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**EXAMINING A RIGHTS-BASED APPROACH IN
WOMEN'S LAND RIGHTS CLAIMS PROJECT
IN A CULTURALLY DIVERSE SOCIETY: A
Comparative Case Study of ActionAid's intervention
in Malawi's Matrilineal and Patrilineal
Communities**

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Declaration form

The work I have submitted is my own effort. I certify that all materials in the Dissertation which is not my own work, has been identified and acknowledged. No materials included for which a degree has been previously conferred upon me.

Signed: **Joseph Chimbuto** Date:..27th May, 2011

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Abstract

After noting the inadequacy in the previous development approaches to address the problem of underdevelopment in the developing world, development agencies are now turning to the application of a Rights-Based Approach (RBA), as a new development paradigm. Under RBA, the emphasis is more on the users' rights rather than focusing on the result of the project only. With donor fatigue soaring, most of the NGOs are claiming the use of RBA, seen by critics as a label to guarantee easy access to funding.

This study, using a case study of ActionAid Malawi's one year women's land rights claim project (2009-2010) in matrilineal and patrilineal communities of Malawi, the study indicates that despite cultural differences between the two, women face similar marginalisation in their land rights claims due to patriarchal beliefs and practices rooted in their society. The study further indicates that women in matrilineal community have an edge over their counterparts in patrilineal community owing to the fact that they have at least ownership rights to land as guarantee by customs. The research suggests that, land ownership does empower women. The study concludes that RBAs were inadequately applied in the WOLAR Project that left women, especially those from patrilineal community, by far a distant from attaining empowerment. Power relations continue to be a major factor violating women's land rights in the communities to the benefit of men.

List of Abbreviations

AAI: ActionAid International

AAIM: ActionAid International Malawi

ACHPR: African Charter on Human and People's Rights

ASIDA: Australian International Development Agency

CHRI: Commonwealth Human Rights Initiative

CIDA: Canadian International Development Agency

GDP: Growth Domestic Product

WORLEC: Women's Legal Resource Centre

UNDP: United Nations Development Programme

OHCHR: Office of the High Commissioner on Human Rights

MDGs: Millennium Development Goals

MGDS: Malawi Growth Development Strategy

MLPPS: Ministry of Land and Physical Planning

NGOs: Non-Governmental Organisations

NSO: National Statistics Office

RBA: Rights Based Approach

SIDA: Swedish International Development Agency

SPC: Special Law Commission

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNICEF: United Nations International Children's Emergency Fund

WB: World Bank

WOLAR: Women's Land Rights Project

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CHAPTER ONE

INTRODUCTION

1.1 Background to the research problem

According to the 2008 population and household census, Malawi has a total population of 13,066,320, of which 6,365,771 (49%) are men and 6,700,549 (51%) are women (NSO, 2008). About 85% of this population live in the rural areas and are involved in subsistence farming (Ibid). Malawi is a Least Developed Country (LDC), with 54.2% of its population classified as poor, the majority of whom are women (SADC Gender Protocol Barometer Baseline Survey: 2009 in WORLEC, 2010).

Studies point out to the fact that women in Malawi continue to be the poorest especially in rural areas due to, among other reasons, predominantly patriarchal practices and beliefs that deny women land and property rights (White, 2010 in WORLEC). There are two marriage and inheritances systems in Malawi: the matrilineal system where a man leaves his family and lives on the wife's family land (matrilocal) and the patrilineal system where a woman leaves her family to live with the husband on his family land (patrilocal) (Liwewe et al., 2008). These marriage and inheritance systems are at play in determining the place of a woman in land rights. In a matrilineal set-up, a woman has land ownership as the husband lives on the wife's family land while in patrilineal the woman has no land ownership as she leaves her family home and settles on the husband's family land where she is regarded as an outsider (1967 Land Act, Malawi Government).

Previous studies suggest that differences in these two marriage set-ups give matrilineal women an edge over their counterparts in patrilineal set-up owing to their having landownership rights (Liwewe et al., 2008). In the opinion of this study, women's land ownership provides fertile grounds for the implementation of development projects.

However, despite the suggested comparative advantage that matrilineal system may present, women both in matrilineal and patrilineal marriage set-ups continue to be marginalized in their claims to land and proprietary rights in Malawi by patriarchal dominance (Ibid). Women are marginalised by their husbands in the patrilineal system of marriage as the custom does not guarantee them a right to own land, and any access rights that they may have are only indirect through the husband or an elder son (Peters, 1997). In matrilineal system, women have a right to land ownership but they have limited right to control the land. In patrilineal, it is in practice the husband who controls the woman's land; how to use it, on one hand, and on the other hand, it is the woman's maternal uncle who controls her land as he makes decisions on how it ought to be used by virtue of being the clan head according to the custom. In either case, it is men at the centre in marginalizing women in their rights to land (Liwewe et al., 2008; Kevane & Gray, 1999; Cornhiel 1997; Ikdahl et al., 2005 and Holden, 2006). Empirical evidence points to the suggestion that women are being excluded from enjoying their land rights. This study, therefore, suggests that the theory of power relations is the central theory that is at play in rendering women in both cultural communities powerless.

An account of Non-Governmental Organisations (NGOs) carrying out development projects in Malawi indicates that most of the NGOs claim to apply a Rights-Based Approach (RBA) to Development in their interventions. This is a relatively new approach to development projects in which rights of the beneficiary or users are expected to be respected in the processes of implementing the project rather than simply focusing on the overall results of any intervention (OHCHR, 2002). This is a departure from previous development approaches which focused on the outcomes of the projects and gave little regard to users' rights. This followed a call by the United Nations asking all the development agencies to apply a rights based approach in their development projects since 1998 (UNDP, 2002; OHCHR, 2002 and UNICEF, 1998). Since then most of the donor agencies attach a 'Rights Based Approach' as a pre-condition for accessing their funds. With almost every organisation claiming the use of RBA in their projects, critics and sceptics have questioned whether they really apply the concept in their work on the ground or it is just a tactic to win donor funding.

1.2 Introduction to the research problem

ActionAid International Malawi (AAIM), a locally registered global NGO that has been working in the field of food security and governance in Malawi since 1990, claims it uses a rights-based approach in all its developmental projects (ActionAid, 2006). The organisation embarked on a one-year women's land rights project (2009-2010) in Malawi's four districts of Mwanza, Machinga and Dowa which are predominantly matrilineal and Mzimba which is predominantly patrilineal. The project was named Women's Land Rights Project (WOLAR) whose aim was to empower rural women to claim their land rights in the society of both culturally patrilineal and matrilineal communities in the above named selected districts of Malawi (ActionAid Malawi, 2009 and NIZA-Action, 2008).

This study investigates how NGOs in Malawi applied RBA, and it examines ActionAid's implementation of the WOLAR Project in Mzimba and Machinga as a case study. The research adopted a comparative study of how ActionAid was applying RBA in these two patrilineal and matrilineal areas respectively in the face of their cultural diversity. Basing on the theory of power relations, which in the present research can be understood as underlying factor on power and resource control in families and in society, the study further investigates the impact of ActionAid's intervention to women's development in the immediate term and national development in the long term (ActionAid, 2005, 2008 and 2009). *Refer to the Appendix 1 on the WOLAR Project's background and description.*

This study was premised on several assumptions which were explored in the field. First and foremost, based on the researcher's personal experience as a one-time resident of the society under the case study, the empirical evidence shows that development projects in the communities often proved unsustainable once the NGOs withdraw their support. The study, therefore, was of the assumption that this was due to failures in the NGOs strategies of applying RBA to empower grassroots to own the initiatives once the projects phase out.

Secondly, previous studies on a rights-based approach application did not articulate the role of culture in the outcome of the approach. Built on this observation, empirical evidence further suggests that failure to successfully implement a rights-based approach in development projects is due to NGOs not being conversant with local cultural practices that influence how the community responds to the organisation's interventions. Most studies on a rights-based approach point to the application of blanket approach, which is the strategy that does not take into account local cultural implications in a developmental project, as opposed to a context-specific approach. This study has argued for the employment of a context-specific approach that takes local cultural context into consideration in implementing a development project in the respective communities within the same society.

Owing to the above assumptions, the study, using empirical evidence, has investigated the extent to which a rights-based approach was applied in WOLAR Project and the strategies the organisation employed, whether blanket or context-specific, and the impact of this strategy on women's land rights claims and on Malawi's development goals.

1.3 Research Question

The study seeks to find out the extent to which ActionAid Malawi applied Rights Based Approach in the implementation processes of women's land rights claims project in the country and how it handles the diversity in cultural beliefs and practices in the areas it is working in, considering the diverse nature of the two cultural systems of patrilineal and matrilineal. The study further assesses the impact of ActionAid's RBA implementing strategy on national development. The following questions acted as a guide to answer the research's central inquiry:

1. To what extent does ActionAid Malawi use a rights-based approach in all processes involved in the implementation of Women's Land Rights Project (WOLAR)?
2. Given the cultural contrasts in Matrilineal and Patrilineal communities, does ActionAid Malawi use a blanket approach or a selective (context-specific) approach in the application of the Rights Based Approaches principles in its WOLAR Project?

3. To what extent is ActionAid's WOLAR Project implementing strategy (blanket or context-specific) in the culturally diverse communities of matrilineal and patrilineal effective in empowering women to claim their land rights?
4. In what way(s) is ActionAid's intervention in the plight of women through WOLAR Project contributing to Malawi's development?

1.4 Research Aim

The study assumes that the rights based approaches to women's land rights claims could be effective if they are applied selectively in respect to the specific cultural context of a particular community. The research therefore wanted to investigate how ActionAid Malawi's application of a rights-based approach in WOLAR Project had enabled women in the two communities to gain empowerment and therefore to claim their rights to land in terms of ownership, accessibility and productivity. The research also considers the project's impact on the country's national development.

1.5 Objectives

1. To investigate the extent to which ActionAid Malawi respected users' or beneficiaries' rights in all the processes involved in implementing the WOLAR Project.
2. To establish whether ActionAid factored in the aspect of cultural differences in the two communities when strategising the application of RBA in WOLAR Project.
3. To examine the effect of the strategy (blanket or context-specific) on women in relation to land rights claims in the communities involved.
4. To analyse the overall impact of ActionAid's intervention on national development.

1.6 Justification of the Research

The study aims to contribute to the existing scholarship on women's land rights issues in Southern Africa in general, and in Malawi in particular. Much scholarly work has examined women's land rights issues from legal and cultural perspectives (White, 2008 and Kathewera-Banda et al., 2010). Little has been written on a rights-based approach to enable women claim their land rights in Malawi. However there is no evidence in the existing literature on the implication of cultural diversity in the implementation of RBA in women's land rights projects. Perhaps, this would be attributed to the suggestion that previous studies have underestimated the relevance of ethnical or cultural beliefs and practices in respective communities to the effective implementation of development projects using RBA model.

The study is of personal interest to me owing to the fact that I am a Malawian, with a direct experience of the cultural implication of the systems of marriages to the rights and livelihood of women in my society. I have witnessed the plight of countless women in my society who continue to be denied their rights to land by patriarchal tendencies and mere male chauvinism in their families and in customary land tribunals which were predominantly male staffed. But yet, these women are chief producers of staple food in my society and bear the burden of running the homes in a society where most men remain out of employment due to harsh economic realities.

1.7 Delimitation of the research

The study does not claim to cover all outstanding issues on women's land rights. The study, with respect to space and focus, has limited its scope to Rights Based Approaches and their impact to women and development in Malawi. Though the study tackles culture as a central focus in mounting its argument, it does not enter into the human rights debate on universality and relativity of human rights. The study does not attempt to make an assessment of the overall outcome of the ActionAid's WOLAR Project but rather it has attempted to examine the processes in its application of RBA in relation to users' rights. ActionAid's intervention is

being used in this case as a case study to reflect the overall picture of NGOs application of RBA in Malawi in the face of cultural diversity.

1.8 Brief Outline of the research's content

The research paper is divided into five chapters. The first chapter is the *introduction* which highlights the problematic area and the primary purpose of the research. It presents the research's central argument and assumptions that inform the inquiry. The second chapter is the *literature review and analytical framework* in which a review of the works of previous studies related to the current research is presented and critically analysed. The literature review provides a framework against which the researcher analyses primary data. The third chapter is the *methodology* which outlines the research methods and techniques so far employed in data collection and analysis. The fourth chapter is the presentation of the major *findings* and accompanying *analysis*. It also provides a Discussion on the major issues emanating from the research findings and analysis. Chapter five is the *conclusion* that gives a summary of the major issues discussed in perspectives in its preceding chapters. It also provides *recommendations* to NGOs, Governments and Donors on how to make RBA more effective as a new development approach.

CHAPTER 2

LITERATURE REVIEW AND ANALYTICAL FRAMEWORK

2.1 Introduction

This chapter attempts to define a rights-based approach (RBA) as a concept in human rights discourse, and how this approach, as a new development theory, is relevant to land rights intervention programs for women. This chapter endeavours to present the legal, political and moral basis of this development approach in line with UN Declarations and International Law. The chapter further relates women's land rights to development and thrives to demonstrate how culture is central for successful application of RBA in any development intervention.

2.2 Rights-Based Approach in Women's Land Rights Claims: *Concept and Implication*

There is no agreed definition of a Rights-Based Approach (RBA). It is a concept that has emerged after deficiencies were identified in the preceding development approaches among NGOs, agencies and the United Nations system (OHCHR, 2002). For a long time, policy makers and development agencies including NGOs have applied various development approaches to end poverty in the developing countries. Chief among them include charity or welfare and micro-financing approaches. The welfare or charity approach is the one that involves the NGOs or agencies deliver the relief services or products to the poor. This approach involves the cash handouts or material hand outs such as food items, clothes or medicine and in most cases drilling of a borehole or building schools or hospitals to the community (Korten, 1990). The micro-financing approach implies the provision of financial services such as loans through direct cash transfers or insurance to the poor and to low income households aimed at boosting their social welfare or micro-enterprises (Asian Development Bank, 2002).

However, the above approaches marginalise the poor in various ways. Micro-financing development approach excludes the poor as it has lots of conditions that make it virtually impossible for poor to benefit from the initiative. For instance, as argued by Alagpulinsa (2010), it requires one to have basic entrepreneurship skills to be handed a business loan, social capital as a security of one's eligibility to make most of the loan facility; and this include collaterals among other pre-requisites. As the majority of women are poor, who can hardly afford collaterals, this approach effectively marginalises them. The charity or welfare development approach instils the spirit of dependence on the hand outs and subjects women to further vulnerability as they do not become creative in exploring other avenues to confront their poverty. This renders women powerless and widens the gap between the rich and the poor effectively making the latter to be in perpetual dependence on the former as argued by Alagpulinsa in (CHRI, 2001). Eventually lack of empowerment in women results in the difficulties in sustaining the activities or interventions once the NGOs wind up the projects in communities. Hence, the outcomes of the above approaches, among others, proved failures in addressing the problem of underdevelopment in developing states. This paved a way for the introduction of a Rights Based Approach to development.

Based on the experiences drawn from failed development approaches, and following the Millennium Summit to promote the integration of human rights principles into development processes, the then UN Secretary General Kofi Annan in 1997 called for all agencies of the United Nations to mainstream human rights into their programs (Chitonge, 2006). Since then developmental agencies, both governmental and non-governmental, have been re-directing their approach to a rights-based one.

The Rights Based Approach is the principle that puts a human person at the centre of the development process. The Office of the High Commissioner for Human Rights (OHCHR) sees the rights based approach as an instrument to empower people to be active participants in development projects (OHCHR, 2002). In this regard, whatever projects the agencies are

running within a developing community or marginalised community, it is imperative that the ordinary people who are the intended target of the initiatives should be given opportunities to participate in the development processes as well as to claim the benefits of the process (Ibid). Thus, a new era of development approach emerged; from focusing much on the results or outcome to paying much attention to the processes through which the result is achieved (Salomon, 2003). In this new development paradigm, the implication is that the *end* ceases to justify the *means* but rather the *means* should justify the *end*.

Although there is no standard definition of a rights-based approach (RBA), which gives room for agencies applying the concept in a modified way, this paper has earlier stated its concept of RBA which implies keeping a focus on the processes of development project to ensure they have regard to the users' or beneficiaries' rights rather than focusing on the end result only. In addition to the above stated definition that the paper has described, the UN system has advised on the common features of RBA under a *Common Understanding* of the concept, which is now being adopted in most UN agencies and other international development agencies (Sarelin, 2007). The aforesaid *Common Understanding* is premised on the human rights principles that act as a guiding and analytical tool towards the implementation of RBA in the development programmes. This study looks at the four principles that underlie the concept of RBAs and their implication for interventions in women's land rights problems. These are *non-discrimination, participation, empowerment and accountability*.

In her assessment of human rights-based approaches to Development Cooperation, HIV/AIDS, and Food Security based on the study of CARE in Malawi's rural communities, Sarelin (2007) argues that the principle of *non-discrimination* in RBA concept implies a need to be aware of the vulnerable individuals and groups that are unable, not by choice, to realise their human rights goals. It is therefore in order for women, often regarded as a marginalised section of the society, to have RBA's principle of non-discrimination as a guiding tool whenever initiating a project that is focused on alleviating their plight. This is relevant to the situation of women in rural communities in Malawi, for whom land rights problems are a major human rights issue.

The principle of *participation* within RBA does not only imply active involvement of the marginalised rights claimers in the agenda-setting and decision-making in the implementation processes of the development project (Sarelin, 2007 and Chitonge, 2006), but it also means supporting efforts to challenge power relations in the communities (Ibid). This is because power relations are believed to be the root cause of women's marginalisation, and challenging such structural problem leads to *empowerment* (Ibid)). Once Malawian women participate in development project, they own it and they become empowered hence challenge male dominance that alienates them from their land rights claims in society.

Sarelin (2007) and Chitonge (2006) define *empowerment* within RBAs as a process of challenging and transforming power relations and creating new relations; a participatory process that engages people in reflection, inquiry and action. She argues it is not just about empowering in general but empowering in relation to the possibility for marginalised groups to claim and realise their human rights. Empowerment has multiple benefits in addressing the problem of underdevelopment, in this study, women's land rights. In the first place, once empowered, Malawian women are likely to have a negotiating power with their male counterparts and balance power relations. Secondly, once empowered, the problem of project sustainability is likely to be minimised as they would be in a position to continue with the intervention for the benefit of wider women population even when the NGOs have wound up their projects. Thirdly, once marginalised people are empowered, in the interest of this study, women are placed in a position to make the duty-bearers including government and NGOs like ActionAid *accountable* to their work and the administration of the resources (funds) that they use in the program or project (Tomas, 2005). Once Malawian women, who, the majority are marginalised in their land rights are able to make duty-bearers accountable, it will lead them to demanding more rights affecting them. Hence land rights claims and reclaims will be made easy.

However, critics of RBA have argued that the approach is Western oriented as it does not appear to take account of other cultures in its prescription. Mutua (2002) argues that RBA does not genuinely evolve through a genuinely multi-cultural ground. He argues that RBA

does not take into account the values and ethical frameworks of a cross-section of the people of the developing world. Despite such discontent among critics of RBA, this study, based on informed findings of previous studies (ActionAid, 2005, Sarelina, 2007 and Salomon, 2003) would argue that the new development approach enables the marginalised to deconstruct structural barriers emanating from cultural practices in their societies. Thus, the marginalised often become critical and tend to seek answers from duty bearers and check against abuse of public resources (Chitonge, 2006).

2.3 Basis of RBA in Women's Land Rights Claims

The legitimacy of RBA as a people-centred approach to development can be traced back to the philosophy behind the formation of the United Nations (UN) in 1945. First and foremost, the legal, political and moral basis of RBA is found in the UN Charter (1945), which forms the genesis of the UN: "We the peoples of the United Nations determined...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women" (Gandhi, 2008: 2).

The UN, which is a manifestation of the 1945 People's Charter, is very explicit when it comes to the protection and promotion of women as "sharing equal status to that of men" (Article 1 of UDHR) in its historic Universal Declaration of Human Rights (1945). Articles 17 and 22 of UDHR are very much in line with the land as well as proprietary rights issues affecting women. Article 17 of UDHR underscores the inalienable right of everyone to own property, which should not be arbitrarily taken away from him or her (Gandhi, 2008). This is relevant to the question of women's land ownership which is the centre of this investigation in line with Article 22 of UDHR, which provides for the provision of social security by the duty-bearers.

Regionally, it is worth noting that RBAs are equally formulated in the 1986 African Charter on Human and People's Rights (AfCHPR), commonly referred to as the Banjul Charter. The Charter emphasises the indivisibility of human rights: "that civil and political rights cannot be disassociated from economic, social, and cultural rights in their conception as well as in their

universality” (Smith, 2007: 126). These declarations are moral and political commitments that call for member states and the international community to take action to fulfilling their obligation to enable people realising their rights on a non-discriminatory basis.

Following the above international moral and political commitments, other legal and moral obligations emerge that give credence to a legal basis to human rights discourse in general and RBA in particular. Such international instruments include the International Covenants on Political and Civil Rights (ICCPR 1966) and International Covenant on Economic, Social and Cultural Rights (ICESCR 1966). Both of these stated conventions are expressed in the RBA principles. The principles of participation, accountability, non-discrimination and empowerment underscore the claim that RBAs are civil and political rights (ICCPR) in nature which are used as a vehicle to attain the social and security needs of human persons as stipulated in the ICESCR. For instance, principles of participation, empowerment and accountability are civil and political oriented which are articulated within parameters of the right to freedom of expression. The freedom of expression is such a powerful vehicle to the realisation of people’s social security needs as they challenge power relations among those in authority and eventually demanding their due rights from the duty-bearers.

Article 26 of ICCPR provides for protection against discrimination in any form including that based on sex. This establishes a general and independent protection against discrimination and protects women’s rights to land and property on a non-discrimination basis. Article 19 of ICCPR further provides for freedom of thought and to hold and express opinions. This is well covered in the RBA’s participatory approach of the rights claimers. Above all, the status of RBA as a catalyst to make human rights and development meaningful is further strengthened by the UN Declaration of the Right to Development (RtD 1986).

Perhaps the closest link between RBAs and women’s land rights claims is the specific convention that targets women, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Article 4.1 of CEDAW calls for *state parties to take affirmative action to ensure women’s participation in national and local issues in a*

way that guarantees their equal status to their male counterparts. Article 2 of CEDAW is even more explicit in this cause as it sets out the content and outreach of the state obligation “to respect, protect and fulfil women’s right to equality (Tomas, 2005:27)”. So too is the African Protocol on the Rights of Women (Article 8c) as it obliges “state parties to set out all measures that ensure that women are aware of their rights including education (Tomas, 2005)”. Owing to the above elaborated international commitments and instrumentalisation; it suffices to conclude that RBA is a legitimate tool to deconstruct the structural problems that alienate women from their land both in patrilineal and matrilineal cultural set-ups in Malawi. Men are the beneficiaries of women marginalisation.

As a gesture of commitment to intervene in the plight of women, the Malawi government, which is a signatory to these international protocols and has so far ratified the above stated Conventions aimed at protecting and promoting women’s rights, has domesticated most of the international provisions in its Constitution. Chapter 20 of the country’s Constitution provides for *non-discrimination* practices between men and women. Chapter 24 of Malawi’s Constitution does provide for women’s rights to property in and outside marriage. However, the Constitution does not put the issue of land rights categorically due to customary constraints. Furthermore, the much anticipated 2002 Land Policy is taking long to be enacted due to gender gaps on one hand, and resistance from chiefs on customary grounds (Kathewera et al.,2010). The woman in this case is the biggest casualty as men continue to have an upper hand over land rights as long as the status quo legally and in practice remains unchanged. Furthermore, despite the Constitution’s spirit in levelling the playing field between male and females even in areas of property rights that incorporate land rights, the experience on the ground is far from meeting the aspirations reflected in the Constitution. Most of the provisions put to protect women in Malawi’s Constitution and associated national land policies are rarely or never enforced. And, if they are, the rights claimers (marginalised women) are not aware of them and do not benefit from them largely owing to great illiteracy levels in the country among the female population (NSO, 2008).

2.4 RBA, Women's Land Rights and Development

In its 2003 report, the World Bank underlines the relevance of land rights to individual and national development: "Access to land and the ability to exchange it with others and use it effectively are of great importance to poverty reduction," (World Bank, 2003:1) in Ik Dahl et al. (2005:31). The report further condemns the tendencies to neglect women in land rights issues, arguing that this perpetuates poverty. The report echoes similar studies that point to the relationship between women's land rights and children's rights, which is crucial aspect in counting on development indicators, describing land as important asset both for children's nutrition and for children's education opportunities especially girls (World Bank, 2003: 57-58, cited in Ik Dahl et al 2005:33). The report therefore calls for stakeholders including national governments, development agencies and financial institutions to move into affirmative action in increasing women's control over land so as to have a strong and immediate effect on their welfare, that of their children and future generations (World Bank, 2003).

For these women to have control over land, this study sees it as imperative that the right-based approach be applied to enable them claim their right to land. Through the principles of participation and empowerment, women are likely to make duty bearers fulfil their obligation. The immediate and future returns will be development in the women's livelihood, which in turn will benefit families and communities. This is likely to be clearly reflected in the development indicators at national level as alluded to by the World Bank's report (2003).

Various scholars have argued for and against the relevance of human rights to development. In his review of those arguing against the relationship between development and human rights, Robert Goodin (1979 in Freeman, 2002) summarises that a restriction on civil and political rights enables government to create social stability which attracts investment which brings economic growth in return. In contrast, in his comment on those arguing in favour of human rights, Goodin concludes that "respect for economic and social rights may be an investment in human capital while the rich do not invest their wealth on productive investment," (Freeman, 2002:150).

Sen (1999 in Freeman, 2002) holds that civil and political rights hold government accountable to prevent economic crises such as environmental degradation and corruption, which have a big impact on the state's economic performance. He observes that human rights are instrumental in securing government's policies that are favourable to development and human rights, "and they have an intrinsic value in recognising human dignity" (Freeman, 2002: 150). In contrast, Taylor (2009) argues that empirical evidence from most Arab states and Asian states like Saudi Arabia and China suggests that rapid economic development can be associated with respect to social and economic rights even though civil and political rights are least respected. However, this study would argue that economic development is limited in its meaning if people especially women remain marginalised in their participation to national economy. Land issue is central factor in any development theory. Rights based approaches are therefore, not only a concept in the new development paradigm, but also as a tool to deconstruct social barriers to enable women to claim their rights by challenging the authorities.

Globally, the RBAs are linked with the Millennium Development Goals. The Gender and Women's Empowerment is third of these eight goals. Once implemented, the RBAs, through participation and non-discrimination can foster a speedy and meaningful functioning of the goals' indicators: education, employment and political participation. But critics are concerned with the inadequate resources committed to the cause by state parties and the international community (World Bank, 2003). Land right is essential to the realisation of the MDGs and lack of it makes the attainment of these goals by 2012 very remote.

Government of Malawi launched a national growth strategy in 2006, the Malawi Growth and Development Strategy (MGDS). It is a detailed articulation of government's measures to transform the country into an economically sustainable nation in line with the over-arching goal of the Millennium Development Goals (MGDS, 2006: 4). The place of women's rights is articulated in it as it calls for affirmative action to enable women and girls participate in decision-making roles and promote advocacy for gender equality (MGDS, 2006). However, the evidence on the ground suggests that the government's commitment is unlikely to attain

its aspiration by 2011 as women remain institutionally marginalised. Structurally, both statutory and customary laws offer little remedy to women's long-term denial of land and proprietary rights. However, applying RBA in this strategy could make a difference. Hence, this paper would argue that RBA in women's land rights interventions holds a key to the national development growth.

2.5 NGOs and Women's Land Rights Claims in Malawi

As presented in Chapter 1, ActionAid has been working in Malawi since 1990. It had applied welfare or charity approach to development till the past few years when it heeded to the global call for RBA. Since the adoption of RBA, ActionAid has claimed to mainstream its country programmes within these rights-based approaches (ActionAid, 2008). Apart from ActionAid, several NGOs operating in Malawi claim to be applying RBA including the VSO, CURE and other local NGOs. In principle, RBA as a philosophy is expected to be mainstreamed in most of development projects and programmes in Malawi. But empirical evidence suggests that most state actors like government's development agencies and departmental ministries appear not ready to adopt the RBA in practice. This leaves the NGOs as the driving force of the RBA. Several theories may be suggested for state actors' reluctance to adopt the RBA principles in their developmental work. Chief among them is that most of the state actors, for instance, ministry departments are duty-bearers hence would not want to empower the poor who could in return make them accountable by demanding services due to them. This is largely due to bad governance evidently in most state institutions in Malawi (de Soto, 2000). Another theory explaining state actors' response to RBA is the lack of capacity for state actors to facilitate developmental services to the people as Riddell et al (1995) argue that failure of the official aid programme to roll out and make an impact on the poor forces the government to reduce its direct involvement in development activities. Hence, Heijden, Suharto (2007 in Riddell et al, 1995) argues that NGOs have a comparative advantage over state as they are responsive to their needs and are flexible in their approach to work. Analysts further suggest that since NGOs are closer to the people and work within a target group they are more effective in promoting development (Ibid).

The above theories of the state failure to implement RBA as discussed justify NGOs overtly involvement in rights programmes. ActionAid, as a development organisation has its mandate to fight poverty among the poor. As explained in Chapter 1, ActionAid (2008) study reveals that women are the poorest of the population but yet very vital in the country's ambition to attain both the MGDS and MDGs. The state as a duty bearer has demonstrated failures to address women's plights. This has been demonstrated through the legal and justice system that is patriarchal oriented and marginalises women. This is further reinforced by insufficient enforcement mechanisms to respect CEDAW and local statutes that protect and promote women's land and property rights. This study, therefore, is of the opinion that the state may have vested interest in RBA, whose pillar is empowering the marginalised, owing to its position as a duty-bearer and would avoid any opportunity that would make its citizen become critical of its policies and practices hence put it under pressure to fulfil its obligation. Thus, NGOs like ActionAid Malawi are well placed to intervene in women's land rights problem that could see these marginalised population empowered enough to make the duty bearers accountable and demand the redress to their land rights violations.

CHAPTER 3

METHODOLOGY

3.1 Introduction

This is a qualitative research. The findings and analysis are based on a comparative study of cultural differences between Mzimba and Machinga communities. *Refer to the Appendix 1 for the Case Study's WOLAR Project description.* The two communities referred to are patrilineal and matrilineal. Despite the many similarities between them, they have contrasting beliefs and practices when it comes to marriage and inheritance systems. This difference forms the focus of my study. The findings reveal the practical implications of applying rights based approach in a culturally diverse society.

Using field interviews with the ActionAid staff (who have been part of the implementing team of the WOLAR Project 2009-2010), users (the women participating in the project) and traditional leaders (key informants as they are regarded as custodians of culture), the research findings confirm and disprove some of the assumptions and theories informed by the previous studies that formed part of the secondary data.

3.2 Qualitative Research

In a qualitative research, words are emphasised in the processes of data collection and interpretation as opposed to numbers of respondents as is the case with the quantitative method (De Vault, 19997). Riva et al. (2006) describe qualitative research as an approach

that is designed for a social sciences inquiry dealing with human behaviour and organisation performance. This is in line with this study as it focuses on a small population and a specific (s) geographical location (s) whose findings and analysis would be applied to the wider population.

3.3 Why Comparative Case Study?

Seale (2004) defines comparative method as “the comparison of people’s experiences of different type of social structure or across cultures at a single point in time. It can shed light on the particular arrangements of both sides of the comparison (Seale 2004: 506)”. Thus comparative perspective as a research methodology involves drawing common features between the two situations while highlighting differences between them. The difference (s) forms the basis of comparative study (Holt & Turner 1970, Oyen 1990, Sica 2006).

Milena et al. (2008) appraise case studies as effective method to obtain contextualised information on an inquiry with a clear focus to other attributes such as behaviour, expressions and non-verbal communications. Cohen et al. (2007) further argue that case studies assure the credibility of the study findings as they are mostly reliable and they have so far proved the most valid pieces of social sciences inquiries. This is possible, as Cohen et al. (2007) observe, because it is easy to appreciate and comprehend a problem within a small study context than in a big segmentation as the former keeps the researcher more focused on the essential details than the latter.

3.4 Theoretical Perspectives in approaching the comparative study

Grounded Theory

Many scholars and activists are increasingly using structuralist and feminist theories as interventionist mechanisms to deconstruct patriarchal dominance and reconstructs the gender

balance between males and females in society (Vicky 1987) which may see both sexes enjoy equal rights to resources and economic activities, and this include owning, accessing and use of land (Agarwal 1994 a, b; 1997, Jackson 2003, Kandiyoti 2003, FAO 2002). Feminist theory is premised on the belief that women are mistreated and are being perceived as unequal to their male counterparts although they possess the same human rights (Bayrn, 1995 and Chafetz, 1997). Chafetz (1997 in Sahautdinov, 2010: 13) argues that men and women are equal in all aspects. Freedman (2001) looks at feminist theory in three-fold; *liberal*, *radical* and *Marxist* approaches. A pro-feminist perspective argues that the approaches enable policy makers and activists identify root cause of disparities between men and women and invent measures to attain equality (Peterson and Runyan, 1999). The proponents of feminist intervention argue that they are instrumental in analysing the root causes of power relations imbalance and can lead to identifying solutions to deconstruct male dominance either by agitating legislative changes or enabling women infiltrate the market economy to get empowered (Ibid).

The above theories, in their own right, have so far been known to be good theories that have made a fair impact to empower women's rights in several aspects. They have been applied to investigate various structural problems, and women's land rights issue is one of them. However, these theories would not be workable in the situation of the women in Malawi needing interventions in their land rights problems. Cultural and sociological factors surrounding women required a multi-theoretical approach that gave room to other theories generated from the data which were used as tools for both collecting the data and analysing it. Thus, the study adopted a grounded theory.

The grounded theory approach enabled the researcher to go to the sources or communities with an open mind to understand their perspective. The data collected coupled with the informal interactions with the community outside the interviewing session, enabled the researcher to construct meanings and draw a theory (s) based on data. Thus, the theory emerging from the data was used as a tool to reinforce the researcher's investigations on the study further and at the same time acts as a tool to analyse any further data to be collected

(Charmaz 2002, Glaser & Strauss 1967; Corbin & Strauss 1998, Gray 2004, Seale 2004, Bryman 2008).

3.5 Data Collection

Data for the research is based on primary and secondary sources. The secondary data were sourced from pieces of literature by scholars and commentators. The sources include but not limited to journals, books, periodicals, library sources, articles, web sources, news papers, electronic media, Government of Malawi official documents and publications, ActionAid official documents and publications, UN documents, International NGOs documents, International Governmental Agencies (CIDA, SIDA, DfID, ASIDA) documents, conference papers, scholarly dissertations and scholarly essays. Primary data were collected through field interviews with ActionAid staff who were implementing women's land rights project in the case study elaborated above, and with similar interviews among the users (women participants in the project) including the chiefs.

3.5.1 Secondary Data

The reasoning for the use of rich source of secondary data in a field research is to have a fair appreciation of the problem of my inquiry and possibly explore alternatives on interpretational tools to analyse the problem to arrive at a solution (Kvale, 1996). The secondary data also acted as instruments to assess whether the research problem is in line with the on-going human rights or social sciences debate at the global level (Mack et al., 2003). Hence it has enabled this study to draw limitations and effectively delimits the scope of the inquiry to match the acceptable standards. However, the adoption or use of any of the secondary sources of data was based on thorough regard to the following features; *authenticity, credibility, representation and meaningfulness* as argued by Scoff (1990 cited by Bryman and Bele, 2003).

Scoff (1990 in Bryman and Bele, 2003) says that *authenticity* in the use of secondary data is crucial to ensure that readers or users of the end-product (study) should not question its originality. *Credibility* ensures that there are no cases of distortions or errors in the way the study argues its case (Ibid). *Representation* in secondary data ensures the information incorporated in the research is legitimate or represents a general consensus as opposed to a small interest group (Ibid). *Meaningfulness* sources of secondary data ensure clarity of the sources in trying to make the user comprehend the information content easily and competently apply it in his or her study (Ibid).

3.5.2 Primary Data

Primarily, the data for the study was collected using grounded theory approach. The data collection method was in-depth interviews (*Refer to the appendix 2 to a set of guiding questions*). The research used a set of semi-structured questions purposefully to probe as much information as possible from the participants. The application of grounded theory matched with this intention. The theory enabled a researcher to get into communities with no prejudice and opened his mind to any issue that unveiled in the course of conducting interviews and interactions with the people on the ground. The researcher used voice recorder in most of the field interviews for accuracy. The researcher conducted the interviews between 17th December, 2010 and 25th January, 2011. The interactions between the researcher and the interviewee were crucial for data grounded theories “to acquire basis for empirically grounded conclusions” (Alvesson and Skoldberg, 2000:1). Hence, the theory that was employed in the course of collecting data was in this case *grounded theory* which is a data grounded theory to gather data and analyse it (Charmaz 2002, Glaser & Strauss 1967, Corbin & Strauss 1998, Gray 2004, Seale 2004, Bryman 2008)

Sampling

The research adopted a purposeful sampling, which, according to Strauss and Glaser (1967 as cited by Lee and Lings, 2008) and Hart (2005) is aimed at engaging participants likely to provide relevant information regarding research questions and the relevant theoretical question. The study took a thorough consideration of the selection of the participants before

the researcher made a formal approach to them. Accessibility of the participants was the common underlying factor for the selection of the interviewee (Maylor and Blackmon, 2005). Four categories were considered. The first category of the sampling was on the choice of women users or participants of the WOLAR Project. Three women were interviewed each community (Mzimba and Machinga). In this category, the study used literacy level as a criterion for selecting the interviewee. The study therefore, incorporated one woman who was illiterate (could not read and write); another woman whom the study incorporated was categorised as semi-literate (basic reading and writing skills); and the third category was a literate woman (who is fluent in reading and writing both official and national language and probably had gone beyond basic education level which in the understanding of this paper is a minimum of high school education). The second category involved the traditional leaders. One senior chief from each participating community was involved; T/A Nyambi of Machinga and T/A Mzukuzuku of Mzimba. These were used as key informants to this research study and are crucial as they are regarded as custodians of culture and the customary land. The third category of participants involved an ActionAid volunteer field staff in each community. These provided valuable information as they would not be bias to any side as they represented the ActionAid in the eyes of the community on one hand, and the community in the eyes of the ActionAid's management. The fourth category of sampling was the national coordinator of ActionAid's WOLAR Project who gave the organisation's position on the use of a rights-based approach to their work and in particular how the approach had worked in the project under this case study.

3.5.3 Interviews

The research used interviews as a data collection tool from the participants. It used semi-structured questions as interview guides in order to capture as much rich data for my study. *Refer to Appendix 1, for interview guide questions.* Each interview took about 45-60 minutes. Eleven in-depth face to face interviews involving eight women and three men were conducted.

Bryman (2008) indicates that in-depth interviewing which is normally based on semi-structured questions gives a room for flexibility in making follow-up questions to gather more and in-depth information of a particular aspect of inquiry while at the same time keeping the discussion on focus (Andrew, 2003 and Gray, 2004). At the same time semi-structured questions enable the interviewees to express issues without narrowing themselves and this enrich the data as suggested in (Lee and Lings, 2008 in Alagpulinsa, 2010: 34): “would tap deeply into respondents’ own experiences, feelings and opinions in the topic.”

The researcher’s experience as a professional journalist helped in getting out as rich data as possible out of the respondents as argued in Lisa (2006:1 cited by Chama, 2010:25) “to explore the respondent’s point of view and it is in this sense that in-depth interviews yield information”. Mack et al. (2005) agree with Lisa (2006) on the power of in-depth interviews as respondents are not forced to fix on the prepared structural questions of the interviewer as often is the case with quantitative research. Ziebland and McPherson (2006: 411) argue that the in-depth interview is interactive and pedagogical in a way it excites a good rapporteur between the source (interviewee) and interviewer which enables the latter to take note of issues beyond the conversation: “there is a gap between ‘what people do’ and ‘what they say they do’ and the alert analyst explores how people talk and structure their accounts as well as what they say”. In the long run, this approach formed the basis of grounded theory method as in-depth interview is a tool “to develop data grounded in the interview session (Holloway, 1957: 57).”

3.6 Data Analysis

Holloway (1997: 43 cited by Chama, 2010: 27) says data analysis implies “breaking down of the data which is then re-assembled to form themes and to allow the researcher to revisit the aims and initial research questions”. Owing to the above understanding of data analysis, the study has grouped the responses of the interviews into similarities and dissimilarities. Firstly, the study has worked on the similarities and dissimilarities within one community in each case. Secondly, the study has matched the similarities and dissimilarities across the two communities. Out of the volume of information categorised (Strauss and Corbin, 1990), the

study has drawn up themes or concepts as a deductive approach to arrive at the theories emanating from the data in line with the grounded theory. The study has further made several cross-examinations of information of the findings in order to establish portions of themes or concepts (Miles and Huberman, 1994).

As a theory emerging from data, the study did not limit its analysis to issues that were in assumption earlier when it embarked on the investigation, rather it took equal consideration of issues that were emerging from data in the course of the analysis (Ziebland and McPherson, 2006). At the end, the study has attempted to demonstrate that it has been possible to draw portions of the themes or theories of this research.

3.7 Ethical Issues

Ethical issues in the social sciences research refer to a consideration of the “set of principles drawn up to guide our research actions in the field as well as protect the rights of participants” Somekh and Lewn (2005:56 cited by Alagpulinsa, 2010: 36). When collecting primary data from the field, the study tried as much as possible to be within the expected standard of ethical code for research by observing the following key areas: in the first place, the researcher made a disclosure before the participants (Korchin and Cowan, 1982) by declaring his full identities and his interest in the study he was undertaking. In the course of booking appointments with the participants, the researcher made the study’s objectives clearly to the interviewees what the study was all about and where the respondents fitted in the process. Secondly, the researcher sought the Free Prior Informed Consent from the participant before commencing any interview session with them (Hart 2005, Gray 2004, Bryman 2008, and Seale 2004). It was discovered that some women needed to get clearance from their husbands and the researcher had to respect this cultural requirement as noted in the patrilineal community of Mzimba. The fact that women had to seek consent from their husbands affirmed the study’s assumption of how submissive women were in this community to their husbands. It underlined the aspect of highly patriarchal male alpha dominance and formed part of the data grounded theory revolving around observation, attitudes and practices within the sample group outside the interview session. The researcher further sought the

participants' consent to voice record their interview responses. Thirdly, the researcher has tried as much as possible to protect the image of ActionAid by remaining confidential with their official documents. The researcher took personal responsibility to handle the information given by their staff with respect and privacy it deserves to protect ActionAid's corporate image (Somekh and Lewn, 2005). Further to this, in analysing the data, the study has deliberately omitted names and official positions of the individual ActionAid staff that granted the interviews to protect them from an eventful repercussion should the employer feel the study's outcome compromises the organisation's pride. Lastly, as regards to use of secondary data in this paper, the study has tried as much as practically possible to exercise intellectual honesty by citing all the sources used in the analysis of both primary and secondary data.

3.8 Limitation

To begin with, the project was implemented only for a year and bearing in mind that RBA is a new concept even among the ActionAid staff, it was no wonder that the users expressed insufficient understanding of its implication. This aspect had the potential to deny the study much valuable data for a thorough informed study outcome. Secondly, the two areas on which the study was conducted are too small to make a general conclusion of the whole population of women as regards to their situation on land rights in Malawi, hence, the study risks making a hasty over generalisation of the situation on the ground. Thirdly, resource constraints as the researcher had to use his personal funds for the exercise thereby risked compromising the quality of data collection to minimise the costs.

However, the researcher is assuring the readers or users of this study that he has tried as much as possible to minimise the above weak areas noted by reading as much literature as possible to double equip the study articulate with the knowledge of RBA as wide as possible. The researcher had been constantly in touch with participants for any updated information or clarification on the data in the course of its processing. This was part of the processes in grounded theory (Charmaz 2002, Glaser & Strauss 1967, Corbin & Strauss 1998, Gray 2004, Seale 2004, Bryman 2008). Hence, readers or users of this study should be assured of quality and usefulness of the findings and analysis entered in

CHAPTER FOUR

FINDINGS, ANALYSIS AND DISCUSSION

4.1 Introduction

This chapter describes and analyses the research findings which inform key themes of the discussion of this research. The context of this chapter is based on the face-to-face in-depth interviews conducted with 11 participants of WOLAR Project (*Refer to Appendix 1 and 2*) as discussed in chapters 3. The findings are grouped into themes that emerged from the responses of the participants during interviews. The researcher's personal observation in the interpersonal and intrapersonal interactions with the community shall also factored in as part of the data collection. The themes helped to explain and understand factors underlying the prevalence of women's land rights problems in both matrilineal and patrilineal communities. The themes formed the basis of the researcher's investigation and were being used to interpret and to analyse the data. Literature as secondary data was also being used to analyse the primary data.

The first part of this chapter starts with the context of the women's land rights problem emanating from a discussion of the factors underpinning their exclusion from holding land rights. The context is revealed through the themes and concepts developed from the participants' account in the process of field interviews. The second part discusses the research questions and uses the themes and concepts developed in the findings in examining the aim and objectives of the study. The third part discusses the relationship between women's empowerment and development with reference to WOLAR Project outcomes and

Malawi's development strategy paper, the Malawi Growth and Development Strategy (MGDS). The fourth part is the discussion on the key findings and analysis of the paper and their implication to human rights policy and practice in Malawi and at international level. The practical implications of RBA implementation is put on focus in the discussion.

4.2 Factors underlying women's land rights claims

4.2.1 Cultural and Social factors

Previous studies have pointed out that cultural practices and socialisation process have contributed to women marginalisation both in matrilineal and patrilineal communities in Malawi (ActionAid, 2006; Liwewe et al, 2008 and White, 2010 in chapters 1 and 2). At family level, a woman is socially construed to be submissive and her role is limited to supporting the household with labour in the garden, household chores and taking care of children in homes. From young age, male child is socially construed to be physically and mentally stronger than a female child. The male child is given a priority when it comes to deciding on education as most parents would easily pay fees for him first before deciding on a female child. Hence a male child starts dominating over a female child at such an early stage.

The findings of the field research revealed women in the patrilineal community of Mzimba points to the theory that women were being treated as second class citizens in homes by their husbands, a practice which contributed to their land rights problems.

My husband decides for me when to have babies and how many babies he wants me to bear. I am not allowed to decide on what we need to buy in the house, it has to be him to do that. Even when it comes days for me to attend to pre-natal and ante-natal clinics, it has to be him decided for me first. (Interview, 17.12.2010)

The above claim of the woman was later substantiated when the researcher, by chance, came across a revealing example of a man within the same community, where he boasted of his achievement as a small scale farmer in his community in a radio program interview. The picture of a woman he painted was so demeaning: “I have three large gardens, one I grow maize and two others I grow tobacco. I have a bicycle, an ox-cart, a herd of 15 cows, 23 goats, chickens, 20 bags of maize, 6 children and a wife” (Interview, 17.12.2010) and when the program presenter further asked him on the rationale of the inclusion of a wife and children on the inventory list of his property, the respondent appeared composed “yes, children I own and a wife I own as well, they all belong to me, they are under my arm-pit”.

The situation appears no better in the matrilineal community of Machinga. Though culturally women are believed and expected to wield more power than men owing to the fact that they do host men in their family homes and hence own land, male dominance is usually at play in marginalising these matrilineal women from benefiting from their status as land owners.

My husband decides which child should go to school and when the kid (s) should start schooling. He dictates what he thinks is the best crop to be grown in my family garden. His decisions often times subject the family to hunger. We may grow tobacco and after sales he does not buy enough maize to sustain us throughout the year. I cannot challenge him. I fear him. I simply have to go by his word. He is a man. (Interview, 20.12.2010)

The interview excerpts above of women from two communities suggests that that women are at a disadvantage irrespective of the pattern of marriage and inheritance practices they culturally belong to (Liwewe at al., 2008 in chapters 1, 2 and 3). On one hand, in patrilineal communities, the wife is denied any role in the family and is not entitled to any property except when and where she is permitted by the husband. A woman access right is guaranteed in relationship to the husband: as long as they are together as a husband and a wife, and once they divorce or the husband dies, she loses all her access rights. Thus in patrilineal a woman is reduced to a mere sexual object for procreation and a mere producer of labour whose benefits the husband enjoys. On the other hand, in matrilineal communities, though women are culturally expected to wield power over their husbands in the matrilocality homes the practice seems to be disadvantaging them. The “he is a man” in the interview excerpt as

shown earlier above denotes a lot about patriarchy and male chauvinism in practice even in matrilineal society: women in matrilineal society are subject to masculinity cultural abuses under the disguise of “he is a man”. This practice paves easy way for husbands to control the use of the woman’s land and effectively he benefits more from it than the customary owner, the woman.

So far the above findings agree to most of the literature reviewed and analysed on the causes of women’s land rights problems in society that indicates the problem of power relations owing to cultural and social constructions as factors underlying male dominance at the expense of women’s land rights in Malawi (White, 2010; Liwewe, 2008 in WORLEC et al., 2008 and ActionAid, 2006 in chapters 1 and 2). The findings support the assumptions outlined in this study before the field data that pointed to the theory of power relations as a dominating factor in women’s land rights issues (chapters 1 and 2).

Owing to the theory of power relations as applied in the case of women’s marginalisation in land rights, women in patrilineal communities are culturally alienated from land in two folds: they have no land rights from their family as they leave it for their matrimonial homes in their husbands’ family land, where, they are also not entitled to land rights as they are treated as outsiders (Liwewe et al., 2008 in chapter 1). In matrilineal communities, though they own land, it is men who control: husbands in practice decide how to use land and in some cases it is their maternal uncles or elder brother who dictates how the land ought to be used, for instance, in some cases, women cannot plant trees without the consent from an uncle or an elder brother. This is despite the fact that culturally, the land in matrilineal community belongs to women and they are supposed to exercise 100 per cent control over it. In conclusion, therefore, this finding has demonstrated that patriarchal practices and male chauvinism are the major cultural and social barriers to women’s efforts to claim land rights in patrilineal and matrilineal communities.

4.2.3 Illiteracy and Poverty

Previous studies have suggested that women both in matrilineal and patrilineal communities face a big challenge in their claims to land rights largely due to high illiteracy rate among women population in Malawi (MGD Malawi Report, 2002 in chapters 1 and 2). Statistics indicate that, as of 2002, illiteracy rate stood at 73 per cent for women as compared to 45 per cent for men (Ibid). This leaves women at disadvantaged position in their participation in economic activities: they have limited opportunities to penetrate the job market due to insufficient qualifications, and even if they do manage to get employed, their low qualifications reduce their chances to better positions that would guarantee them better wages. Those wanting to do business are subject to market manipulation by reportedly male counterparts due to their limited numerical and reading skills. In an interview with a woman participant of matrilineal community of Machinga who grows small scale tobacco on her family land, there was a revelation of exploitation by businessmen who paid her by far lower prices for her produce than the normal cost. The businessmen, who were mostly middlemen, took advantage of her being illiterate to dictate low prices in buying her tobacco. In cases where joint investment is made to boost family finances, men, who are mostly better off literally, end up cheating women in the process, capitalising on the woman's lack of literacy skills as narrated by this patrilineal Mzimba woman in an interview: "I am not sure of the exact figure my business makes as a profit per trip. My brother handles everything. I am shocked now to realise that we are even failing to raise enough money to replenish the stock" (Interview, 17.12.2010). Even women in the matrilineal communities face similar abuse. An interview with a matrilineal woman from Machinga revealed that her husband was hiding details of the income they had realised from their tobacco sales at the auction. She suspected that the husband had diverted their money for his private use. He took advantage of her being unable to read and write to exploit her.

As earlier observed and argued on the implication of cultural and sociological factors to women's land rights, women in matrilineal communities, though having ownership and accessibility rights to land in their family homes, due to illiteracy, husbands or sons or uncles, or other men within market system, control their land and benefit from it. While in patrilineal

communities, it is illiteracy coupled with male chauvinism that is at play that leads them to poverty as they are alienated from any activity to do with family finances.

As pointed out in the previous studies, illiteracy is one of the causes of poverty among women population (ActionAid, 2010 in chapters 1 and 2). This study suggests that illiteracy is a result of cultural and sociological factors that subjects women to disadvantage right away in their families from a young age and in their matrimonial homes when they grow up as argued earlier in this chapter. Poverty is the product of such structural practices that deny women educational rights in their families while they are young and effectively subjects them to economic manipulation by their male counterparts: their husbands in their matrimonial homes, unscrupulous businessmen at the market and limited chances of employment.

Thus, poverty subjects women to further economic marginalisation as revealed in their inability to secure loan to either buy farm inputs or to start a small scale business. This is due to the fact that the loaning institutions would always ask collaterals which women do not have. The mere fact that they are women makes their case even weaker as Nduna (2003) argues that women are marginalised just because they are 'women'. The woman participant from patrilineal community of Mzimba in an interview as shown in an excerpt below underscores the extent to which gender discrimination based on sex is so institutionalised in Malawi at the expense of women's empowerment efforts.

I had been to this money lending company (name withheld) on several occasions to plead for a small amount of money less than MKW20, 000.00 (equivalence of £89 or USD130). I am told I do not qualify as a recipient. They say they need a surety from a husband or any other man. I am just a widow. I have no closer male relative here. I came here to follow my deceased husband. (Interview, 17.12.2010)

Owing to poverty resulting from illiteracy due to cultural and sociological constraints facing women in the two communities, it makes it difficult for them to claim their land rights. Women in patrilineal community are structurally excluded from land rights ownership both in their family land and in their matrimonial homes as explained earlier in this chapter. For

those that are not married, they do not have enough money to buy land. Women in matrilineal, though have land rights, lack of literate skills makes it difficult for them to benefit from land as earlier revealed in this chapter that men manipulate them and even if they can be left with their land, they have no money to translate it into a productive resource as they would require farm inputs and labour (ActionAid, 2005). Further to the just stated factor, due to poverty, women in matrilineal community would find it difficult to claim their land from male relatives as they cannot afford legal fees should they desire to challenge patriarchal actions in statutory courts (White, 2010). The attempt to statutory courts is a rare and last resort as the customary courts are reportedly dominated by males whose patriarchal decisions arguably marginalise women (White, 2010). Therefore, the study concludes that it is women's lack of capacity to claim or reclaim land due to poverty and illiteracy, which leads to difficulties in the application of a rights-based approach in the local communities as it takes time for the women to gain empowerment.

4.2.4 Religion

In the build up to the study, religion did not form part of the assumptions in analysing factors contributing to the marginalisation of women in their land rights claims. However, data collected suggest that religion, just like culture, plays a role in marginalising women in their land rights. As argued earlier in this chapter, socialisation factors are also at play as religious beliefs, teachings and practices are passed on from one generation to another in homes and social circles that forms part of the people's culture.

An analysis of the main religion's teachings in both Islam and Christianity reveal evidence of women marginalisation in the way they are presented and represented (Koran and Bible). Arguably the teachings of these two books are suggestively patriarchal in their representation of a woman's place in society: men are portrayed as heads of families and masters over their wives. In contrast, women are portrayed as subordinates, passive dependants and persons under obligation to be submissive to their male counterparts, especially their husbands (Koran and Bible).

An analysis of the perception and concept of religion in matrilineal Machinga district, a predominantly Islamic population, testifies how Islam is entrenched and embedded in their culture in their daily lives. Islam teaches submission to God by its followers (Koran). The Holy Koran, the Muslim's Holy Book, teaches women to be submissive to their husbands. It has a litany of teachings that prescribes a code of conduct for its followers as asserted in this interview with a woman participant of WOLAR Project "The Holy Koran teaches us to be faithful and obedient to our men. This is what God wants us to do. We learn this right away when we are very young. We cannot go against what God created and written" (Interview, 20.12.2010). The implications of these attitudes and beliefs are that men tend to feel superior to women as the religious institutions appear to legitimise their dominance. This leads to several abuses and affects women's ability, even in the matrilineal community, to control and use the land to their benefit. As a result, the situation makes it difficult for NGOs and interested agencies to implement women's empowerment programmes, such as on their land rights in such areas. Effectively, this leads to a large population of women being unable to claim their land rights. In the case of matrilineal Machinga women, where religion is a cause for concern, they cannot challenge the male dominance to claim their right to use their land despite holding ownership rights. This observation was equally shared by one of the key male informants in an interview whom I learnt was a practising Muslim "the Koran has a laid down rule of inheritance mechanism which gives male child an edge over female children and the wife over deceased estate whenever a father dies" (Interview, 20.12.2010). In contrast, the researcher did not note any striking influence of religion in patrilineal Mzimba district. Generally, the people of the area are predominantly Christians.

4.3 ActionAid's implementation of RBA

4.3.1 Introduction

In line with the research question and the study's objectives, this section reveals the findings relating to the question whether ActionAid Malawi did really apply rights based approach in

its implementation of the one year WOLAR Project in Malawi's matrilineal Machinga district and patrilineal Mzimba district. It further answers the question whether ActionAid's implementing strategy was blanket or context-specific. Finally, the section indicates whether ActionAid's strategy (blanket or context-specific) had managed or has the potential to empower women to claim their rights and its subsequent implication to Malawi's development.

4.3.2 Implementation of a rights-based approach

Participants in both Mzimba and Machinga revealed different levels of their understanding of a rights-based approach. They also indicated differing experiences on how ActionAid is implementing the RBA. In Mzimba, except for the key informant, chief, women participants generally showed very limited ideas of rights based approaches. They also painted a blurred picture of how ActionAid is implementing the principles of RBA. In contrast, women participants in Machinga demonstrated a fair understanding of RBA and painted a clear picture of how ActionAid is implementing key principles of RBAs which, according to this study are assessed in the levels of project's *participation, inclusiveness, empowerment and accountability*.

An examination of the application of RBA principles in WOLAR Project

On *participation*, the researcher observed that apart from chiefs and opinion leaders in the community, women involved in WOLAR Project in Mzimba were passive participants to the concept and ideals of it "we were told that this project belongs to us to solve our land rights problems. We welcomed it and we have benefited a lot from WOLAR. Thanks to ActionAid people" (Interview, 17.12.2010). The just quoted statement underlines the extent most women understand and appreciate the project, as a good will gesture of ActionAid 'thanks to ActionAid' rather than their own. It thus demonstrates how some women participants in this project take it as a charity initiative aimed at offering solutions to them from the ActionAid offices. The above statement 'thanks to ActionAid' as quoted signals the failure of project staff and key players in involving the participants and makes them own the project. This

observation tallied with that of matrilineal Machinga district where women clearly indicated that they were never consulted prior to the organisation and launch of the project, and exposed how some women felt being outsiders, and could only come in on invitation to a club that they never understood what it stood for in the first place:

I was sent by our Group Village Head to come here and join these women. Nobody elected me and I did not know what actually I was supposed to do here in the first place. I am now happy and I am able to teach others back to my village about what we do and learn here. (Interview, 20.12.2010).

However, women participants in both areas indicated that the project did involve them in the planning processes of activities and in the evaluation processes. Chiefs in both areas under study did indicate that the project gave them an opportunity to participate in its local, regional and national meetings, and evaluation exercises to a larger extent.

On *inclusiveness*, the researcher found out that there was a greater aspect of applying this principle in WOLAR Project. Most of women participants and key informants indicated that the project was implemented with due respect to indiscriminate practices. Women from all walks of life were welcomed and formed part of the processes irrespective of their social status, educational background, political standing as well as financial standing.

On *empowerment* the researcher found out that women participants in patrilineal Mzimba district had a long way to attain empowerment in as far as the running of the project was concerned. They were still dependent on the leadership of partner agencies of ActionAid such as the Coalition of Women Farmers (COWFA), LandNet and Women and the Law Southern Africa-Malawi (WILSA) to move them into action. The interview quoted earlier of a woman expressing gratification to the organisation 'thank you ActionAid' speaks volumes of how the project failed in empowering grassroots women in Mzimba. For women participants of Mzimba, empowerment was understood in the context of their ability to gain some land rights

“Now I have some piece of land to grow any crop I want. I am different from the past. I have enough harvest and I am able to raise some money for kids’ fees” (Interview, 17.12.2010).

Added to the to the above observation, a series of interactions with the women participants in Mzimba revealed that they could not express themselves in any way: could not point out clearly areas they felt the project could have improved the better or where men especially local leaders could have done better. They were less critical, and appeared to be full of praises to the leadership of the project and the traditional leaders for allowing the intervention in the area. The findings also revealed that women in Mzimba had limited idea of their basic rights, let alone land rights. It required the chief’s intervention for them to learn and start realising some of their basic land rights as revealed in this interview excerpt with T/A Mzukuzuku:

I have been mobilising men around my Group Village Heads and try to reason with them to allow the widow access the land formerly belonging to their late husbands. Also I had to plead with men to allow their women to attend to the projects like this one. I am happy they seem to patronise the project. But they are not up there when it comes to speaking up before men (Interview, 17.12.2010).

In contrast, women participants in Machinga district proved to be empowered to a larger extent than their counterparts of Mzimba. This is revealed when they demanded ActionAid to change its approach of dictating to them issues that have little or remote bearing to their immediate needs:

We are happy with the work they do with us but this attitude of bending us to do what they think is best for us irritates us. That is oppression. Sometimes we do it under protest. Of course sometimes we get our way done. (Interview, 20.12.2010).

Women participants in Machinga appeared to be more expressive and critical to dominant powers than their counterparts in Mzimba: they could challenge their legislator and WOLAR Project leadership as indicated in the quotation above. Thus, this study suggests that the fact that husbands come to live in the women’s family homes makes women in Machinga more

confident than their counterparts in Mzimba. Settling on their own land may have given the matrilineal Machinga women an edge over patrilineal Mzimba women.

On *Accountability*, the findings in matrilineal Machinga revealed an aspect of partial accountability in the way the project was run in its one-year span as one woman participant attested:

We present our budget and list our priorities. We agree on the activities but at times we are forced on an activity that is on our priority menu. We argue against this tendency but in most cases their wishes prevail. Some budget lines are cut without consulting us (Interview, 20.12.2010)

Some key male informants involved in the local management of the project in Machinga agreed with women's assessment of the project's accountability as indicated in the following interview excerpt with T/A Nyambi:

Imagine, at one point, to be precise, last month, money was delayed to be paid out and we kept on waiting without getting an explanation. We discovered that someone up there was responsible, not that it was stolen but some technical hiccups. Whatever the case, we felt we deserved an explanation and maybe an apology. None of the above was issued (Interview, 20.12.2010)

However, lack of strong indicators of empowerment among women participants in patrilineal Mzimba district made it difficult for the researcher to assess the level of accountability of the project. Women in Mzimba, as pointed out earlier on, could not express themselves and articulate issues on critical areas regarding the project organisation and management. This agrees to what most scholars argue on the relationship between empowerment and accountability “without empowering people, they cannot make the duty-bearers accountable” (Actionaid, 2006, 2008 and unicef, 1998)

Apart from lack of women's empowerment that made it difficult for them to enjoy land rights at local levels in both communities, the study further reveals that ActionAid's handling of the users of

WOLAR Project lacked some respect of their rights, a necessity of a rights-based approach. The following interview excerpt of a volunteer project male staff of matrilineal Machinga community may help to substantiate this study's claim of the organisation's apparent lack of respect of users' rights:

Such way of dictating people what to do when they actually know what we ask for has been some of those set-backs in this project. The tendency of not consulting or not forthcoming with credible explanation on some operational change sounds demeaning to us. No wonder some women are withdrawing their participation (Interview, 20.12.2010)

The above findings support the research's assumption stated earlier in chapter one that most NGOs use RBA as a gateway to easily access to donor funding as a survival mechanism of their organisations (chapter 1). This study's empirical evidence suggests further that implementing agencies put the interest of the donor before their set priorities and above the interest of the communities they claim to be serving. The following interview excerpt of ActionAid's WOLAR Project National Co-ordinator seems to affirm this claim:

Donors have their own say on how they would want their money to be used. It is always a challenge to balance what the community expects from us on one hand, and what the donors wants us to achieve on the other hand. Often times, the community may be at a receiving end (Interview, 25.01.2011).

However, there is still glimmer of hope. Clear indications of women's empowerment in matrilineal Machinga are an encouraging development in RBA. Now, these women, as indicated earlier in this section, can voice out and they can challenge the powers that be; the duty-bearers whether NGOs or local authorities (Serlin, 2007). They know what rights are owed to them and have a fair idea on how to go about claiming them. They also have a better understanding of basic principles of human rights. One would hope that if the project were to be extended by several more years, women in patrilineal Mzimba could have attained the level of empowerment and understanding of their counterparts in patrilineal Machinga.

In conclusion, the study revealed that the project might have done well in Machinga because it is matrilineal and women were like just reinstated into their positions of land ownership which they culturally occupy, where as in Mzimba the fight was a twofold; patriarchy and male chauvinism which get support from the culture unlike in matrilineal society where a woman is a ceremonial symbol of leadership.

4.4 RBA in a Culturally Diverse Society: Blanket or Context-Specific Strategy?

Apart from the investigation on the adherence to the processes of RBA implementation, the study also aimed at establishing the strategy employed by ActionAid Malawi in the application of RBAs in WOLAR Project; blanket or context-specific. The research, assumed that ActionAid's approach, just like many other international NGOs, would be blanket, and thus pay little regard to the local context in which they are implementing the project. However, findings revealed that the organisation employed context-specific strategy. Thus, though similar activities were conducted in both Mzimba and Machinga, strategies in employing these activities and time schedules were different. This disproves my assumption in Chapter 1 in relation to the strategy employed to implementing RBA in most NGOs including ActionAid.

In Mzimba we had to start with community campaigns in which we were sensitising chiefs, men and women on the basic women's rights and on women's land ownership rights. While in Machinga, since most women have ownership rights, the main problem was illiteracy. Hence we intensified adult literacy classes which imparted in the women reading and numerical skills. We focused our efforts on how the women could reclaim their user rights in the case of Machinga. (Interview with ActionAid staff, 25.01.2011)

The changes in approaches as described above brought about different outcomes; in Machinga as observed earlier in the assessment of this paper in this chapter, there was evidence of empowerment among women as opposed to their counterparts in Mzimba, who still had a long way to go. The differences in strategies and the accompanying outcomes from the two communities may be attributed to the status of land rights between matrilineal Machinga and patrilineal Mzimba women. The study suggests that Machinga women, since

they own land, may have an upper-hand in the understanding of the basic concept of rights and RBA over their counterparts in matrilineal Mzimba. Therefore, it can be deduced that having land ownership rights was a step forward to the realisation of other land rights, in this case, user rights. Unlike Machinga women, Mzimba women had no ownership rights and needed to start from the scratch.

The context-specific approach is in line with ActionAid policy that urges its country programmes to be responsive to the local needs of its users. It has thus put into practice its policy when it comes to the implementation of RBA in this instance, “country programmes and partners to apply RBA in adaptation to the local context to reflect ‘specific regional and cultural challenges’” (ActionAid, 2006). This raises the possibility of empowering the local community much faster than using blanket approach as the users will not feel alien to some of the methodologies used in the processes as most aspects are locally modified to achieve this purpose.

4.5 Context-Specific approach and Development Goals

The study has revealed that ActionAid’s context-specific application of RBAs has yielded short and medium term expected outcome of empowering women in matrilineal community of Machinga. Women in Machinga appeared to have assumed acceptable degree of negotiating power with men; they seemed to have user rights over their land and are able to control their land and benefit from its produce. The study has further revealed that there is potential for women in the patrilineal community of Mzimba to attain empowerment. Though the attainment of empowerment for Mzimba women remains a long-term goal, the immediate and medium term goals are being realised by the mere fact that women are now able to access land, and for some, own land as revealed earlier in this chapter. This is a step forward, a development that was previously unimaginable in this highly patriarchal patrilineal community. Owing to the aforesaid findings and analysis, the study therefore relates women’s empowerment or projected empowerment to national development. The study envisages that the more the number of women is empowered the more likely the country is to achieve the national development goals.

Malawi government has had sets of development and economic growth goals in the past decades aimed at reducing poverty and ending hunger. The latest of these national goals is the Malawi Growth and Development Strategy (MGDS). As discussed in chapter 3 of this paper, MGDS is a policy document that articulates government's long term goals as prescribed in the previous economic and development policy goals' documents like Vision 2020, Malawi Poverty Reduction Strategy (MPRS) and Malawi Economic Growth and Development Strategy (MEGDS) (MGDS, 2006). Gender and women's rights issues are critical in the realisation of the national development goals. According to MGDS's theme under Gender, the overall priority goal is to mainstream gender in the national development process to enhance participation of women and men, girls and boys for sustainable and equitable development (MGDS, 2006:3). The MGDS has been developed with strong linkages to achieve the Millennium Development Goals (MDGs) and its key strategies include undertaking affirmative measures to include women in decision –making positions and promotion of advocacy for gender equality (Ibid). Previous Studies reveal that gender inequalities in accessing productive resources, development opportunities and development remains a challenge to the realisation of the MGDS (Mataya, 2004 and UN Human Development Report, 2004).

The Gender Development Index for Malawi of 0.374 reveals large disparities between men and women. Women constitute about 51 per cent of the population (MGDS, 2006:51). As pointed out throughout this study, women are marginalised in social and economic spheres thereby rendering them unable to effectively contribute to social, economic and political development of the nation (MGDS, 2006). Education is being pointed to as a key factor to women's empowerment. However, as revealed in this study and in previous studies, women in Malawi tend to have lower education levels than men, often leading to their lower participation in many areas of development. As noted earlier in this chapter and as articulated in previous studies including the MGDS, the main barrier to women's empowerment is their limited level of education. This results to limited access to means of production, and limited participation in social and economic activities. These issues emanates from cultural and social factors constraining women as discussed earlier in this chapter.

This study suggests that empowering women socially and economically is in line with the strategies outlined in Malawi's development policy document whose philosophy is to reduce poverty, ending hunger, educating more people, addressing child mortality, reducing mortality rate and reducing HIV and AIDS prevalence (MGDS, 2006). Like MGDS, this paper envisages that once women are empowered using various RBA interventions such as literacy and food or economic security, they would be in a position to attain other rights; political rights to exercise their freedom of expression and fight for their land rights. Once women attain empowerment and be in a position to make duty-bearers accountable, they would be able to deconstruct power imbalances in society and negotiate a fair share of resource allocation in their families and in their respective communities. In this way, those with no access rights to land would be able to access land; those with no ownership rights would be in a position to own land; and those with limited user rights would be in a position to use their land for their own benefit.

4.6 Discussion

4.6.1 Practical challenges and implications in RBA implementation

RBA is a new approach to development that is critical to the processes of developmental projects or programme rather than the outcome. This as noted earlier in chapter 2 is a departure from previous charity or service delivery-oriented approaches to development. This change of paradigm in development has excited several challenges among the players involved: donors, NGOs, agencies, users and the staff working for the projects. In the first place, as pointed out in chapter 3, there is no defined description of RBAs, and there are no defined rules of operationalising them. This leaves any organisation at liberty to adopt its own approach to implement RBAs. However, the approach has its chain of demands that makes it difficult to satisfy all the players involved and produce the expected outcome at the same time. Nelson and Dorsey (2003 in Alagpulinsa, 2010) posit that the approach requires new skills, knowledge and training to confront the challenges facing it at the implementation level. With regard to this study's observation on the case study of WOLAR Project, it was not clear whether the ActionAid staff, who articulated a clear knowledge of RBAs during

interviews, translated the ideas into practice during implementation processes in the same way they made this researcher believe them in the first place. As revealed earlier in this chapter, sampling of Mzimba women does not reflect this. Likewise, sampling of Machinga indicates a partial reflection of this. The study suggests that it is either lack of capacity to deliver the RBA ideals on the ground or the same issue of power relations whereby the staff felt women were in no position to realise what constituted their rights let alone RBA or not. The staff might have disrespected users' rights and exploit their apparent lack of understanding of basic rights. The study suggests the staff might have willingly taken advantage of women's situation to further marginalise them in denying them a rights-based approach to the processes in implementing the project.

Secondly, as an extension of the above stated issue of power relations, is the issue of sustainability of any development program for social change. As argued in Chapter 3, the principle of empowerment involves the deconstruction of power relations between the privileged and the underprivileged on one hand, between the rights holders and the duty-bearers on the other hand. The question of empowerment should start with the agencies of change themselves as Nyamu-Musembi and Cornwall as quoted by Kapur and Duvury (2006 in Alagpulinsa 2010) echo the above observation that the organisation claiming to implement RBAs should be self-critical whether they themselves are addressing the issue of power relations and inequalities in their involvement with the users or not. However, with the project's life span of one year, the study suggests that it would be virtually impossible to attain sustainability of RBA should the local communities decide continuing with the intervention. Effectively, it would be difficult for women to gain empowerment that could fairly address the question of their land rights as it stands now due to its short duration of only one year.

In conclusion, with empirical evidence drawn from the experience of WOLAR Project in Machinga and Mzimba, where patriarchal practices are dominant factors marginalising women in their land rights claims, this study is of the opinion that even though male views dominate, the ability to inherit land, as observed in Machinga community, gives women some

edge that projects can build on. Consequently, this would lay a fertile ground for the implementation of a rights-based approach. In return it would lead to more women empowered and be able to demand their rights and make duty-bearers including NGOs and governments accountable. Effectively, this could lead in women making the state enforce the legislation and policies that would protect and promote their rights and in specific modifying legislation that does not articulate clear women's place in land rights (White, 2010 in chapter1 and 3). Therefore, as an end product, Malawi would be able to attain its desired development goals as women's population and corresponding contribution is central to the realisation of both the Millennium Development Goals and the Malawi Growth and Development Strategy (MGDS, 2006).

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

This research paper has covered all aspects required for academic discussion. Chapter one introduced the study's aims and objectives, and outlined a set of questions for the inquiry. Chapter two looked at a variety of literature related to the study. Previous studies related to women's land rights had been analysed and discussed that informed the basis of this study's argument. Chapter three gave an account of the methodology used in this study. The study used qualitative method and gathered data through interviews. The study employed grounded theory as a tool to both collect data and analyse it. Chapter four presented the study's main findings and analysis. The study revealed that women both in matrilineal and patrilineal cultural set-ups are denied their respective rights to land by men through patriarchal and male chauvinism practices. The analysis and discussion related the findings to the national development. The discussion also looked at the practical implications of RBA implementation by NGOs and other key players like government and donor agencies. Chapter five is the conclusion which has is summing up main argument of the paper and provides a recommendation for policy and practice at the end of the paper.

The central theory of the study is the power relations and their impact on any development approach. The findings of this study show that power relations between women and men in the two communities studied favour men at the expense of women. Women are structurally marginalised in their communities due to a culture of patriarchal dominance that places men at the centre of the control of resources and in decision making positions. The advantages that men have over women include land rights and positions of power in the land dispute and administration tribunals whose decisions and actions generally favour men. Socially, women are excluded from a young age; they are not given a priority to education, which results in illiteracy and renders them disempowered as they cannot participate in economic activities effectively. Due to high level of illiteracy, religion take advantage of marginalising women as

they uncritically accept male dominance propagated by the patriarchal practices of faith institutions.

The case study from this research revealed that women both in matrilineal and patrilineal communities face marginalisation from male dominance. In patrilineal, women do not own land and in matrilineal, although women own land, it is men who control how it is used. However, the results indicate that the fact that women in Machinga's matrilineal community had ownership rights over land made it easy for them to understand and put into practice basic ideas of rights based approaches. In contrast, women in Mzimba's patrilineal community, with no ownership rights, had no clear idea of a rights based approach. This difference was reflected in assessing the processes of the application of rights based approaches as it was found out that it was relatively effective in Machinga in contrast to Mzimba.

The study further revealed that the context-specific approach adopted by ActionAid in implementing RBA is more effective in achieving results in a culturally diverse society than a blanket approach. The case study revealed that though similar strategies were employed in application of the approach in the two communities, ActionAid did take note of the strengths and weaknesses of each community, which were culturally rooted, and modified its activities based on this knowledge.

The overall findings of the study indicate that ActionAid's application of RBA is work in progress and it partially helped in empowering women under WOLAR Project. The case of Mzimba presented a stronger justification for this paper's position: there was lack of evidence of staff on the ground translating the concepts of ActionAid's RBA policies as discussed earlier in the chapter four. The study suggests that they took advantage of women's vulnerability as manifested in their being poor and illiterate to over ride the processes required of RBA. Power relationships were noted to be at play here. The issue was much more in evidence in Mzimba's patrilineal community than in Machinga for the reason already

explained that women in Machinga had at least had customarily ownership rights and only denied user rights, which is itself a step forward to their empowerment.

However, the research points to the fact that some progress was achieved in the Machinga community and that these positive indications could be built on to empower women. Thus, owing to the promising outcome of Machinga intervention coupled with evidence of gradual progress in the ability of a few Mzimba women to at least have access rights to land, the study suggests that the context-specific strategy to applying RBA has the potential to empower women to claim and enjoy their land rights. Given enough duration of project implementation, the strategy would pave a way for successful implementation of RBA in women's land rights interventions hence trigger national development.

5.2 Recommendation

This study's discussion indicates three major areas worth noting in the implementation of the policy of RBA. In the first place, using the case study of ActionAid and WOLAR Project, it has highlighted the difficulties in the implementation of RBA by NGOs in communities. NGOs, as observed by Kapur and Duvvuy (2006) face difficult tasks in their desire to achieve results on the ground as expected by the communities and stakeholders involved. They are often caught in between fulfilling the needs of the community and at the same time satisfying the donor's interests. Government's cooperation in NGOs work is critical for any successful outcome as it is the primary duty-bearer. This study, therefore, makes recommendations to the donors, governments and NGOs.

Donors

The study suggests that donors should take much interest in not only ensuring that organisations achieve their goals but also they should be more concerned with how these goals are achieved. As stated earlier in this study, the means should justify the end implying the processes of respect of users' rights should be of greater importance than the attainment of the project goal. The expectation is that if the process is rightly handled, the goal should be easy to achieve.

Governments

The study suggests that governments, with reference to the study's case study- Government of Malawi, should ensure that all legislation aimed at empowering women is enforced and this would lead to the attainment of the development goals, which is the desire of each and every government.

NGOs

In the first place, the study suggests that organisations implementing projects and professing the application of RBA like ActionAid International Malawi should ensure that their staff understand well the practical requirements of this process. Secondly, the study suggests that NGOs negotiate with their donors on the need to respect and value users' rights in the implementation processes of the development project other than the usual approach of being interested in the end result of the intervention. Thirdly, the study suggests that NGOs like ActionAid engage with respective governments into negotiation to ensure it enforces legislation and laws that are aimed at empowering women. Should diplomatic approach fails, the NGOs may consider other approaches in advocacy like naming and shaming to put the state machinery under pressure to grant the demands. Lastly, NGOs especially those working in multi-ethnic states like Malawi should factor in the role of culture which impacts on the outcome of their work in respective communities within a society they are working in.

In conclusion, since the findings of this research are based on a data from two communities with a combined population of less than 1 million out of about 15 million, the study suggests that another research covering a bigger population and geographical area that would look at other aspects related to RBA application would provide a fairly or much more informed appreciation of the practical implication of RBA in rural communities. For instance, as regards to language as a vehicle of communication and development, another study that would investigate the impact of mother languages in NGOs application of RBA in Malawian society would be viable.

Word Count: 16,850

Justification for Excess Word Count

The word count is 16, 850 this is due to the bulky data gathered in field work which needed in most cases an elaborated presentation and analysis at the same time to enable the reader appreciates the argument advanced in the paper.

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APPENDICES

Appendix 1: CASE STUDY OF ACTIONAID MALAWI'S WOLAR PROJECT

Brief Project Background and Description

Project Background

The project was being implemented in Malawi's four administrative districts: Machinga and Mwanza in southern region; Dowa in central region and Mzimba in northern region. The districts are further divided into Traditional Authorities (T/A) headed by Senior Chiefs and Sub-T/A headed by chiefs and further divided into villages headed by village heads.

The project was aimed at empowering women to claim their land rights in an environment that is infused with patriarchal practices and beliefs that marginalise them (NIZA-ActionAid, 2008). This project was a result of a baseline survey that the organisation had commissioned in 2007 on *The Social Empowerment on Rights for Vulnerable and Excluded Women (SERVE, 2007)*. The study informs the status of women's land ownership as the basis for lobbying and advocacy. The study revealed that Malawi's persistent hunger problem then was due to the fact that women lacked ownership of the major resource in food production, which is land (ActionAid, 2008). The study indicates that though women contribute 90 per cent of labour towards food production, only 4 per cent of them own land (Ibid). Hence this lack of land ownership rights in women condemns them to abject poverty. Studies indicate that as of 2008 women constituted 70 of Malawi's poor population (Ibid).

This research assignment looked at two districts, Mzimba and Machinga, and opted to make a comparative study of how ActionAid was applying Rights Based Approach in the processes of the project implementation in the face of cultural diversity in terms of marriage and inheritance systems between the two. Mzimba district was chosen as a predominantly patrilineal community and Machinga as a predominantly matrilineal community. The two communities hold contrasting beliefs and practices in their marriage and inheritance systems.

These systems are believed to have different impacts on the rights of women to own, access and control land.

Demographically, Machinga has 14 Traditional Authorities (T/A) with a total population of about 450,000. The WOLAR Project was being implemented in the two T/As; Ngokwe and Nyambi across a population of 24, 002 and 45, 239 respectively. It is the second poorest district in Malawi according to Household Integrated Survey conducted by the National Statistics Office in 2005 which indicates that 73.7 per cent of its residents are poor. Mzimba is the largest district in Malawi with a population of about 182,401 as of 2008. NSO, 2005 Integrated Household Survey indicates that 50.6 per cent of the population is poor. The WOLAR Project was being implemented in T/A Mzukuzuku.

Project Description

The WOLAR Project had five component areas to work on in its intervention in the plight of women's land rights problems in both Mzimba and Machinga districts. These components were *sensitisation, mobilisation, land acquisition, accessibility to agricultural resources and capacity building of women leadership in literary skills.*

On *sensitisation*, women farmers were imparted with basic knowledge about their basic rights; the project developed and distributed information, education and communication (IEC) materials in the form of leaflets, posters, clothing with slogans, and newsletters written in the local dialectics and with pictures. REFLECT circles, which were used as adult classes where women were imparted with literacy skills, enabled women to gain confidence in raising land rights concerns before the duty-bearers. *On Mobilisation*, the project held workshops with chiefs, opinion leaders and faith leaders and the general male population to sell their ideas on women's land rights and made attempts to win men's endorsement to the cause. Interface between women and policy makers including government officials were part of the activities carried out in this project. The involvement of men was aimed at facilitating effective implementation of the project once the male population understood the project's rationale. This could enable men to change their attitude and perception towards women in relation to their entitlements to land rights. *On Land Acquisition*, the project made some pilot cases of registering title deeds for selected women and used this as a model on how the process of land acquisition and registration can be done by other women in the areas. Some

women participants were trained as paralegals to provide direct technical and legal support to individual women in the process of land registration. On *Accessibility to agricultural resources*, the project set up women's groups to manage and receive revolving funds. The revolving funds were expected to enable most of them to source funding or credit facilities for their farm inputs or small scale businesses. On *Capacity Building*, the project trained women leaders of the partner organisations like COWFA (Coalition of Women Farmers) and LandNet to support women in the land acquisition and registration process. These women leaders honed their skills in lobbying and advocacy.

Appendix 2: Interview Guide

ActionAid's Staff

1. How ActionAid Malawi's mission places the rights based approaches to development in its policy and operation frameworks?
2. Was the aspect of Free Prior Informed Consent met among the targeted users and the communities within the project's impact areas right away at the conception stage of the initiative in line with the practices of rights based approaches?
3. How does ActionAid Malawi's Women Land Rights Project satisfy the developing key principles underpinning rights based approaches to development when it comes to user involvement through non-discrimination, inclusiveness and participation?
4. How accountable is ActionAid Malawi's Women's Land Rights Project to the users of its services or the communities it is executing the project?
5. To what extent does ActionAid's WOLAR initiative involve the users in the project's monitoring and evaluation processes?

Village Heads

1. Were you informed fully about the intentions of WOLAR Project before it was launched in your area and were you given enough time to decide on it without undue coercion from ActionAid or government officials?
2. How are the subjects involved in the running of the project from implementation processes to evaluation?
3. Does ActionAid staff leading the intervention in your area make the WOLAR project accountable to the users and yourself in areas of funding level and sources, funds management and periodical progress reports?
4. How does the project approach cultural differences in implementing its activities in an area where women have no say in their families and needs husband's consent to participate in any social or economic activity as

assumed in patrilineal society as opposed to the contrasting set up in a matrilineal society where a woman is assumed to have more liberty to make independent decision with little reliance on a man's approval?

5. After a period of running the WOLAR Project in your area, in your own assessment, are women able to realize their rights to land and is the number of women claiming their land rights on increase now due to this project than before?
6. In case more women now are able to claim their land rights and are benefitting from its use, do you notice any indicators of uplifting of their social economic life in their individual households and in a community as a whole?

The users or women participants in WOLAR Project

1. Were you given enough and correct information about the project aims and activities prior your decision to join it without undue external pressure like for instance your husband or authorities in form of ActionAid staff, village head, faith leaders and government officials?
2. To what extent does the WOLAR Project involve you in the following process; formulation of the project activities, management of activities, monitoring of progress and evaluation?
3. How does ActionAid handle the question of accountability to the users in terms of WOLAR Project funds management and activities' progress reports?
4. What is the role of Village Head and government officials (if at all they are directly involved) in the project?
5. How your position as a woman in patrilineal / matrilineal culture does gives you advantage/ disadvantage in participating and benefitting or lack of it in the WOLAR Project?
6. Overall, do you see yourselves as changing for the better or worse or no better in your socio-economic well being in your respective households and community at large since ActionAid's intervention through WOLAR Project?

