizens or the state is an important condition for encouraging individuals to invest and accumulate capital, which, in turn, would boost economic growth.'<sup>22</sup> According to Guangdong Xu, property rights have long been regarded as the fundamental precondition for sustainable economic growth.<sup>23</sup>

In South Africa, customary law, which was in existence prior to colonisation in 1652, significantly limited women's property rights.<sup>24</sup> In 1998, South Africa changed many of the discriminatory elements of customary law including the restrictions on property rights and as a result, women's position in their households shifted significantly.<sup>25</sup> Before this, lack of secure property rights made women vulnerable to poverty and violence, as the death of a husband or another income-generating member of the family often meant a total loss of their property.<sup>26</sup> In Zambia, the Lands Act of 1995 guarantees the ownership of land for up to 99 years by both men and women, although men inherit most of the land owned under customary law.<sup>27</sup> It is also a common practice for women to gain access to land through the permission of their spouses or family members and men, generally, control the land.<sup>28</sup> In terms of economic inequality, women discriminated against

in Zambia based on gender have equally endured unfair treatment in terms of unequal distribution of property.<sup>29</sup>

It should be noted that secure property rights are an important part of economic growth as they encourage people to invest in physical and human capital, as well as technology.<sup>30</sup> Therefore, through the reform of women's property rights, laws promoting gender rights ultimately promote economic development. The United Nations, International Monetary Fund and World Bank have enthusiastically endorsed property rights reform and the World Bank has noted that property reform seems to be a promising solution to poverty.<sup>31</sup>

### *Economic empowerment through a legislative framework*

Through laws that prohibit discrimination and promote equality, economic development is given the necessary support. An appropriate legislation ensures further participation by women in the formal economy and entrepreneurship.<sup>32</sup> This in turn leads to the economic empowerment of women which results in poverty reduction and the economic inclusion of women in economic development. Poverty reduction or eradication is a sign of economic development since economic development is associated with an improvement in the standard of living. Economic empowerment of women is important for poverty reduction and it contributes to the development of human capital and human capabilities, including their own.<sup>33</sup> The economic empowerment of women is a top priority in the work to reduce poverty and there is a requirement for women to be viewed, just as men in being economic actors as well as obvious and necessary agents of change.<sup>34</sup> Women's economic empowerment allows women to participate in, contribute to and benefit from growth processes on terms which recognise the value of their contributions.<sup>35</sup> The same can be said for economic empowerment of disabled people; economic empowerment leads to opportunities for disabled people to contribute to economic development and gives people with disabilities an opportunity to work towards poverty eradication.

Domestic and international legislation contain provisions prohibiting discrimination on various grounds which include gender and disability. As an example of

domestic legislation, human rights in Zambia are enshrined in Part III of the Zambian Constitution. In particular, Article 23<sup>36</sup> provides for protection against discrimination. Additionally, Section 5 (1)<sup>37</sup> of the Employment Code Act of Zambia states that 'An employer shall promote equal opportunity in employment and eliminate discrimination in an undertaking.' This allows women and disabled people to equally participate in employment opportunities which lead to economic development; employment opportunities lead to an increase in production because more people are allowed work and contribute to productivity in businesses, and it also leads to an improvement in the standard of living due to poverty reduction arising from economic empowerment.

Pertaining to international legislation, the principles of non-discrimination and equality are essential elements of international human rights law and the application of these elements is seen in major international human rights instruments such as CEDAW and CRPD. The International Labour Organization (ILO) adopted the Equal Remuneration Convention in 1951, which protects and promotes equal remuneration for men and women workers for work of equal value. Article 1<sup>38</sup> of the Equal Remuneration Convention provides that 'equal remuneration for men and women workers for work of equal value' means the rates of remuneration are to be established without discrimination based on sex. This is another way laws promoting gender and disability rights support economic development, by providing an equal opportunity for all to contribute to economic activities and communities and improve their own standard of living.

### **Conclusion**

This essay has discussed three ways of how laws promoting gender and disability rights support economic development. Laws promoting gender and disability rights support economic development in various ways. Through removal of barriers hindering movement, communication and access to social services, economic development is supported. This is made possible by non-discrimination laws which promote equality. Laws promoting gender rights through reform in property rights also support economic development. Property rights

have long been regarded as the fundamental precondition for sustainable economic growth, and secure property rights are an important part of economic growth because they encourage people to invest in physical and human capital, as well as technology. Economic empowerment through a legislative framework also supports economic development. An appropriate legislation ensures further participation by women in the formal economy and entrepreneurship and this in turn leads to economic empowerment of women, which results in poverty reduction and economic inclusion of women in economic development. Economic empowerment also leads to opportunities for disabled people to contribute to economic development and gives people with disabilities an opportunity to work towards poverty eradication.

The sponsor supporting Bwalya Milunga's award is Linklaters

#### Notes

1. Kenneth W Dam, *The Rule of Law and Economic Development*, (Washington DC: Brookings Institution Press, 2006) p 5.
2. *Ibid.*
3. UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol 1249, p 13, available at: [www.refworld.org/docid/3ae6b3970.html](http://www.refworld.org/docid/3ae6b3970.html) (accessed 3 September 2020).
4. UN General Assembly, Convention on the Rights of Persons with Disabilities, resolution adopted by the General Assembly, 24 January 2007, A/RES/61/106, available at: [www.refworld.org/docid/45f973632.html](http://www.refworld.org/docid/45f973632.html) (accessed 3 September 2020).
5. E Wayne Nafziger, What Is Economic Development? In *Economic Development* (pp 14–48). (Cambridge: Cambridge University Press, 2012), DOI:10.1017/CBO9781139028295.003.
6. *Ibid.*
7. *Ibid.*
8. Stephan Haggard, Andrew MacIntyre and Lydia Tiede, 'The Rule of Law and Economic Development', *The Annual Review of Political Science*, (2008): 206 (accessed 3 September 2020).
9. *Ibid.*, p 206.
10. *Ibid.*
11. *Ibid.*, p 55.
12. *Ibid.*
13. *Ibid.*
14. Malcolm Peat, 'Attitudes and Access: Advancing the Rights of people with Disabilities', *Canadian Medical Association*, (2007): 658.
15. *Global Disability Summit, Routes to economic empowerment*, p 3. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/726190/DFIDHandouts\\_RoutesToEconomicEmpowerment\\_V5.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/726190/DFIDHandouts_RoutesToEconomicEmpowerment_V5.pdf), (accessed 27 December 2020).
16. *Ibid.*, p 4.
17. *Ibid.*
18. Joan Durocher, Janet Lord and Allison Defranco, 'Disability and global development', *Disability and Health Journal* 5 (2012): p 132. [www.disabilityandhealthjnl.com](http://www.disabilityandhealthjnl.com).
19. *Ibid.*, p 133.
20. Women in World History, *Married Women's Property Rights, Changing Views and Challenges, Primary Source Lessons*, [www.womeninworldhistory.com/lesson17.html](http://www.womeninworldhistory.com/lesson17.html), (accessed 27 December 2020).
21. Raquel Fernández, 'Women's rights and development'. *J Econ Growth* (2014), p 38. DOI: 10.1007/s10887-013-9097-x.
22. Guangdong Xu, *Property Rights, Law, and Economic Development*, *De Gruyter* 6(1) (2013): 117. DOI: 10.1515/ldr-2013-0004.
23. *Ibid.*
24. Diane E Eynon, *Women, Economic Development, and Higher Education: Tools in the Reconstruction and Transformation of Post-Apartheid South Africa*, (Switzerland: Palgrave Macmillan, 2017) p 50.
25. *Ibid.*, p 57.
26. *Ibid.*, p 41
27. *Country Gender Profile: Zambia Final Report March* (2016) p 20, [https://www.jica.go.jp/english/our\\_work/thematic\\_issues/gender/background/c8h0vm0000anj66-att/zambia\\_2016.pdf](https://www.jica.go.jp/english/our_work/thematic_issues/gender/background/c8h0vm0000anj66-att/zambia_2016.pdf), (accessed 27 December 2020).
28. *Ibid.*
29. *Ibid.*, 1.
30. Astrid R N Haas and Patricia Jones, 'The importance of property rights for successful urbanisation in developing countries', *International Growth Centre*, p 4, [www.theigc.org/wp-content/uploads/2017/01/property-rights-uganda.pdf](http://www.theigc.org/wp-content/uploads/2017/01/property-rights-uganda.pdf) (accessed 27 December 2020).
31. Osvaldo Gómez Martínez & Lawrence King, 'Property Rights Reform and Development: A Critique of the Cross National Regression Literature', *Political Economy Research Institute Working Paper Series*, p 5, [https://scholarworks.umass.edu/peri\\_workingpapers/190](https://scholarworks.umass.edu/peri_workingpapers/190), (accessed 27 December 2020).
32. *March on Gender, The Impact of Legal Frameworks on Women's Economic Empowerment around the World: Challenges and Good practices*, p 5, [www.oecd.org/mena/competitiveness/2107-March-on-Gender-Legal-Framework-Highlights.pdf](http://www.oecd.org/mena/competitiveness/2107-March-on-Gender-Legal-Framework-Highlights.pdf), (accessed 27 December 2020).
33. Naila Kabeer, *Women's economic empowerment: Key issues and policy options*, *Sida Policy*, p 8, [www.sida.se/publication/en](http://www.sida.se/publication/en), (accessed 27 December 2020).
34. *Ibid.*, p 3.
35. *Ibid.*, p 8.
36. Article 23, Constitution of Zambia (Amendment) Act No 2 of 2016.
37. Section 5 (1), Employment Code Act, No 3 of 2019.
38. International Labour Organization (ILO), Equal Remuneration Convention, 29 June 1951, C100, available at: [www.refworld.org/docid/5c6fc21b7.html](http://www.refworld.org/docid/5c6fc21b7.html), (accessed 27 December 2020).

Angellah  
Mwafulirwa  
University of Malawi,  
Zomba  
lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Conceptual framework

In this paper, gender equality shall be contextualised to mean the state of affairs in which individuals are granted equal opportunities, conditions and treatment without regard to whether they are women, men, girls or boys. Gender equality further entails getting rid of social, behavioural and cultural attributes, expectations and norms associated with being a man or woman. In the words of United Nations Secretary General, Antonio Guterres, 'gender equality is the unfinished business of our time'.<sup>1</sup> Women generally account for slightly over a half of the world's total population which is currently pegged at approaching eight billion. This means women are endowed with half of the world's potential economic output. However, due to a plethora of socio-economic challenges, women do not enjoy their fundamental rights and freedoms on a par with men.<sup>2</sup>

According to the World Health Organization, about 15 per cent of the global population has a disability. There has been a continuous debate as to whether disability can best be defined from the medical arena or from a social point of view, with proponents of the latter claiming that the former shifts the attention away from an individual as a rights holder. According to Article 1 of the Convention on the Rights of Persons with Disabilities<sup>3</sup> (CRPD), disability refers to a long-term physical, mental, intellectual or sensory impairment, which in interaction may hinder the full and effective participation in society on equal an basis with other persons not similarly afflicted.<sup>4</sup> Paragraph 5 of the preamble to the CRPD adopts the social view of the definition of disability by stating that disability is an evolving concept and that disability results from the interaction between persons with impairments with attitudinal and environmental barriers. Paragraph 25 of the preamble to the CRPD highlights its

core aspiration which is to promote and protect the rights of persons with disabilities through redressing the profound social disadvantages of persons and promoting their participation in the civil, political, economic and cultural spheres with equal opportunities in both developing and developed countries. The bedrock of the CRPD, in so far as economic rights for persons with disabilities are concerned, is to break institutional, physical and societal barriers that people with disabilities face in society.

Economic development can be briefly described as the improvement in standards of living. According to the United Nations Development Program (UNDP)'s index, economic development can be measured using the gross domestic product (GDP) of a nation. However, indices such as life expectancy, literacy rates and the ability to achieve a decent standard of living, are key indicators as to where a nation stands in terms of economic development.<sup>5</sup> The international community has to be appraised for identifying the need of recognising rights of women and person with disabilities, in order to eliminate discrimination and encourage their participation in attaining education, improving their access to health and participation in employment and paid work, and so as to improve economic output from an individual level to national levels and beyond.

Through an array of international covenants, such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination on all forms of Discrimination Against Women (CEDAW), and the CRPD, it is apparent that laws that support gender equality and enjoyment of disability rights are tools which have been and are continuously being used to achieve economic development against the backdrop of discrimination based on gender and disability.<sup>6</sup> Women and persons with

disabilities have been identified as minority groups due to persistent trends that have shown that the two groups remain at the periphery of society and do not enjoy human rights and fundamental freedoms at par with others. Many are the times, the dreams of women and persons with disabilities are nipped in the bud not because of an inherent lack of potential to excel in economic ventures but because of non-inclusive societies. Women and persons with disabilities wallow in abject poverty, have poor access to health, live under sub-standard conditions, have difficulties in attaining education, have difficulty in accessing health services, in employment and paid work. It is also observed that women with disabilities face compounded forms of discrimination and attain worse social outcomes than others.<sup>7</sup>

This paper presents that laws promoting gender equality and disability rights can support economic growth by eliminating discrimination, encouraging participation of women and persons with disabilities in policy making, fostering women and persons with disabilities to explore the right to work, encouraging participation in education; formal, technical and vocational.

### **Follow the trail of global models – gender equality in Iceland, disability rights in the Netherlands and other Nordic countries**

States that have inculcated into their legal systems comprehensive legal and policy frameworks for gender equality, such as Iceland and other Nordic countries such as a Sweden, can attest to the considerable economic growth realised from explicit gender policy into 3–20% of the total GDP per capita growth over the past 40–50 years.<sup>8</sup> The Netherlands, while having been party to the CRPD for only four years, has taken commendable legal strides towards enjoyment of disability rights in education and mainstreaming in all other aspects of life.<sup>9</sup> By contrast, developing countries such as Malawi owe its low GDP to harsh socio-economic realities, such as the lack of a proper legal framework and follow-up policies to address gender equality in light of economic development.<sup>10</sup> UNDP recognises that gender equality and disability rights are to be brought on board if the 2030 Agenda for Sustainable Development<sup>11</sup> vision is to be realised. Laws supporting gender equality and disability rights are, therefore, twin frameworks which can be employed together

to achieve economic development.

### **Liberation from the shackles of discrimination – equality of opportunity as a means to equality of results**

For the purposes of this paper, the definition of discrimination has been adopted from CEDAW Article 1 to mean any distinction, exclusion or restriction made on the basis of sex, disability, which has the effect of impairing or nullifying the enjoyment of human rights and fundamental freedoms on an equal basis in the political, social, economic world or others. The CRPD under Article 2, stresses that the of to reasonable accommodation amounts to discrimination on the basis of disability. According to the Southern African Development Community (SADC) Gender and Development Monitor 2016,<sup>12</sup> women in a global setting, and particularly in Southern Africa, are subject to various forms of discrimination based on gender that inhibits their full economic output. Similarly, as observed in the World Report on Disability 2011,<sup>13</sup> persons with disabilities are denied chances to carry out economic activities a rising from stereotypical attitudes. Statistically, women and persons with disabilities are less able to become educated, to participate in the political arena, or to gain employment in the labour market as compared to those of men with disabilities respectively.

The South African Constitutional court in *Minister of Home Affairs and another v Fourie and Another*<sup>14</sup> notes that ‘a democratic, universalistic, caring and aspirationally egalitarian society embraces everyone and accepts people for who they are. To penalize people for being who and what they are is profoundly disrespectful of the human personality and a violation of equality’.

The role of the law in eliminating discrimination, whether direct or indirect, cannot be over-emphasised, while at the global level instruments such as CEDAW and the CRPD have been adopted to eliminate discrimination against women and persons with disabilities. States ratifying these two conventions have a range of general obligations some of which are: to adopt legislation and other appropriate administrative measures where needed; modify or repeal laws, customs, or practices that discriminate directly or indirectly; and include disability in all relevant policies and programmes. Not-with-



standing the willingness of states to adopt these conventions and enact national laws embedding core human rights principles provided for under international treaties in their countries, there is often a gap between the aspirations of legal frameworks and the socio-economic realities prevailing in countries, especially developing countries. There is a need for states to adopt laws that provide for policy measures that tackle specific challenges in particular countries. States can even go a step further by attaching criminal sanctions to any laws that are put in place to safeguard gender equality and rights of persons with disabilities. In the long run, this could achieve a deterrent effect and play a positive role in eliminating discrimination based on gender and disability and contribute to economic growth.

#### **Providing a legal basis for social inclusion – affirmative action, reasonable accommodation, mainstreaming and inclusion**

Worth noting is the academic debate on the differences in the approaches amongst affirmative action, reasonable accommodation, mainstreaming and inclusion in so far as gender equality and disability rights are concerned. This paper posits that all these forms of social inclusion are necessary in ensuring that women and persons with disabilities are not left out in society. These four have a synergy of bringing redress for the past disadvantage suffered by women and persons with disabilities in society in accessing resources and opportunities in the social, economic and political arenas, making the necessary and appropriate modification and adjustments to ensure the enjoyment and exercise of human rights and fundamental freedoms on an equal basis with others and to inculcate into every sphere of human life an aspect of gender equality and disability rights.<sup>15</sup>

#### ***Encouraging participation in the education system***

Laws supporting gender equality and disability rights can be used to achieve economic growth through reasonable accommodation and mainstreaming on both grounds of gender and disability rights. It is evident that women and persons with disabilities face challenges in attaining opportunities that would improve their

economic well-being, such as participation in formal, technical and vocational education. Most of the institutions providing formal or vocational education would appear to work on the basis of admission of a neutral law. For example, admission in public primary schools is based on every child's right to access free primary school education as provided for by the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>16</sup> under Article 13. However, the law's application requires states to take further action, in order for the women and persons with disabilities to enjoy their right to education at par with other persons from childhood to adulthood. There is a need to facilitate the right to education as envisaged under Article 24 of the CRPD by adopting measures such as providing assistive learning devices to children and adult persons with disabilities and adopting laws that further inclusive education, such as provision of materials in braille for persons with visual impairment, the provision of hearing aids and the availability of teachers conversant with sign language for persons with hearing and speech related impairments, and the building of infrastructure that is accessible to people who use wheelchairs or any other mobility assistive device.<sup>17</sup> States can use mandatory guidelines to be adopted within the education systems so as to accommodate women and persons with disabilities at all levels of education, from basic education to tertiary education. This can serve the purpose of formal education and within technical and vocational training institutions, such as through the use of quotas. The inspiration behind provision of education should not only be informative but with an aim of providing an education that has the fullest potential of equipping an individual for entrepreneurship or formal employment from which a decent living can be earned.

#### ***Encouraging participation on the labour market***

The road to economic liberation for many individuals is tied to an economic activity. Women and persons with disabilities are equally part of the human capital like any other persons. However, their full participation on the labour market is met by several impediments, in both formal and informal employment, through unfavourable conditions such as unequal hiring and promotion standards, unequal access to credit

and other productive resources, unequal pay for work and benefits.<sup>18</sup> Often, women and persons with disabilities are denied employment opportunities under the guise of strict adherence to recruitment on the basis of merit. It can be argued that merit is not to be the sole pivot on which employment revolves. Malawi, as an example, in its Gender Equality Act,<sup>19</sup> under section 11, provides that an appointing or recruiting authority in the public service shall appoint no less than 40 per cent and no more than 60 per cent of either sex in any department in the public service. However, the law is specific to the public sector and does not speak to private sector recruitment as, currently, it is beyond the scope of state law. States can take an initiative to enter into partnerships with private sector employers to adopt policies that offer equal opportunities to women and persons with disabilities. The law on both gender equality and disability rights is to inculcate quotas so as to eliminate discrimination and accord women and person with disabilities the opportunities they deserve to make way for economic development from a personal level. The law ought to look to the underlying causes of why women and persons with disabilities do not meet set merit requirements. There is always a pressing need for policy rules which are gender-responsive and inclusive of disability rights, so as to pave way for affirmative action for the past disadvantage faced by women and persons with disability. Some of the solutions in the modification of the criteria for recruitment to formal employment is based on adoption of gender-responsive in-house policies, such as adequate maternity leave, the physical adjustment of infrastructure so as to provide a conducive working environment for persons with disabilities, such as mobility facilities, construction of ramps for wheelchair users.<sup>20</sup>

### *Compliance with the minimum standards of living and right to health*

The right to health is one of the fundamental human rights because the enjoyment of other rights is contingent upon this right. The United Nations Development Program (UNDP)'s Human Development Index measures economic development using the ability to lead a long and healthy life, life expectancy at birth. Under ICESCR Article 12, every individual's right to full physical and mental health is recognised. ICESCR General

Comment no 14 provides that, in order for the right to health to be enjoyed, it must meet these criteria: availability, accessibility and affordability. Women and persons with disabilities have challenges in enjoying the right to health, ranging from discriminatory practices to accessing basic health care such as sexual and reproductive health services. The role of the law in this context would be to provide for a comprehensive framework on gender equality and disability rights. States are to go beyond the enactment of black letter law, the law is meant to provide a bedrock on which implementation of favourable means of provision of healthcare services for women and persons with disabilities is based on. Beyond the basic medical care offered to the general population, states are to stipulate practical ways of meeting the needs of women, such as the provision of sexual and reproductive health services as envisaged under Article 12 of CEDAW and the provision of assistive devices and care for persons with disabilities such as put under Article 24 of CRPD. This would allow women and people with disabilities to participate in societal activities such as education, employment, politics and entrepreneurship, which pave way for economic growth. In the case of *HM v Sweden*,<sup>21</sup> in which the applicant required an in-house pool for hydrotherapy purposes, the local Housing Committee denied her request for permission. The court decided that the action of the local housing committee to preserve the land according to the strict development plan had discriminatory effect on the applicant's access to healthcare and rehabilitation.

### **Fostering the justiciability of claims on violations of rights, on the basis of gender and disability**

Professor Wesley Hohfeld, a renowned jurist, developed a theory of judicial relations, in which rights and duties are correlatives, within this scheme the right bearer is entitled to claim where his rights are infringed upon.<sup>22</sup> The valour of a right-bearer lies in the ability to enforce his or her rights against a duty bearer; as such, if we are to speak of gender equality and disability rights accruing to individuals, there must be corresponding duties being borne by the state. The duty bearer must be identifiable to protect and promote the enjoyment of gender equality and disability rights. In light of the international instruments, the

primary duty bearers are the states. However, private individuals secondary duty bearers in advancing gender equality and disability rights. Where there are laws promoting gender equality rights and disability rights, an individual has the power to enforce their rights. As displayed by a myriad of cases decided by the CEDAW Committee, such as that of *Maria de Lourdes da Silva Pimentel v Brazil*,<sup>23</sup> in which the state of Brazil was held to have violated its core obligations under CEDAW and for failure to safeguard the right to health, as provided for under Article 12, of the applicant (deceased) during her search for maternal health services. The state was ordered to pay monetary compensation to the applicant's family. This case shows that the law can rightly be used to hold states responsible in their provision of essential services, not just health services for women, but the same can be expanded to areas such as education and employment in cases where the right of women and persons with disabilities are not rightly considered.

### Recommendations

Laws that support gender equality and disability rights do not only facilitate the enjoyment of fundamental human rights, but they have a multiplier effect across development and can rightly point communities into the direction of economic growth.<sup>24</sup> International treaty bodies, such as the UN, have to be praised for an array of covenants that provide legal principles for gender equality and disability rights. However, the implementation of these obligations in states remains a challenge. It is apparent that ratification of international covenants is not the only step states ought to take in order to achieve gender equality and the full realisation of disability rights. Apart from fulfilling core obligations as set out in treaties, such as enacting pieces of legislation on gender equality and disability, states ought to take national initiatives to formulate policy in line with international conventions. These have to provide a succinct and yet detailed and not general, roadmap of how the state is aspiring to implement its legal obligations on gender equality and disability rights in spheres such as education, employment, political participation, access to the right to health and any other pertinent areas. States would also do a great deal in performing frequent reviews on their own performance on gender equality and disability rights,

from the outcomes of which they can adopt hints on what would be the feasible means to use so the laws supporting gender equality and disability rights achieve economic development. As earlier highlighted, states can learn from countries that have used laws supporting gender equality and disability rights to achieve economic development. States might not need to transplant the Nordic legal schemes into their legal systems, due to different prevailing social, economic and political realities, but adopt the key elements.

### Conclusion

The achievement of gender equality and enjoyment of disability rights for all at a global level is not a utopian vision – with the adoption of proper social, economic, political and legal measures it is feasible. The domestication of international law on gender equality and disability rights by states and enactment of national pieces of legislation is not an end in itself; the law is meant to drive social change. The laws on gender equality and disability rights are meant to provide for practical guidelines on how they would economically empower individuals, by eliminating discrimination based on gender disabilities, equality of opportunity at parity with others, encouraging participation in formal and informal education systems, in the labour market, and in political arena, through various approaches of social inclusion, improving access to the right to health, fostering the justiciability of gender equality and disability rights.

The sponsor supporting Angellah Mwafulirwa's award is Linklaters

#### Notes

1. *Gender equality*, [www.un.org/en/global-issues/gender-equality](http://www.un.org/en/global-issues/gender-equality), accessed 12 October 2020.
2. *Women's Human Rights and Gender Equality*, United Nations Human Rights Office of the High Commissioner [www.ohchr.org](http://www.ohchr.org), accessed 12 October 2020.
3. UN General Assembly, Convention on the Rights of the Persons with Disabilities; resolution adopted by the General Assembly, 24 January 2007, A/RES/61/106.
4. *Disability*, [www.who.int/health-topics/disability#tab=tab\\_1](http://www.who.int/health-topics/disability#tab=tab_1), accessed 12 October 2020.
5. Human Development Index (HDI), <http://hdr.undp.org/en/content/human-development-index-hdi>, accessed 12 October 2020.
6. *Using the human rights framework to promote rights of children with disabilities*. Discussion Paper (An analysis of the synergies between CRC, CRPD and CEDAW), UNICEF, available at: [https://sites.unicef.org/disabilities/files/Synergies\\_paper\\_V6\\_Web\\_REVISED.pdf](https://sites.unicef.org/disabilities/files/Synergies_paper_V6_Web_REVISED.pdf), p 19, accessed 12 October 2020.

7. *Women with Disabilities Fact Sheet*, [www.un.org/development/desa/disabilities/resources/women-with-disabilities-fact-sheet.html](http://www.un.org/development/desa/disabilities/resources/women-with-disabilities-fact-sheet.html), accessed on 12 October 2020.
8. *Is the Last Mile the Longest? Economic gains from Gender Equality in Nordic Countries*, May 2018, [www.oecd.org/publications/is-the-last-mile-the-longest-economic-gains-from-gender-equality-in-nordic-countries-9789264300040-en.htm](http://www.oecd.org/publications/is-the-last-mile-the-longest-economic-gains-from-gender-equality-in-nordic-countries-9789264300040-en.htm), accessed on 15 October 2020.
9. Chuka Nwanazia, *How inclusive is the Netherlands for people living with disabilities?*, October 2020.
10. *Where we are: Eastern and Southern Africa, Malawi*, <https://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/malawi>, accessed on 15 October 2020.
11. Transforming our world; the 2030 Agenda for Sustainable Development, UN General Assembly 21 October 2015, A/RES/70/2.
12. SADC Gender and Development Monitor 2016; Tracking Progress on Implementation of the SADC Protocol on Gender and Development, Southern African Development Community Gender Unit, SADC Secretariat.
13. Disability and Development Chapter one, *World Report on Disability 2011*, World Health Organization.
14. [2005] ZACC 19.
15. H Silver, *Framing Social Inclusion Policies Draft Background paper for the World Bank Social Development's Flagship Study on Social Inclusion*, December 2012, <http://ssm.com/abstract=2374302>, accessed 16 October 2020.
16. UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966.
17. Educational participation and Children with disability, *World Report on Disability 2011*, World Health Organization.
18. *Women with Disabilities Factsheet, Employment and paid work*, [www.un.org/development/desa/disabilities/resources/women-with-disabilities-fact-sheet.html](http://www.un.org/development/desa/disabilities/resources/women-with-disabilities-fact-sheet.html), accessed 16 October 2020.
19. Cap 25:06 Laws of Malawi.
20. *Still left behind: pathways to inclusive education for girls with disabilities*, June 2017, United Nations Girls Education Initiative.
21. Committee on the Rights of Persons with Disabilities, Communication No 3/2011.
22. W W Cook, *Fundamental Legal Conceptions and other Legal Essays by Wesley Newcomb Hohfeld*, The Yale Law Journal Vol. 32, No 6 (April 1923), pp 628–631.
23. Communication No 17/2008.
24. *Gender equality promoting development*, [www.sdgfund.org/search/node/Gender%20equality%20promoting%20development](http://www.sdgfund.org/search/node/Gender%20equality%20promoting%20development), accessed on 16 October 2020.

# How can laws promoting gender and disability rights support economic developments?

**Clive Siankanga**  
University of Zambia,  
Lusaka  
[lexlead@yahoo.com](mailto:lexlead@yahoo.com)

## Introduction

Some time ago, I listened to a woman who was narrating a disheartening situation she had experienced. As a disabled woman, she said, she had sat down alongside a road waiting for someone when a passer-by, mistaking her for a beggar due to her disability, gave her some coins. In as much as the gesture was a benevolent one, she stated, she found it heartbreaking as she in no way looked like a beggar but for her disability. This is the unfortunate status in which most disabled people in developing and underdeveloped countries have found themselves in. Society looks at disability as inability: as someone poor and incapable of earning a decent income through hard work or business. ‘The

negative perception of persons’ disablement in society is [so] deep rooted that it has adversely affected the right of persons with disability to employment.’<sup>1</sup> The worst part is that if you are a woman and disabled, the challenge would be doubled. You first have to fight the gender divide and when you overcome that, you fight for disability rights. Even when it comes to employment, women and the disabled ‘are employed at a significantly lower rate than men or those without disability, and as a result of that, poverty is significantly evident within the population worldwide.’<sup>2</sup> This narrative is changing with enactment of laws that promote gender equality and disability rights.

Discrimination is what has driven disabled persons and many women into destitution,

resulting in reduced economic development both at the individual and national level. Almost every time you walk through a city, you will find a disabled person on the street begging for financial assistance. The poverty seen among marginalised persons is usually not of their own making but the result of societal prejudice and a failure by countries to promote human rights that are all inclusive. To break this glass ceiling, there is need to enact and promote gender and disability rights if all citizens are to realise their full potential. Countries need to create conditions conducive to every human being being able to enjoy his or her economic, social and cultural rights.<sup>3</sup> This entails that, in any developmental agenda taken by a state, there is need to ensure that conditions are made for the disabled and for women to be able to compete favourably on an equal footing as non-disabled people, and also both sexes to be treated equally without any form of discrimination regardless their gender. ‘All peoples have the right of self-determination’ and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.<sup>4</sup>

### **Gender and discrimination: poverty is not female**

Poverty has been said, on many occasions, to have the face of a woman. This is so because many women are often poor compared to their male counterparts due to societal discrimination based on gender. Gender discrimination is defined as ‘the systematic, unfavourable treatment of individuals on the basis of their gender, which denies them rights, opportunities or resources. Across the world, women have been the victims of unequal treatment with less value attached to their lives because of their gender. ‘Culturally determined gender ideologies define rights and responsibilities and what is ‘appropriate’ behaviour for women and men. They also influence access to and control over resources, and participation in decision-making.’<sup>5</sup> The hierarchical relations of power between women and men tend to disadvantage women and this reduces their productivity potential. In the labour market, unequal pay, occupational exclusion or segregation into low skill and low paid work limit women’s earnings in comparison to those of men of similar education levels.<sup>6</sup> The exclusion of one gender by another denies

the fundamental right of every male or female to be treated equally, and to have equal opportunities to realise their full potential and contribute to the development of their communities and their country. Countries and communities develop faster when the talents of men and women are harnessed equally. The unequal power relationship denies people their human rights and keeps them in perpetual poverty. If meaningful development is to be achieved in a country, both male and female should work together by ensuring that both men and women have equal opportunities.

International instruments such as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) brought into focus the rights of women as human rights, including the right to be free from discrimination, pushing governments towards attaining these internationally recognised minimum standards. Article 3 of the International Convention on Economic and Social Cultural Rights (ICESCR) states that ‘the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.’ Once a country recognises the ICESCR and implements it, women, who are discriminated against in this case, are put at the same level as men and would have a chance to fully realise their potential and contribute to national economic growth. In Zambia, the Gender Equity and Equality Act of 2015 was implemented to curb institutions from discriminating against any sex. Such a move compels public and private institutions to promote equality between the sexes.

Most equal opportunities policies and legislation tackle the problem through measures to increase women’s participation in public life. This is mainly so because women have been left out of developmental programmes, removing them at least partially from the economic equation. Gender disparity widens the gap between sexes in terms of economic development.

The enactment of laws promoting gender equality would address the multiple barriers to the inclusion of all sexes in all sectors and at all levels of development cooperation. They dismantle barriers within society which exclude women’s or men’s equal participation.

It is worth noting that equality does not necessarily demand or ensure equality of

outcomes. It assumes that once the barriers to participation are removed, there is a level playing field. It also does not recognise that women's reality and experience may be different from men's.<sup>7</sup> In such circumstances, gender promoting laws can challenge and change women's socially prescribed roles, in pursuit of gender equity. For example, due to patriarchal systems that have been in existence in many countries worldwide, Zambian women have had no rights to own land, hence, section 14(2)<sup>8</sup> of the Gender Equity and Equality Act corrects that and empowers women with land rights on a footing with their male counterparts. This means that women, like men, can own land and put up any developmental project that they can afford. This has in turn seen more women own farms, employing a number of workers and contributing to poverty reduction in the country.

An equity approach implies that all development policies and interventions need to be scrutinised for their impact on gender relations. It necessitates a rethinking of policies and programmes to take into account men's and women's different realities and interests. For example, it implies rethinking existing legislation on employment, as well as development programmes, to take account of women's reproductive work and their concentration in unprotected, casual work in informal and home-based enterprises.<sup>9</sup> It follows, therefore, that women's and men's needs and interests are to be equally valued and protected if any nation is to achieve sustainable development.<sup>10</sup>

The law promoting gender rights would give more prominence to the connectedness of men's and women's lives, and to the imbalances of power embedded in male-female relations. Gender discrimination constrains development efforts. For example, rigidities in the gender division of labour limit the effective mobilisation of women's labour to support export production. Poverty reduction efforts are hampered where men use their authority to usurp control over resources targeted at women. Development strategies need to be informed by an analysis of gender relations and to support women's attempts to change the rules and practices which reinforce these gender hierarchies.<sup>11</sup>

### **Disability is not inability**

Persons with disabilities have been described to include those who have long-term physical,

mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.<sup>12</sup> They have long been confronted with negative assumptions about their capabilities, and many practitioners remain sceptical about implementing a human rights-based approach in the context of a long list of mainstreaming issues.<sup>13</sup> This has affected their participation in economic activities which, in turn, hinders them from realising their full potential and enjoying their human rights. The United Nations Convention on Rights of Persons with Disability (CRPD) reaffirms that persons with disabilities are rights-holders entitled, on an equal basis, to all civil, political, social, economic and cultural rights. It overtly defines these rights in the context of disability so as to be inclusive. The covenant further obliges states parties to ensure that international cooperation and development programmes are inclusive of and accessible to persons with disabilities. To this effect, an institution is supposed to put in place 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.'<sup>14</sup> This would allow for the integration of persons with disability into the social life and to have a role in the development process. Article 35 of the Royal Legislative Decree, states that persons with disabilities shall enjoy the right to work under conditions guaranteeing the application of the principle of equal treatment and the principle of non-discrimination. Therefore, when a disabled person is not in a position to exercise his right of employment opportunity, as a result of absence of a reasonable accommodation, such an act shall be regarded as discriminatory.<sup>15</sup> The law that promotes, protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities creates a conducive environment for wealth creation by all people.

The Right to Employment of Persons with Disability Proclamation No 568/2008<sup>16</sup> in Article 4 provides for selection criteria for the employment of people living with disability. For example, Article 18 states that 'No discrimination of any form shall be subjected upon a disabled person in matters related

to employment. However, a disabled person shall be given greater access to employment opportunities than any other citizen in case of equal capacities or in case of equal marks in competition.<sup>17</sup> To leave no person behind, priority is to be given to persons with disability if qualified for the job. Without such laws, the disabled may not have a chance at being employed, leaving them to be unemployed and possibly destitute.

The protection of persons with disability entails their enjoyment of economic rights which would automatically improve their standard of living as they would be able to earn income through employment or engaging in business because they would not be discriminated against under any circumstances. Their personal development means contribution to national development. A country cannot boast of development if its nationals cannot compete on the same level. Per capita income can only improve rapidly if all people are involved in economic development.

### Conclusion

Sigrid Alexandra *et al* (2007)<sup>18</sup> write that human rights are not the primary end of development, but among the principle means. They constitute a necessary condition for income and growth and are conducive to economic growth. Repression discourages trade and countries that respect human rights trade significantly more with all types of states. Additionally, developing countries that respect the physical integrity of humans are more successful in attracting foreign direct investments than those characterised by abusive human rights practices. Third world countries attract more donor-funding to promote human rights development related projects. For example, the World Bank's gender policy aims to help client countries reduce poverty and enhance human wellbeing by addressing gender disparities that are barriers to development.<sup>19</sup> More importantly, countries with wide gender gaps are found to exhibit poor indicators of growth and wellbeing – poor nutrition, high maternal mortality rate, high infant mortality rate, high poverty rate, low life expectancy and low level of education.<sup>20</sup>

Overt and implicit discrimination leads to social exclusion of individuals and population groups. The enactment of disability and gender laws makes governments as duty-bearers with the responsibility to create a

supportive environment for the full inclusion of all persons. Women and the disabled are active subjects with legal claims and not merely people in need and passive recipients of aid. Law and justice impact people's capacity to accumulate endowment, enjoy returns to such endowments, access rights and resources, and act as free, autonomous agents in society.<sup>21</sup> In order to realise economic development, any country must adhere to the promotion and protection of human rights.

The sponsor supporting Clive Siankanga's award is the Claude Moore Charitable Foundation

### Notes

1. Ethiopian Right to Employment of Persons with Disability Proclamation No 568/2008.
2. Disability and Economics: The nexus between Disability, Education, and employment, DESA Briefing Seminar Series 1 July 2011, United Nations Headquarters.
3. United Nations International Covenant on Social and Economic Cultural Rights, 1967.
4. *Ibid.*
5. Hazel Reeves and Sally Baden, 2000, *Gender and Development: Concepts and Definitions*, BRIDGE (Development - Gender) Institute of Development Studies, University of Sussex, UK.
6. *Ibid.*
7. Hazel Reeves and Sally Baden, 2000, *Gender and Development: Concepts and Definitions*, BRIDGE (development - gender) Institute of Development Studies, University of Sussex, UK.
8. The Gender Equity and Equality Act no 22 of 2015 of the Laws of Zambia.
9. *Ibid.*
10. In Zambia, the Gender Equity and Equality Act was implemented to curb institutions from discriminating against any person.
11. Hazel Reeves and Sally Baden, 2000, *Gender and Development: Concepts and Definitions*, BRIDGE (development - gender) Institute of Development Studies, University of Sussex, UK.
12. *Ibid.*
13. Hisayo Katsui and Jukka Kumpuvuori, 2008, *Human Rights Based Approach to Disability in Development in Uganda: A Way to Fill the Gap between Political and Social Spaces?* Scandinavian Journal of Disability Research, 10(4), pp.227–236.
14. Convention on the Rights of Persons with Disabilities and Optional Protocol.
15. Ethiopia Right to Employment of Persons with Disability Proclamation No 568/2008.
16. *Ibid.*
17. Rwanda Law No 01/2007 of 20/01/2007 relating to protection of disabled persons in general.
18. Sigrid Alexandra *et al*, 2007, *Human Rights and Economic Growth: An econometric Analysis of Freedom and Participation Rights*, The Danish Institute for Human Rights, Copenhagen (2017/1).
19. An Evaluation of World Bank Support (2002–08) Gender and Development.
20. Olabisi Idowu Aina (2011), A paper on promoting *Gender Equality for Sustainable Development*.
21. World Development Report 2012, *Gender Equality and Development: Role of Law and Justice in achieving Gender Equality*.

# How can laws promoting gender and disability rights support economic developments?

Lincoln Majogo  
University of  
Zimbabwe, Harare  
lexlead@yahoo.com

Gender equality has been proven to contribute positively to economic growth. Economic development has been defined by the Food and Agriculture Organization (FAO) as:

‘Development which considers the long-term perspectives of the socio-economic system, to ensure that improvements occurring in the short term will not be detrimental to the future status or development potential of the system, i.e. development will be “sustainable” on environmental, social, financial and other grounds.<sup>1</sup> Sustainable development implies minimizing the use of exhaustible resources, or at least, ensuring that revenues obtained from them are used to create a constant flow of income across generations, and making an appropriate use of renewable resources.’<sup>2</sup>

The United Nation’s definition is worth consulting as it submits that development has also been set to lead to the achievement of the Millennium Development Goals (MDGs), set by the UN at the beginning of the millennium (poverty reduction, food security, health, education, sustainable resource use, good governance).<sup>3</sup> The movement of promoting gender and disability rights has already begun reaping economic rewards in western countries, with McKinsey Insights reporting that companies in the top-quartile for ethnic/cultural diversity on executive teams were 33 per cent more likely to have industry-leading profitability.<sup>4</sup>

Equally, it is also important to define ‘disability’. Oliver, M (2013) defines a disability as a deficit that requires a cure or medical intervention.<sup>5</sup> He further posits that ‘in the social model, people with impairments were “disabled” by society which excluded them from the mainstream.’ To contextualise disability rights, M Palmer (2011) notes that:

‘Disabled people have a higher likelihood of experiencing poverty than nondisabled people because (a) disabled people have

lowered earning capacity (i.e., [fewer] job opportunities and lower education); (b) disability expenses create a drain on resources (i.e., extra costs for necessary services such as therapies, transportation, and care); and (c) the demands associated with care giving detract from the labor capabilities of other household members.’<sup>6</sup>

The purpose of the essay is to establish how laws promoting gender equality and disability rights directly correlate to economic development. A glimpse into such laws and initiatives includes removing barriers to access to property ownership, the adoption of labour-saving technology, enjoining the state to provide maternity leave, removing structural barriers to access to land for the disabled and facilitating easier access to capital, amongst others. The essay will show how facilitating the above-mentioned laws have an indisputable correlation to development.

Gender inequality in this context will be construed narrowly to mean women in disadvantaged positions, socially and economically. The justification of this narrow construction lies in the rich well of evidence historically, funding women to be the most vulnerable and marginalised gender. This historical reality has largely remained the status quo. As noted by the World Bank, ‘policy responses [that] build women’s roles as economic agents and their preference for investing resources in child well-being can go a long way towards mitigating negative effects [of economic crises]’.<sup>7</sup>

## Nexus between laws promoting gender equality and economic development

There is little doubt that gender inequality and a lack of support towards the disabled burdens national economies, curtailing their ability to achieve sustainable economic growth. Nordregio (2013)<sup>8</sup> suggests that



‘there is ample evidence for the economic benefits of gender equality and increasing the number of women in business, and policies are being implemented to attain a smarter, more sustainable and inclusive economy.’ Nordregio (2009) amplifies this nexus by quoting Forbes, which reports on evidence that having more women on boards improves decision-making and shareholder value while reducing risk-taking. Furthermore, Herring (2009)<sup>9</sup> finds gender diversity to be associated with increased sales revenue, more customers and greater relative profits. ‘Besides the fairness argument for gender equality’, he submits, ‘there has been support for the “economic case” for gender equality, the “business case” for diversity and for gender equality, as well as the “innovation case” for gender diversity’. Herring (2009) astutely concludes by summarising the well put position as follows: ‘These conceptualizations imply benefits for businesses, innovative milieus or innovation systems and regional and/or national economies of diversity (including “racial” diversity), gender equality and gender diversity.’

Laws supporting gender equality can foster economic development through the following initiatives:

#### *Legalising paternity leave*

In Africa, the story of gender inequality is a crucial issue. The existence of poor infrastructure in Africa hurts women more than it does their male counterparts. This status quo is existent because women spend disproportionate hours doing household chores, fetching firewood, going to wells, pursuing subsistence farming and vending, just to mention a few. This phenomenon is largely true of rural women in Africa who often bear the burden of raising children. A proposition thus can be made that economic development leads to gender equality. While this is not always true, the correlation is that with good infrastructure, women’s jobs can be made lighter and thus more time can be channelled towards acquiring skills to bolster employability. It is undeniable that women in rural Africa are the first line of defence as primary care givers when housemaids go on leave or when affordable child-care is inaccessible. The law and political leadership not only have a burden of giving access to economic incentives but to begin strong and robust discourse on making it socially acceptable for men to accept this

interchangeability of family roles. An example is South Africa, where paternity leave is constitutionally recognised, allowing men time off to take care of the family top. By making it compulsory for male counterparts to take paternity leave, as in South Africa, ease lift the burden on the woman of caring for the family and, as a result, women can partake in economic development activities such as projects, part-time and full-time jobs, just to mention a few.

#### *Enjoining the state in maternity leave and facilitating sexual and reproductive health*

Closely related to legalisation of paternity leave, there is an urgent need to pass laws that enjoin the state in sharing the expense of maternity leave as an effort to eradicate pre-employment discrimination against women, in order to foster equality in the workplace and, consequentially, development. In Zimbabwe, for instance, the obligation to pay for maternity leave rests on the employer,<sup>10</sup> which solely burdens him/her and thus fosters a breeding ground for negative discrimination against women when seeking employment. The perception created is one of women being expenses and not assets, thus adding to other cultural and structural barriers to employment. An approach of the law that enjoins the state in sharing the financial burden of maternity leave will cause development in that it eradicates the existing societal and economic stereotype, which perceives women as expenses since employers often have to hire replacements when they take leave maternity duty. Through lightening the financial burden on the employer, the chances of discrimination when seeking employment are substantially reduced, thus allowing women the ample financial resources in the form of employment salaries to invest in income-generating projects.

More so, laws surrounding sexual health and reproduction are key in achieving gender equality and economic development. The existence of patriarchal and religious laws in most African countries hamper women’s access to abortion services, even when they have a legal reason for abortion. In a case involving a one woman, Mildred, cited as *Mapingure v Minister of Home Affairs Zimbabwe*,<sup>11</sup> the plaintiff who had been raped, only received an order to terminate pregnancy after seven months, a stage at which doctors ruled it unsafe to perform an abortion. The grounds of abortion are very restrictive

in Zimbabwe. Through adopting a more liberalised approach to carrying out legal abortions, the law would reduce the fallout of women from employment thus allowing for meaningful contribution to economic development. South Africa's position which decentralises the physical infrastructure for a better enjoyment of sexual and reproductive laws is highly recommended.

### *Removing discriminatory property laws*

Moreover, the existence of discriminatory property laws, especially in low-income countries, unduly frustrates economic development and gender equality. In South Africa for instance, women married in community of property cannot own property without the 'consent' of the husband or alienate, burden assets of the joint estate, kept mainly for investment purposes, such as stamps, works of art, jewellery or coins.<sup>12</sup> By passing laws which repeal such provisions, as they tremendously curtail the right to own property for most women regardless of their economic acumen in managing the properties and generating income from them, the law will allow for more enjoyment of investment freedom. Furthermore, repealing the mandatory requirement of the husband's consent will incentivise investments and participation in economic activities by women.

Michael Lipton<sup>13</sup> positively concurs with the position by asserting that 'More practicable legislation and enforcement have reduced aspects of gender discrimination.' However, land injustice to women – and the resulting vulnerability and inefficiency – are often culturally (and even religiously) deep-rooted and highly localised. Practical law enforcement usually bends to such powerful, yet diffused, winds. It is exciting to note that in systems where women have been allowed equal access to property, there has been strong economic development. For instance, Gladys B Mutangadura<sup>14</sup> affirms this correlation by correctly identifying that women in Southern Africa play a crucial role in agriculture, providing 80 to 90 per cent of the labour in subsistence production and over 70 per cent in cash crop production.

### *Reducing procedural roadblocks to formalizing informal businesses*

In most African countries, particularly Zimbabwe, the majority of women are employed in the informal sector, where they

sell goods in order to survive while retaining the traditional role of raising the children. This status quo is owed to the traditional role of women being default primary care givers and, more subtly, due to perpetually low literacy rates caused by the high dropout rates from schools for girls, particularly in rural areas. This recurring norm further echoes the already highlighted perception that labels women as 'unskilled' and unqualified for the formal labour market and thus unemployable. Enacting laws which bridge this inequality gap, through easing the technical and procedural glitches required for registration of small to medium businesses, will support economic development as more taxes can be realised and, in turn, governments can build better infrastructure which attracts both local and foreign investment and propels economies to prosperity.

### *Embracing labour saving technology through legislative measures*

In addition, technology has also been proved to reduce the thousands of hours women spend doing manual labour-related work and laws that positively embrace it have left a vestige of both reducing gender inequality and fostering economic development. This is amplified by the fact that the majority of societies in Africa stay in rural areas, where the poor infrastructure worsens the existing plight for women, as has already been noted in the essay. The importance of laws embracing labour-saving technology is best captured by Weiss, Ramírez and Tracy<sup>15</sup> who posit as follows: 'labor-saving technologies allow women to devote less time to domestic and agricultural duties, thereby enabling them to seek outside employment or focus on skill acquisition'. As asserted by Becker,<sup>16</sup> passing laws that embrace technology, economic development is inevitable as these laws 'allow women to seek outside employment or focus on skill acquisition'.

### *Raising education awareness*

Educated women enjoy better access to employment opportunities than uneducated ones. Men are generally preferred for work to women in most low-income countries due to the fact that women are perceived as expenses in matters regarding maternity leave, for which the employer in cases like Zimbabwe is burdened. To add to this fact, this lack of education amplifies gender inequality

in the labour market as women often are consigned to very low paying positions in the corporate world since they will be regarded as uneducated and unskilled for certain posts. An increasing understanding that gender equality is essential for attaining economic development – and being smart, sustainable and inclusive – has resulted in a plethora of policy initiatives.<sup>17</sup> Examples where successful education awareness initiatives to promote gender equality have directly correlated with economic development include the Norwegian law requiring 40 per cent representation for women on boards of publicly listed companies, which went into effect in 2004.<sup>18</sup> The law, which concerns 2,000 firms, is reported to be a success and the proportion of women on boards rose from six to 40 per cent between 2002 and 2009. Thus, it can be denoted that when laws support gender equality through raising awareness, the result is positive economic development.

### Disability rights

General Comment 9 on the Rights of Children with Disabilities<sup>19</sup> acknowledges the special vulnerability of children who are at risk of multiple discrimination, based on a combination of factors but, in particular, the girl child with disabilities, indigenous girls with disabilities, children with disabilities living in rural areas and acknowledges that poverty is both a cause and consequence of disability. In order to promote economic development, laws promoting disability rights, amongst other things, need to:

#### *Incentivise organisations supporting disability rights*

In taking positive steps of enacting laws which provide incentives for organisations that seek to strengthen capacity building for persons living with disabilities, the law would be improving the employability of the disabled and thus facilitating their active participation in economic development. Examples of such organisations include Youth4Jobs in India, the Subhi Association of Women with Disabilities in India ([www.awdindia.net](http://www.awdindia.net)), the Nepal Disabled Women's Association and the Women with Disabilities Development Foundation of Bangladesh<sup>20</sup> which provides employment training and work placements for young people, including girls, with disabilities.<sup>21</sup>

#### *Enacting laws that promote secure land rights*

The Wellesley Centers for Women puts the causal link between disability rights and development as follows: studies find that secure land title correlates with agricultural productivity.<sup>22</sup> Through passing laws that secure land rights, development is rightly attained due to the fact that secure title enhances credit and collateral to secure substantial loans.<sup>23</sup> The meaningful participation of the disabled in economic activities also reduces government expenditure towards the disabled, which consequently frees up funds for governments to invest and thus provide economic development.

#### *Supporting laws that facilitate access to micro-finance institutions for lending*

Productivity on land is only possible with access to financial services, particularly micro finance institutions which provide small loans. Through this initiative, the disabled can pioneer investment in land which leads greater to productivity and more investment options. The direct corollary to laws supporting access to micro finance institutions by keeping interests rates manageable is that it allows for the disabled to further their education to attain the much-needed skills to enter more formal, competitive labour markets albeit disabilities. Laws can be passed in which the state, as opposed to family care givers, stands as the indemnity so much that financial institutions begin safely advancing credit facilities to the disabled. State legislation can address the challenges but creating provisions which reserve a percentage budget to facilitating access to lending and, also, keeping interests rates manageable. Through these initiatives, more value chains are unlocked, thus creating employment and social security.

### Conclusion

In conclusion, from the above discussion, it is clear that supporting gender inequality and disability rights can lead to economic development. Whilst the causal link between economic development and gender equality and disability rights has been the main thrust of the essay, an equally worthwhile proposition that economic development leads to gender equality and wider access

to disability rights has also been proffered. The identified solutions are of enormous importance in promoting economic development. There are indeed practical examples where positive results have emerged from the implementation of such policies.

The sponsor supporting Lincoln Majogo's award is the Claude Moore Charitable Foundation

Notes

1. See Lorenzo G Bellù, *Development and Development Paradigms, A (Reasoned) Review of Prevailing Visions*, FAO. ORG, available at: [www.fao.org/docs/up/easypol/882/defining\\_development\\_paradigms\\_102en.pdf](http://www.fao.org/docs/up/easypol/882/defining_development_paradigms_102en.pdf), accessed 24 December 2020.
2. *Ibid.*
3. United Nations, 2000. United Nations Millennium Declaration. Resolution adopted by the General Assembly, 8th plenary meeting, 8 September 2000.
4. [https://www.mckinsey.com/~/media/McKinsey/business%20functions/organization/our%20insights/delivering%20through%20diversity/delivering-through-diversity\\_full-report.ashx](https://www.mckinsey.com/~/media/McKinsey/business%20functions/organization/our%20insights/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx)
5. Mike Oliver, (2013), *The social model of disability: Thirty years on. Disability and Society*, 28(7), 1024–1026, available at: [www.tandfonline.com/doi/abs/10.1080/09687599.2013.818773](http://www.tandfonline.com/doi/abs/10.1080/09687599.2013.818773).
6. M Palmer, (2011). *Disability and poverty: A conceptual review*, *Journal of Disability Policy Studies*, 21, 210–218. <https://doi.org/10.1177/1044207310389333>.
7. S Sabarwal S *et al*, *The global financial crisis: assessing vulnerability for women and children*. Washington DC, World Bank, 2009 (<http://worldbank.org/financialcrisis/pdf/Women-Children-Vulnerability-March09.pdf>).
8. Nordregio, Nordic Centre for Spatial Development, Issue 2 March 2013, *Gender Equality for Economic Growth*, ISSN 2001-1725 Source: [www.nordregio.se](http://www.nordregio.se).
9. Cedric Herring, 2009, *Does Diversity Pay?: Race, Gender, and the Business Case for Diversity*, *American Sociological Review*, vol 74 no 2 208–224.
10. Lovemore Madhuku, *Labour Law in Zimbabwe* (Harare, Weaver Press, 2015) at p 74.
11. *Mapingure v Minister of Home Affairs and Others*, SC-22-14.
12. See *Getting Married In Community Of Property – Your Rights And Liabilities*, Polity.org.za, available at: [www.polity.org.za/article/getting-married-in-community-of-property-your-rights-and-liabilities-2018-09-07](http://www.polity.org.za/article/getting-married-in-community-of-property-your-rights-and-liabilities-2018-09-07), accessed 19 December 2020.
13. Michael Lipton. *Land Reform in Developing Countries: Property Rights and Property Wrongs*. New York, NY: Routledge: Taylor & Francis (2009).
14. Gladys B Mutangadura, *Women and Land Tenure Rights in Southern Africa: A human rights-based approach*, (2004), at p 2.
15. J A Weiss, F Ramirez, T Tracy, *Female Participation in The Occupational System: A Comparative Institutional Analysis*, (1976); Clark, Ramsby and Adler 1991; Inkles and Smith 1974.
16. Gary S Becker, *Human Capital, Effort, and the Sexual Division of Labor*, *Journal of Labor Economics* 3, no 1: 33–58 (1985).
17. Nordregio, Nordic Centre for Spatial Development, Issue 2 March 2013, *Gender Equality for Economic Growth*, ISSN 2001-1725. Source: [www.nordregio.se](http://www.nordregio.se).
18. *Ibid.*
19. Committee on the Rights of the Child, General Comment No 9, *The Rights of Children with Disabilities*, (Forty-third session, 2007), UN Doc CRC/C/GC/9 (2007).
20. *Employment, Poverty, Disability and Gender: A Rights Approach for Women with Disabilities in India, Nepal and Bangladesh*, available at: [www.researchgate.net/publication/316039271\\_Employment\\_Poverty\\_Disability\\_and\\_Gender\\_A\\_Rights\\_Approach\\_for\\_Women\\_with\\_Disabilities\\_in\\_India\\_Nepal\\_and\\_Bangladesh](http://www.researchgate.net/publication/316039271_Employment_Poverty_Disability_and_Gender_A_Rights_Approach_for_Women_with_Disabilities_in_India_Nepal_and_Bangladesh).
21. *Ibid.*
22. Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender, and Development – A Resource Tool for Action*, (2008).
23. *Ibid.*

**Faith Sumani**

University of Malawi,  
Zomba

lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Introduction

Women and persons with disability are also persons with human rights. However, they are often excluded from the full enjoyment of their rights giving rise to of international human rights law which prohibits any form of discrimination.<sup>1</sup> This paper, therefore, answers the question how laws promoting gender and disability rights support economic development. To answer the question more practically, the essay engages Malawi as a case study with regards to gender and women rights in owning property and a case study on albinism highlighting disability rights. It will first adopt a human rights approach to gender and disability rights. Secondly, it will discuss economic development. Thirdly, it will discuss a concept of gender and women rights in support of economic development. Fourthly, it will discuss disability rights in support of economic development, lastly, it will talk about insights and will then conclude.

## Human rights approach to gender and disability rights

A Human rights-based approach means describing situations, not in terms of human needs or areas of development, but in terms of the obligation to respond to the rights of individuals regardless of their gender status.<sup>2</sup> This empowers people to demand justice as a right, not as a charity. Further, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.<sup>3</sup> In 2003, the United Nations endorsed a Common Understanding of a Human Rights Based Approach to Development Cooperation. These core principles include the ‘universality and inalienability of human rights’ that provides that human beings are born free and equal in dignity and rights and these rights apply to all

people equally.<sup>4</sup> The second principle is the ‘indivisibility of human rights’ which states that the promotion of one right may not justify the violation of another and that there is no hierarchy among rights.<sup>5</sup> Indivisibility further explains that the realisation of one right often depends, wholly or in part, upon the realisation of others. For instance, the realisation of the right to employment of women and persons with disability may depend, in certain circumstances, on realisation of the right to education or of the right to information. The other principle is the ‘inter-dependence and inter-relatedness of human rights’ which means that promotion of specific human rights must be part of a comprehensive effort to realise human rights in a holistic way.<sup>6</sup>

At the operational level, the core principles that follow from a rights-based approach have been identified. These include ‘equality and non-discrimination’<sup>7</sup> that state that individuals are equal as human beings and virtue of the inherent dignity of each human person. As such, all human beings are entitled to their human rights without discrimination of any kind, such as colour, sex, ethnicity, age or race.<sup>8</sup> In addition, ‘participation and inclusion’ is another core principle that entails that particular attention must be paid to the empowerment of vulnerable groups (including women and persons with disability) so that they can claim their own rights.<sup>9</sup> The last core principle is ‘accountability and the rule of law’ that provides that rights can only be upheld if there are mechanisms to enforce the duty-bearers in obligation to meet the claims of right holders. These mechanisms must be in accordance with the rules and procedures provided by law.<sup>10</sup> In promoting women and disability rights in economic development, the above human rights basic principles have been defined in Universal Declaration

of Human Rights as read together with the Convention on Elimination of All forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) respectively. Disability rights are human rights.

### **Economic development**

Amartya Sen argued that economic development requires increasing the capabilities of economic agents so that they can realise their full potential to participate in economic and social life.<sup>11</sup> Thus, the need for the recognition of women and persons with disability in the development systems.<sup>12</sup> Economic development has been defined as the expansion of capacities that contribute to the advancement of society through the realisation of individual, firm and community potential.<sup>13</sup> The realisation that there is untapped human resource in women and persons with disability would play a greater role in economic development. Economic development occurs when individuals have opportunity to develop the capacities that allow them to engage and contribute to the economy of the country. On the other hand, economic development increases living standards of people, strengthening of autonomy and substantive freedoms in which individuals fully participate in economic life.<sup>14</sup> For example, access to economic resources and microfinance is an important tool for empowering women and people with disability. In providing economic resources to women and persons with disability their bargaining position in the household would improve, hence influencing their potential and value in supporting economic development.<sup>15</sup>

### **Concept of gender**

Gender is defined as a socially constructed set of roles and responsibilities associated with being a girl or boy or women or men and, in some cultures, other genders.<sup>16</sup> Gender roles vary greatly in different societies, cultures, historical periods, social economic factors, age, education, ethnicity and religion. For example, the expectations of men to be economic providers of the family and for women to be caregivers is a gender norm in many cultural contexts. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the main international framework on gender

that commits states parties to take appropriate measures, including temporary special measures so that women can enjoy the human rights they hold and fundamental freedoms. It includes respect for women's rights to development rights that include equal rights of women with men in employment, equal pay and healthy working conditions, among others.

### **Economic development and economic rights for persons with disability**

The promotion of economic rights such as the right to employment and education to people with disability would ensure a greater human resource base, thus contributing to economic development.

The 1948 Universal Declaration of Human Rights constitutes the first international instrument to detail the rights and freedoms of individuals, and contains economic rights such as the right to employment, education, social security and full participation in society. Echoing the Charter of the United Nations, which encourages respect for human rights and fundamental freedoms for all people without distinction as to race, sex, language or religion, the declaration proclaims that everyone is entitled to the rights and freedoms it sets forth without distinction of any kind, including that of sex, status, ability, culture, age and race.

The United Nations Secretary-General in 2005 stated that, unless persons with disabilities are brought into the development mainstream, it will be impossible to cut poverty half by 2015, as agreed by heads of state and government at the UN Millennium Summit in September 2000. Since 2015, no identifiable progress has happened with regards to ending poverty through promotion of economic rights such as providing favourable working conditions for the persons with disability so as to accommodate them in the development activities and promote their welfare. The status quo is that persons with disability cannot be fully relied on without because they need special conditions and most workplaces do not have facilities to accommodate these people. On the other hand, they are given chances to work but they are discriminated from receiving good salaries, which is contrary to human rights core principles that advances for full participation of all people in different development activities and ensuring equal pay without any discrimination at workplace.

At the same time, it also violates principle of indivisibility that states that no right is above the other and the rights must be treated as to support each other. Thus, promoting the right of employment to persons with disability must go together with providing good working conditions and equal pay as any human being. This supports the statement that the World Bank has estimated that the cost of so many persons with disabilities being out of work is between US \$1.37 to 1.94 trillion,<sup>17</sup> which is a greater loss as far as support of economic development is concerned – we are losing out as expenditure is higher than the income due to few workforce in production.

Furthermore, research has shown that approximately four billion people around the world live outside the protection of the law, mostly because they are poor and marginalised within their societies and this includes persons with disability.<sup>18</sup> However, this violates Articles 1 and 7 of the Human Rights Charter that state that all human beings are born free and equal in dignity and rights and that all are equal before the law and are entitled without any discrimination to equal protection of the law and, therefore, shows an element of discrimination against the disabled people, for example, if at a workplace everyone has access to loans as long as his or her body functions without help of a machine. This criterion is discriminatory to a person who works or stands by a support of a wheelchair – they are not entitled to the loans just because they do not fall within the category that has been prescribed.

On the other hand, the World Bank estimates that 82 per cent of all persons with disabilities worldwide live below the poverty line. Suffice to say, persons with disabilities are a huge untapped resource and should be seen as potential contributors to development, as many persons with disabilities are not active in the labour market. Persons who are marginalised from employment opportunities have to depend on passive assistance programmes or on charity or state-run programmes. This reinforces the cycle of poor economic growth. Systematic steps must be taken to help persons with disabilities reach their potential through education, employment and participation in all aspects of public life.

As one of the determinants of poverty, governments have an obligation to break the cycle of disability and poverty and disability issues must be made central to any poverty

reduction strategy.<sup>19</sup> The International Monetary Fund argued that poverty for individuals with disabilities is not only about monetary poverty. The dimensions of poverty include ‘voicelessness’ and ‘powerlessness’ and these aspects are particularly compounded in the case of poverty among persons with disabilities.<sup>20</sup> The World Bank contends that access to employment is the most cost-effective way to reduce the poverty of children, youth and adults with disabilities, their families and their communities.<sup>21</sup> Socio-economic incorporation of persons with disabilities is not only about the reduction of social costs but also participation in economic growth. States, therefore, must ensure that employment laws are in compliance with the CRPD and International Labour Organization (ILO) Convention 159 on Vocational Rehabilitation and Employment of Disabled Persons.

### Case study 1 (albinism as an example of disability in Malawi)

Albinism is an inherited genetic condition that prevents the body from making enough colour or melanin to protect the skin from the sun. It affects one in 5,000 to 15,000 people in sub-Saharan Africa.<sup>22</sup> The current population of people with albinism in Malawi is estimated at 7,000 to 10,000 representing a ratio of one in every 1,800 persons.<sup>23</sup> People with albinism in Malawi experience serious discrimination and other abuses of their human rights. People with albinism in Malawi often face deep-seated discrimination. As a result, they do not have the same opportunities for education and healthcare, among others. This unequal treatment is fuelled by superstition and mistaken beliefs. In Malawi, some think that people with disability have magic in their bones that could make others rich. It is a trade driven by growing demand of these body parts in southern and eastern Africa. The United Nations noted that from 2000 to 2013 it had received 200 reports of ritual attacks on people with albinism across 15 African countries, including Malawi.<sup>24</sup> Recently, attacks on people with disability have risen in Malawi. At least 18 people have been killed and five others have gone missing since 2014. In 2015, there were 45 reports of actual or attempted murder and abduction and, in April 2016 alone, four people with albinism were murdered. Thus, thousands of people with albinism are living in fear, reluctant to

go to school or anywhere else because they could be abducted and killed.<sup>25</sup> For example, in February 2017, Mercy Zainabu Banda was found murdered in Lilongwe (capital city of Malawi) with her wrist, right breast and hair removed.

The government of Malawi has an obligation under the African Charter on Human and Peoples' Rights, and the African Charter on the Rights and Welfare of the Child, protocol to the African charter on Human and Peoples' Rights on the Right of Women in Africa, as well as the International Covenant on Civil and Political Rights, to protect, promote and fulfil the right to life, dignity, security and safety for all people in Malawi, including vulnerable groups such as people with albinism, and to ensure equal protection before the law. The courts, Human Rights Commission and the government have obligations in terms of the constitution of Malawi to provide assistance<sup>26</sup> in protection of human rights such as the right to life,<sup>27</sup> dignity,<sup>28</sup> equality and access to justice and remedies.<sup>29</sup>

Thus, there is a need for the government of Malawi to enforce the rule of law that would protect the rights of people with albinism in Malawi. One of the problems that has escalated out of this issue is that economic and development rights of people with disability are being violated. Sections 29 and 30 of the Constitution of Malawi provides for development and economic rights of every person, including people with albinism. However, within the superstitious beliefs that people with disability are used for money rituals, a lot of them are living in fear for their lives. They are not going to school for fear of being abducted, thus violating their rights to education. They are not participating in social and community activities freely contrary to the core principle of human rights of full participation of all human beings in social activities. At the same time, this violates the principle of indivisibility that states that no right is above the other and that rights must be treated equal. For example, they are given the right to education and to be employed but they are exposed to circumstances that are a threat to their life. This automatically contributes to poor labour force in workplaces as people with albinism are being excluded from the participation of society for fear of their life, since many of them are just hiding in their homes.

As argued above, economic development is all about appreciating the potential of

everyone. People with albinism, regardless of their disability, have the potential that can help in economic development. For example, they are a human resource already available but is ignored and scared away by community activities. Promotion of the right to life, good health, education and employment opportunities to people with albinism would mean the greater room and wider opportunity for economic growth as these people will contribute in different productions and work to the best of their ability without fear of being killed or abducted.

### Economic development and women's rights to own property

Kelvin Gray, in his book *Land Law*, defined property as a 'bundle of rights not a thing'.<sup>30</sup> The bundle of rights has been discussed by A M Honore in his article, *Principles of Ownership*, in which he defines different aspects of ownership that encompass rights and duties that defines property ownership. Ownership has been defined as the greatest interest in a property, which a mature system recognises. Ownership includes the right to exclusively possess, the right to use, the right to manage, the right to the income from the thing, right to capital and right to security, among others.<sup>31</sup> When a person exercises those rights and duties, that defines ownership of a property.

At an international level, the right to own property is provided in Article 17 of the Universal Declaration of Human Rights that everyone has the right to own property alone as well as in association with others and no-one shall be arbitrarily deprived of his own property. This gives us a clear background of the rights that promote ownership of property to everyone that includes women. With regards to women's rights to own property, let's consider 'right to possess' which has been defined as fundamental right that defines ownership. Possession includes right to exclusively possess a thing and to remain in control; it is a right *in rem* which can be enforced against the whole world.<sup>32</sup>

On the other hand, the World Economic Forum has reported that women account for nearly half of the world's smallholder farmers and produce 70 per cent of Africa's food and yet, less than 20 per cent of land in the world is owned by women.<sup>33</sup> This, means that women contribute a high percentage to a country's gross domestic product (GDP). Given a chance and promoting ownership



(land) rights would mean more food production in a country and, as a result, would also mean more exports, contributing to economic development.

### Case study 2 (women access to land in Malawi)

Malawi is located in the south-east of Africa. It is defined as the warm heart of Africa. However, it is one of the poorest countries in the world. Nevertheless, Malawi is a party to different international conventions that include the CEDAW, the Universal Declaration of Human Rights, CRPD and the United Nations Charter.

To begin with, Article 2 of CEDAW constrains states parties in any act of discrimination against women in any form, and binds to engage in appropriate means and without delay in policies to eliminate discrimination against women and to embody principles of equality in national constitution. The Constitution of Malawi, in section 12, contains the respect of human rights as a fundamental principle and, in section 20, it holds the right to equality working to eliminate all forms of discrimination. Women's rights to own property are provided in Section 24 of the Constitution and other Acts of Parliament including the Marriage and Divorce Act.

However, Malawi is on the verge of a land reform process with consequences of significant proportions that may be disastrous for women and the security of disadvantaged people's livelihoods. As a result of National Land Policy in 2000, Malawi has lately enacted new land laws and policies which include the Customary Land Act 2016, enacted in April 2018 the Registered Land Act 2016 and the Acquisition of Land Act 2018, among others. These new land reforms aim at achieving privatisation, security of tenure to Malawians, equitable access to land to both women and men, and facilitates the attainment of social harmony. These land reforms are perpetrating discrimination against women in owning land in Malawi, thus affecting economic development. For example, section 8(3) of the Customary Land Act provides for the qualification of administrators of customary land which includes that a person must have a minimum qualification of a Malawi School Certificate. As a lot of women in Malawi are not educated, this is discriminatory in a sense that men who are more educated than women are the ones

in control of the land and the Act itself is perpetrating it.

There is need for the careful review of new land laws, as well the review of the structures for administering and adjudicating property ownership and inheritance matters.<sup>34</sup> Section 24 of the Constitution of Malawi provides that women have the right to own property alone as well as in association with others. However, the right to own property is affected by cultural aspects that form the basis of the laws in the country, the patrilineal and the matrilineal culture practiced in the northern and southern regions of Malawi, respectively. In the patrilineal their culture, women are considered the property of husbands and are not themselves entitled to own property that includes land.

Basically, in Malawi, the laws that provide for the rights of women in owning property are difficult to enforce due to the cultural practices attached to the lifestyle of Malawians. On the other hand, the matrilineal culture advances that women are the ones that own land, not men. However, there is a saying that women own the land but men are the ones that make decisions. If women farm, it is considered subsistence farming and it does not receive a lot of support. However, if a man farms, it is regarded as commercial farming (money). This is contrary to Honore's principles of ownership which includes that there must be total control and exclusive possession of the property. Many women in Malawi have property in name but they do not have control over it. This affects production and, at the end of it all, affects food production, gross domestic production in Malawi and the economic development is also affected.

It must be noted that economic development is a process of creating and utilising physical, human, financial and social assets to generate improved and broadly shaped economic wellbeing and quality of life for a community or region. Women's access to land, therefore, would mean the availability of physical and skilled labour in production that would mean more production enhancing economic growth that will later transfer into an economic development.

### Insights and recommendations

The first recommendation is the promotion of the rule of law that promotes the right to own property to women would help increase economic growth. The laws that concern

women and disability rights, being laws that concern vulnerable groups, must be considered as peremptory norms in which they must be accorded greater value at an international level. If states or individuals violate the norms, there will be penalties for it, at an international level, as a way of valuing human rights and equality before the law among member states, regardless of sex and abilities. Women and people with disability will not feel less of themselves and they will be fully protected by the law. For example, the issue of women's rights in owning land in Malawi, recognising this right as a peremptory norm, the government of Malawi will ensure that everyone complies with it. On the other hand, enhancing participation of women and people with disability in all economic sectors will promote economic development.

On the other hand, laws relating to the promotion of rights of persons with disability helps in increasing a human resource base in country. As already stated, persons with disability is a group of unhampered labour force that is always sidelined. Giving disabled people the chance to be educated and attain qualifications would mean knowledge empowerment. At the same time, making disabled people feel more equal to the world of abled people. As a result, having more labour force in an economy would mean economic growth, later defined as economic development.

Lastly, women have the right to own property and to remain in control of the property. This will also help them to have access to loans and help them to start small businesses, which would reduce poverty and interdependence. This on its own contributes to economic development through contributions that women bring from the proceeds of the businesses.

## Conclusion

A comprehensive poverty reduction strategy for persons with disabilities should be located within a framework that seeks to reduce poverty of persons with disabilities and women by 'unlocking their economic potential' and not by re-distributive policies. Costs, in terms of accessibility, technical devices and workplace accommodations, are to be seen as investments and not as unproductive social welfare expenditure.

What is relevant to the majority of persons with disabilities and women is their potential to contribute to economic growth.<sup>35</sup>

Faith Sumani's award was made in honour of is Matthew Weldon

## Notes

1. *Disability Rights Year Book 2013*, Dr Enoch Chilemba PHD.
2. The Former High Commissioner of Human Rights – Mary Robinson.
3. The United Nations Office of the High Commissioner for Human Rights (OHCHR).
4. Article 1 of the Universal Declaration of Human Rights provides that 'All human beings are born free and equal in dignity and rights.'
5. Rangita de Silva De Alwis, Wellesley Centers of Women, *Disability Rights, Gender and Economic Development*, 2008.
6. *Ibid.*
7. The United Nations Office of the High Commissioner for Human Rights (OHCHR).
8. *Ibid.*
9. *Ibid.*
10. See note 3.
11. Amartya Sen, *Development as Freedom*, (1999).
12. The US Economic Development Administration (EDA).
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. Manual for trainers: Gender Equality and Gender Mainstreaming, Gender, Gender Concept and Definitions.
17. Robert L Metts, *Disability Issues, Trends and Recommendations for the World Bank*, World Bank Washington, 2000.
18. Report of the *Special Rapporteur on Extreme Poverty and Human Rights Access to Justice*, available at: [www.ohchr.org/en/issues/poverty/pages/srextremepovertyindex.aspx](http://www.ohchr.org/en/issues/poverty/pages/srextremepovertyindex.aspx).
19. United Nations, *Disability and Development report*, 2018.
20. *Ibid.*
21. World Bank Reports, [www.worldbank.org.com](http://www.worldbank.org.com).
22. World Health Organization.
23. Amnesty International, *Malawi: We Are Not Animals To Be Hunted Or Sold*, 7 June 2016, index number: AFR 36/4126/2016. *Violence and discrimination against people with disability* (index :AFR 34/416/2016).
24. *Persons with albinism – Report of the Office of the United Nations High Commissioner for Human Rights*, available at: [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A\\_HRC\\_24\\_57\\_ENG.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A_HRC_24_57_ENG.doc) (2013).
25. *Ibid.*
26. Constitution of Malawi, s15.
27. *Ibid.*, s16.
28. *Ibid.*, s19.
29. *Ibid.*, s20.
30. Kelvin Gray, *Land Law*, 8th edition.
31. A M Honore, *Ownership* in Oxford Essays in Jurisprudence (Clarendon Press, 1961).
32. *Ibid.*
33. *Ibid.*
34. Naomi Ngwira PHD, *Women's Property and Inheritance Rights and the Land Reforms Process in Malawi*.
35. ILO, *Disability and poverty reduction strategies: how to ensure that access of persons with disabilities to decent and productive work is part of the PRSP process*, available at: [www.ilo.org/skills/pubs/WCMS\\_107921/lang-en/index.htm](http://www.ilo.org/skills/pubs/WCMS_107921/lang-en/index.htm).

**Natasha Kapuka**  
 University of Zambia,  
 Lusaka  
 lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Introduction

It is often believed that economic development can only be achieved through the efforts of a particular fraction of society. However, this essay argues that, in order to holistically achieve this goal, inclusiveness is imperative. To allow this, laws need to adequately represent both advantaged and disadvantaged individuals equally. Various world dynamics, especially recent ones, have required revisited laws promoting gender and disability rights in order to ensure that there is equal treatment in the quest to achieve economic development.

This essay aims to discuss how laws promoting gender and disability rights can support economic development. For this, first, key terms relevant to the discussion, namely gender, disability and economic development, will be defined. Next, the essay discusses how laws in these areas can aid in economic development. Finally, a conclusion will be presented.

## Gender

Gender refers to the economic, social, political and cultural attributes and opportunities associated with an individual being male or female. It is a socio-cultural expression of the particular characteristics and roles associated with certain groups of people in relation to their sex and sexuality.<sup>1</sup> The concept of gender is often dubbed as sex, where the latter refers to the biological construct of an individual – either male or female.<sup>2</sup> The two concepts are not mutually exclusive, however. The former expression is dynamic, while the latter is constant.

Over the years, countries have recognised the growing need for gender equality, particularly in terms of the greater inclusion of women in society. This is because women have been and continue to be marginalised vis-à-vis men. For a long time, females were

considered inferior to males in their rational capabilities and, therefore, could not enjoy the human rights afforded to others in totality. However, their contribution to any country's development is increasingly viewed as just as important as that of men. In the wake of catastrophes such as the recent Covid-19 pandemic, it has come to light how much of an economic cushion the contribution of women in various sectors can provide in many countries.

## Disability

According to the Russian Federal Law on Social Protection of People with Disabilities, a person with a disability is 'an individual who has a health problem involving persistent disorders of bodily functions due to disease, trauma, or defects, leading to limited capability and calling for their social protection.'<sup>3</sup> One billion people, or 15 per cent of the world's population, experience some form of disability with the prevalence higher for developing countries.<sup>4</sup> Persons with disabilities are more likely to experience adverse socio-economic outcomes than persons unafflicted, such as less education, poorer health outcomes, lower levels of employment and higher poverty rates.<sup>5</sup> As a result, people with disabilities often do not live up to their full potential because of limitations placed on them by society. Most of them live in abject poverty with little to no access to education or healthcare. Hence, as per the definition in the Russian Federal Law on Social Protection of People with Disabilities, these people must be embraced and protected by society.

## Economic development

One celebrated definition of economic development is that which was coined by Todaro. The author submits that economic

development is ‘a multidimensional process involving major changes in social structures, popular attitudes and national institutions as well as the acceleration of economic growth, the reduction of inequality and the eradication of absolute poverty.’<sup>6</sup> Put succinctly, it is the holistic improvement of the quality of the lives of people in a country. The ‘quality of life’ therein is measured by what is referred to as the Human Development Index (HDI) which encompasses, as indicated above, the reduction of inequality and eradication of absolute poverty. Economic development occurs when people elevate from low to high(er) standards of living.

### How laws promoting gender and disability rights can support economic development

The law plays an integral role in the enforcement of gender and disability rights. These rights are enshrined in many international human rights instruments such as the Universal Declaration of Human Rights (UDHR), the United Nations Convention on the Rights of People with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). States party to these conventions are bound under international law to abide by their provisions. However, because treaty law is soft law, provisions in a treaty are often only enforceable if they are domesticated in a country’s national legislation. Therefore, discrimination may still be rampant despite the provisions of the above-mentioned instruments. Luckily, many countries have national laws which emphasise non-discrimination, although much is left to be desired. Thus, laws may enhance gender and disability rights in order to support economic development in the following ways.

#### Gender laws

##### *Providing better employment options for women*

Women continue to face widespread barriers in laws that keep them out of certain jobs.<sup>7</sup> For example, the Biennial Report found that in 104 economies, women are barred from working at night or in certain jobs in many areas, including manufacturing, construction, energy, agriculture, water and transportation. This negatively affects the choices of more than 2.7 billion women.<sup>8</sup> Most of the

restrictions placed on women in this regard are premised on deeply rooted stereotypes regarding their capabilities. The above-listed jobs are often characterised as requiring hard labour and because women are viewed by society as being ‘weak’ or ‘soft,’ they are precluded from taking up such jobs. They are confined, instead, to roles that re-enforce their nurturing nature such as caring for their families and farming on a subsistence level. However, these activities are conducted within the confines of their homes and are, therefore, not considered to contribute to a country’s national economy.

The International Monetary Fund (IMF) estimates that having as many women in the labour force as men could boost economic growth by five per cent in the United States, nine per cent in Japan and 34 per cent in Egypt. Also, a Goldman Sachs study revealed that narrowing the gender gap in employment could push per capita income in emerging markets up to 14 per cent higher by 2020.<sup>9</sup> Hence, creating better employment options for women would allow them to take up jobs which they feel match their interests and capabilities. This, in turn, would have a positive effect on the productivity of these individuals as studies show that people are more productive when they love and enjoy what they do.<sup>10</sup> This could mean well for a country’s economy if various sectors are boosted through the increased input of women. Additionally, women would be able to provide and fend for themselves and their families when they earn an income and, hence, draw their families out of poverty.

Moreover, when women are accorded a platform to compete on a level playing field with men, they are better placed to showcase their skills and abilities. In turn, competition of such kind further encourages an increase in productivity and a reduction in inequality as women would gain confidence and assert themselves in the workplace. Men would also experience a shift in their attitudes and begin to view women as their equals and not as their subordinates, equally capable of achieving the same things they can or possibly, even better.

##### *Strengthening women’s property rights*

Access to resources and stable property rights are highly gendered in many parts of the world. Women and girls, in particular, suffer from inequitable land rights and experience restricted access to resources and inheritance.<sup>11</sup> This has a negative impact on

women because their inability to own land can translate into their inability to access many other commodities and services.

According to the World Bank Group's recently released 'Women, Business and the Law 2020,' two-fifths of countries worldwide limit women's property rights. In 19 countries, women do not have equal ownership rights to immovable property.<sup>12</sup> This can be attributed to the longstanding patriarchal norms and customs that govern most societies. Men are considered to be the breadwinners in most households and, hence, must take charge of all the family's assets. This notion presents a problem because when the man dies, women are left vulnerable to property grabbing, which can leave the deceased's family in poverty.

To this end, laws can come in to strengthen the rights relating to ownership of property by women. When more women own property, it opens doors for them to set up their own businesses and earn an income. This income can be used to sustain their families and communities at large. This consequently reduces the levels of poverty in those communities. It also enables them to have access to things such as credit because tangible property is often used as collateral in such transactions, thus, increasing their economic potential.

### **Disability rights**

Article 3 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) calls for, among other things, the full and effective participation and inclusion in society of persons with disabilities. People with disabilities often lack access to formal education and training to develop the skills necessary to compete in the labour market.<sup>13</sup> It follows then that such individuals experience low levels of literacy and, consequently, poverty, as compared to persons without disabilities. Persons with disabilities are among the poorest and most vulnerable in developing countries, and in the world. Their poverty is both a consequence of disability and exists in a vicious cycle: the economic disadvantages and social exclusion faced by many people with disability create a greater risk of further impairment due to limited access to land, healthcare, healthy food, shelter, education and safe employment.<sup>14</sup>

### *Enhancing employment quotas for persons with disabilities*

An employment quota is a mechanism aimed at increasing the ratio of a particular minority group of individuals in the employment sector. The regulations for employment quota schemes usually require that employers have a certain proportion of disabled people (or another target group) among their staff. A few countries have adopted this mechanism; for example, Italy has a seven per cent employment quota requirement for the disabled; five per cent in Germany, three per cent in Korea and 2.1 per cent in Japan. Although these percentages count for something, they are not entirely satisfactory. Moreover, in developing countries, persons with disabilities are considered to be more of liabilities than assets and, as such, are hardly ever considered by employers.

The law in this regard can come in to codify employment quota requirements as most employers will not comply unless required to do so by law. Beyond that, the law can impose greater fines on employers who refuse to comply with the employment quota requirement. It is disheartening to note that many employers are more willing to pay a fine than to accommodate disabled individuals. Hence, if these fines are made hefty, that may deter employers from discriminating against people with disabilities as this would be detrimental to their businesses. This, in turn, would lead to more disabled individuals being employed in the formal sector, earning a decent income and improving their livelihoods and alleviating poverty; all the while contributing to a country's economic growth through their input.

### *Improving access to justice*

The non-justiciability of economic, social and cultural rights in most constitutions harms disability rights litigation and hinders access to justice for persons with disabilities.<sup>15</sup> Because persons with disabilities are not expressly entitled to rights such as the right to education and good healthcare, most governments do very little to accommodate these individuals in the relevant institutions. Therefore, there is need for laws to incorporate progressive rights into their constitutions to ensure that disabled people are adequately protected.

Additionally, most laws contain a non-discriminatory clause calling for equality

among all kinds of persons. In practice, however, this is yet to be realised. Physical barriers for example, are the most common impediments for people with disabilities. Lack of physical access to courtrooms or police stations or even legal clinics often impede these individuals as they feel like outcasts and, hence, this prevents them from obtaining justice. This further widens the gap between disabled and able-bodied persons. Therefore, laws can expressly require such facilities to provide services which can accommodate persons with disabilities. This could involve services such as the presence of a sign-language interpreter, elevators in high-rise buildings and the construction of ramps. An effective justice system translates into trust and accountability in society. These two aspects are key in attracting foreign investors. Foreign investment paves the way for job creation and, consequently, alleviation of poverty in a country.

### Conclusion

In conclusion, it is evident that there still exist gaps in the laws that promote gender equality and protection of people with disabilities. There is need for the law to create an environment in which women and persons with disabilities can make a living for themselves, their families and, consequently, allow the country to benefit economically. Although a few countries have taken up the mantle in pioneering for the rights of such individuals' to be protected, much remains to be desired. Above all, regardless of how many pieces of legislation and policies are passed, the onus remains upon society to shift its mindset from exclusion to inclusion; for that is the first and most important step towards achieving economic development holistically. Equality at all levels is a key driver of economic development and as

such, the archaic notions of stereotyping and discrimination must be done away with completely.

The sponsor supporting Natasha Kapuka's award is the IBA Foundation

### Notes

1. Deborah Caro, *Identifying Appropriate Livelihood Options for Adolescent Girls: A Program Design Tool*, Washington DC: Futures Group, Health Policy Initiative (2009).
2. *Ibid.*
3. S 1 of the Russian Federal Law on Social Protection of People with Disabilities, 1995.
4. The World Bank, *Understanding Poverty: Disability Inclusion*, available at: [www.worldbank.org/en/topic/disability](http://www.worldbank.org/en/topic/disability), accessed on 29 November 2020.
5. *Ibid.*
6. Michael P Todaro and Stephen C Smith, *Economic Development*, 8th edn, (London: Pearson Publication, 2003), p 16.
7. World Bank, *Many Governments Take Steps to Improve Women's Economic Inclusion, Although Legal Barriers Remain Widespread*, 29 March 2018, available at: [www.worldbank.org/en/news/press-release/2018/03/29/many-governments-take-steps-to-improve-womens-economic-inclusion-although-legal-barriers-remain-widespread](http://www.worldbank.org/en/news/press-release/2018/03/29/many-governments-take-steps-to-improve-womens-economic-inclusion-although-legal-barriers-remain-widespread).
8. *Ibid.*
9. Sandra Lawson, *Women Hold Up Half the Sky*, Goldman Sachs Economic Research, p 164 (2008).
10. Johna Revesencio, *Why Happy Employees are 12% More Productive*, 22 July 2015, available at: [www.fastcompany.com/3048751/happy-employees-are-12-more-productive-at-work](http://www.fastcompany.com/3048751/happy-employees-are-12-more-productive-at-work).
11. Ann Kangas et al, *Gender: Topic Guide*, (Birmingham: GSDRC, 2015)
12. Nisha Arekapudi and Nayda L Almodovar, *Women's Property Rights are the Key to Economic Development*, 24 February 2020, available at: <https://blogs.worldbank.org/developmenttalk/womens-property-rights-are-key-economic-development>.
13. United Nations Department of Economic & Social Affairs, *Disability and Economics: The Nexus Between Disability, Education, and Employment*, DESA Briefing Seminar Series, 1 July 2011.
14. Oliver Walton, *Economic Benefits of Disability-Inclusive Development* (Birmingham: GSDRC, 2012)
15. Zambia Agency for Persons with Disabilities, *Strategic Plan 2017–2021: Promoting Inclusive and Sustainable Development*, available at: [www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/10/Zambia\\_DISABILITY-STRATEGIC-PLAN-2017-2021.pdf](http://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/10/Zambia_DISABILITY-STRATEGIC-PLAN-2017-2021.pdf).

**Muleta Korme  
Negasa**

Addis Ababa University,  
Addis Ababa

lexlead@yahoo.com

# How can laws promoting gender and disability rights support economic developments?

## Background

According to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) the term ‘persons with disabilities’ applies to all persons with disabilities, including those with long-term physical, mental, intellectual or sensory impairments which, in interaction with various attitudinal and environmental barriers, hinders their full and effective participation in society on an equal basis with others.<sup>1</sup>

One billion people, or 15 per cent of the world’s population, experience some form of disability.<sup>2</sup> Persons with disabilities, on average as a group, are more likely to experience adverse socio-economic outcomes than persons without disabilities.<sup>3</sup> On the other hand, women now represent some 40 per cent of the global labour force.<sup>4</sup> Women and persons with disabilities are often the poorest of the poor. The stigma and discrimination women and persons with disabilities suffer are common in form and type in all societies. Women and people with disability are often denied chances to work, attend school and participate fully in society – which creates barriers for their prosperity and well-being.<sup>5</sup>

CRPD sets out to ensure that people with disability have access to the same rights and opportunities as everybody else.

The nexus between poverty, on the one hand, and disability and gender inequality on the other hand, has often been explored but much more needs to be done to address it. Disability and gender inequality may result in poverty and disenfranchisement from the economic and social life of communities.<sup>6</sup> Poverty may also cause disability through malnutrition, poor health care and unsanitary living conditions. So, one way or another, economic development and, gender inequality and the rights of persons with disabilities is strongly related. The concept of development is wider than eradication of

poverty. According to the UN Development Programme (UNDP) Human Development Report, development is about how people fare and not just about production of goods and economic solutions. The argument was that development is not just about poverty eradication but in opportunities to go to school and the capacity for participation in development policies and processes.<sup>7</sup>

This essay will attempt to elaborate on the ways in which laws promoting gender and disability rights contribute to the economic development. This essay has found out that these laws play an invaluable role in economic development.

## Costs of disability programmes

There is a trend of approaching the problem of disabilities by charity scheme. This could be in the form of disability benefits. In this approach, the non-disabled person will provide for the livelihood of persons with disabilities who are sitting idle *ex gratia* rather than providing them the opportunity that enables them to gain their livelihood by themselves.

The productivity of disabled people is an important consideration in both developed and developing economies.<sup>8</sup> In Organisation for Economic Co-operation and Development (OECD) countries, there has been considerable attention paid to the human and fiscal consequences of the exclusion of disabled people from the labour market. The costs of disability benefits and support programmes as a percentage of gross domestic product (GDP) have continued to rise and the OECD (2003) estimates that ‘measured as a percentage of public social expenditure, the costs of disability benefit programmes fluctuate around 11 per cent, and are almost 20 per cent in the high-spending countries’.<sup>9</sup> According to Metts (2000), the ‘global GDP lost annually due to

disability is estimated to be between US\$1.37 and 1.94 trillion".<sup>10</sup> Recent studies have found that economic losses related to the exclusion of persons with disabilities from the labour force are large and measurable, ranging from between three and seven per cent of GDP.

So, certainly, laws promoting the rights of persons with disabilities supports economic development by cutting excessive and costly disability benefits and support programmes.

### Gender equality and development

According to the World Bank's 2012 World Development Report, *Gender Equality and Development*, closing gender gaps metta for development and policy-making.<sup>11</sup> Greater gender equality can enhance economic productivity, improve development outcomes for the next generation, and make institutions and policies more representative.<sup>12</sup>

Gender equality is important per se. For some theorists, development is a process of expanding freedoms equally for all people – male and female. The elimination of gender inequality between males and females is as equally a part of development as is reducing income poverty.

Laws promoting greater gender equality also enhance economic efficiency and improve other development outcomes. These laws contribute in the following three main ways:

Firstly, with women now representing 40 per cent of the global work force and more than half of the world's university students, overall productivity will increase if their skills and talents are used more fully. According to some studies, the elimination of gender inequality in certain sectors or occupations could increase output by raising women's participation and labour productivity by as much as 25 per cent in some countries through better allocation of their skills and talent.

Secondly, it is determined that greater control over household resources by women can enhance countries' growth prospects by changing spending in ways that benefit children. According to the 2011 World Bank Report, evidence from countries as varied as Brazil, China, India, South Africa and the United Kingdom showed that, when women control more household income, children benefit as a result of more spending on food and education.

Finally, the participation of women as economic, political and social stakeholders

can change policy choices and make institutions more representative of a range of voices. In India, giving power to women at the local level led to greater provision of public goods, such as water and sanitation, which mattered more to women (Beaman and others, 2011).<sup>13</sup>

One of the most common and important contributions of women's rights to the economic development is increased labour force participation. Women who currently comprise more than 40 per cent of the world's labour force remain a largely untapped source of special talent and energetic labour.

The removal of legal and social restrictions against working women, thereby enabling them to participate fully in economic activities, is beneficial to the whole society. Women's participation is also an essential part of economic expansion, which leads to greater investment and job creation.<sup>14</sup> In some nations, removing legal obstacles for women entering the workforce would raise economic output by 25 per cent.<sup>15</sup>

Laws which focus on the rights of women to education also have high returns on development. To begin with, closing the gender gap in early childhood has been shown to be an important step toward closing the gender inequality later in life. Well-educated women will have fewer children, experience a lower rate of child mortality and provide their children with better nutrition and education. Providing quality education for women ensures that it isn't just women who benefit but their children as well.

In the decision-making area, it is thought that expanding the role of women in societies also expands the diversity of skills and viewpoints in both economic and political sectors. When women enter the labour force and compete on an even field with men, there is a greater possibility to see more creativity and innovation from women. It has also been found that greater gender diversity in workplace leadership increases organisational effectiveness. Even more surprisingly, in the political arena, international experience has shown that female voters and policy-makers are more likely to support policies aimed at closing the gender gap. Enactment of laws that give equal voting rights to women in developing countries can help continue economic development spurred by expanding the rights of women.

The more we look at the research, the more it becomes self-evident that laws



promoting equality of women drive economic development. The McKinsey Global Institute found that if every country advanced towards gender parity at an equal rate as its greatest-improving neighbour, the worldwide GDP would rise by \$12 trillion.<sup>16</sup> This seems an ambitious goal, but one that demonstrates the untapped potential of women in fighting global poverty. It should be noted here that the Nobel-prize winning economist, Amartya Sen, believes that focusing on women is key to economic development. If the world continues to fight for gender equity in education, the workforce and government, we will not only see one of the world's greatest injustices finally corrected for but the erosion of global poverty as well.<sup>17</sup>

By now, it must be more than clear that laws promoting gender equality play an invaluable role in the overall economic development of certain society.

### **Contribution of persons with disabilities to the economy**

There is a strong symbiotic circular relationship between poverty and disability. In return, poverty may cause disability through malnutrition, poor healthcare and dangerous living conditions. Case studies in developing countries show that higher disability rates are associated with higher rates of illiteracy, poor nutritional status, lower immunisation coverage, lower birth rates, higher rates of unemployment and under-employment, and lower occupational mobility.<sup>18</sup> Disability can cause poverty by preventing the full participation of persons with disabilities in the economic and social life of their communities, especially if the appropriate support and accommodation is not available.<sup>19</sup>

We have around one billion people who experience some form of disability, which is 15 per cent of the world's population. We can make these segments of the society contribute to the overall economic development of the society by enacting laws that remove every form of barrier against the participation of persons with disabilities in economic activities. It should be noted here that the CRPD, in its preamble, underscores the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development.

### **Special skills of women and persons with disabilities**

Persons with disabilities have unique skills. People with disabilities have above average records of job performance and dependability – which improves productivity and lowers the cost of hiring and training. A growing segment of the population – nearly one in six Americans – is made up of people with disabilities.<sup>20</sup>

There are individual abilities more specific to women, such as perseverance, the more social and relational abilities – ability to treat people with empathy or social sensitivity – and those skills more related to tacit knowledge, such as dealing with people and communication.<sup>21</sup> In a 2014 report on women in leadership, McKinsey & Company found that private business greatly benefits from increasing leadership opportunities for women, as female management greatly increases organisational effectiveness.<sup>22</sup>

### **Conclusion**

The majority of persons with disabilities are not disabled by nature; it is the community that disabled them from being independent. The community barred them from contributing to the societies' economic development by creating several physical, psychological and cultural barriers, on the one hand, and by denying them an equal opportunity in education, job, social and political spaces. Similarly, women are often excluded from participation in major economic activities except household services, which made them dependent on men for living let alone contributing to the overall economic development.

The exclusion of these two segments of the community from economic participation is impeding the economic development in two major ways. Firstly, the rest of the community is paying the cost of their livelihood. Secondly, their exclusion from participating in economic development activities is costing the society a huge share of the country's GDP. There are also special skills peculiar to women and persons with disabilities. For instance, studies show that persons with disabilities have above average records of job performance and dependability – which improves productivity and lowers the cost of hiring and training. Women are cherished for their perseverance, social and relational abilities – ability to treat people with empathy or social sensitivity – and those skills more related to tacit knowledge, such as dealing with people and communication.

We are paying a heavy price by excluding these sections of the community from participating in the major economic activities. Laws that remove these barriers and provide for equal opportunities for women and persons with disabilities certainly contribute to the overall society's economic development. It is found that countries which have robust and sophisticated laws that support the rights of persons with disabilities and gender equality have recorded the world's most booming economic development. Legal removal of social stigma and physical barriers to education, employment and social growth of women

The sponsor supporting Muteta Korme Negasa's award is the IBA Foundation

Notes

1. The Preamble of the UN Convention on the Rights of Persons with Disability.
2. [www.who.int/news-room/fact-sheets/detail/disability-and-health](http://www.who.int/news-room/fact-sheets/detail/disability-and-health).
3. [www.worldbank.org/en/topic/disability](http://www.worldbank.org/en/topic/disability).
4. [www.imf.org/external/pubs/ft/fandd/2012/03/revenga.htm](http://www.imf.org/external/pubs/ft/fandd/2012/03/revenga.htm).
5. [www.who.int/news-room/q-a-detail/why-is-the-convention-on-the-rights-of-persons-with-disabilities-important](http://www.who.int/news-room/q-a-detail/why-is-the-convention-on-the-rights-of-persons-with-disabilities-important).
6. Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs; United Nations Population Fund; Wellesley Centers for Women, *Disability Rights, Gender, and*

*Development –A Resource Tool for Action*, (2008).

7. *Ibid.*
8. Employment Sector Working Paper No 3, *Recognizing ability: The skills and productivity of persons with disabilities*, Literature Review, p 6.
9. *Ibid.*
10. [www.ilo.org/public/english/employment/download/wpaper/wp3.pdf](http://www.ilo.org/public/english/employment/download/wpaper/wp3.pdf).
11. <https://un.goarch.org/en/-/2016-statement-addressing-gender-discrimination-in-the-workplace>.
12. *Empowering Women Is Smart Economics*, available at: [www.imf.org/external/pubs/ft/fandd/2012/03/revenga.htm](http://www.imf.org/external/pubs/ft/fandd/2012/03/revenga.htm).
13. *Ibid.*
14. <https://borgenproject.org/womens-rights-drives-economic-development>.
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*
18. [www.un.org/development/desa/disabilities/issues/mainstreaming-disability-in-the-development-agenda-2.html](http://www.un.org/development/desa/disabilities/issues/mainstreaming-disability-in-the-development-agenda-2.html).
19. *Ibid.*
20. [www.goodwill.org/press-releases/talent-has-no-boundaries-people-with-disabilities-are-an-asset-to-the-workplace/#:~:text=People%20with%20disabilities%20have%20above,up%20of%20people%20with%20disabilities](http://www.goodwill.org/press-releases/talent-has-no-boundaries-people-with-disabilities-are-an-asset-to-the-workplace/#:~:text=People%20with%20disabilities%20have%20above,up%20of%20people%20with%20disabilities).
21. <https://un.goarch.org/en/-/2016-statement-addressing-gender-discrimination-in-the-workplace>.
22. *Ibid.*