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Women's Land Rights Under Traditional Authorities in Namibia: A Case Study of Aawambo Women's Land Rights in the Omusati Region in Relation to the Communal Land Reform Act (Act No.05 of 2002).

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A minor dissertation submitted in partial fulfilment of the requirements for the award of the degree of Master of Philosophy in African Studies.

Supervisor: Professor Lungisile Ntsebeza

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ABSTRACT

This study examines the significance of the Communal Land Reform Act (Act No. 05 of 2002) and its impact on Aawambo women's land rights in Namibia's rural areas under the jurisdiction of traditional authorities. The study primarily argues that seemingly progressive legal frameworks such as the Communal Land Reform Act (No. 05 of 2002) are not enough to ensure rural women access to secure land rights. This argument was reached by examining a disjuncture between what the Namibian legislation stipulates pertaining to women's land rights in rural areas and the reality on the ground. Despite these challenges, the study also demonstrates how a number of the Aawambo women participants have accessed rights to land for the first time through the Communal Land Reform Act (No. 05 of 2002). The gap this study has identified is that the Act itself is flawed as there was very limited public consultation and participation from rural communities, specifically rural women (Girma, 2016:24, Werner, 2008:12, Werner, 2017:16). The overall findings of the study offer valuable insights that may benefit future research, policy reforms, or organisations that strive to promote gender equality in rural land tenure systems in Southern Africa. The study contributes to the ongoing gender-sensitive debates regarding gender dynamics, women's land rights and rural land tenure in Namibia.

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CHAPTER ONE

1.1 Introduction

This study critically examines women's land rights under the jurisdiction of traditional authorities in the rural areas of Namibia. According to Paulus Mwetulundila (2021), women's land rights in Namibia's rural landscape have been generally under-researched or scarcely documented. The key issues discussed in this study look at the Namibian Constitution, specifically the Communal Land Reform Act (Act No. 05 of 2002) (CLRA), and its impact on women's land rights. The study explores the significance of the CLRA and its impact on the land rights of women by conducting a case study of Aawambo women living in the Omusati region of Namibia's rural landscape. The CLRA was established to address a legal gap in Namibian society where in the past, African women were legally excluded from having access to land rights in the rural areas of Namibia (Nakanyete, et al., 2020:132). The Act tries to address this imbalance and gender inequality between women and men in rural areas relating to land rights (Mwetulundila, 2021:6).

Namibia's rural areas are divided into areas that are legally owned by commercial farmers and areas that are legally owned by the State but administered on behalf of the State by traditional authorities – which can be found in Article 100 of Namibia's Constitution (Nakanyete, et al., 2020:135, Republic of Namibia, 1990:47). For the purposes of this study, the term 'traditional authorities' is used as an umbrella term to describe chiefs, headmen, or headwomen who are responsible for the allocation and administration of land in rural areas owned by the State. In addition to this, the term 'rural areas' is used to refer to nonurban areas which are generally referred to as 'customary or communal land' that is under the jurisdiction of traditional authorities. According to Nakanyete et al. (2020), traditional authorities function according to their own respective customary laws as well as under the Traditional Authorities Act (Act No. 25 of 2000).

In order to understand the significance and impact of the CLRA on women's land rights, it is pivotal to discuss women's land rights during earlier periods of Namibian history. This study provides a historical and contextual background that periodises women's land rights during

Namibia's pre-colonial period (1400-1800); the colonial (1884-1915) and apartheid period (1915-1990), and Namibia's post-colonial period (1990- present). These periods explore the contestations and complexities women's land rights have undergone throughout history and how these changes have affected their rights to land. A case study examined women's rights to land during Namibia's contemporary period (1990-present) as well as defined land rights.

Adeoye O. Akinola defines land rights as "the rights and legitimacy to access, use, own, control, enjoy and exploit land. In terms of gender construction, land rights go beyond merely the rights to use or control land as a vital economic asset, but also involve laying claim to information about, decision-making around (for instance, lease or sell) and ultimately enjoying the benefits thereof" (Akinola, 2018:2). Ursula F. Arends states that "a 'right' signifies a power that society allocates to its members to execute a range of functions" (Arends, 2009:40). Other scholars such as Aninka Claassens (2013) and Lennox Kwame Agbosu (2000) have argued that the colonial enterprise was responsible for introducing 'privatised land' and 'individualised ownership' as opposed to previous periods in history such as the pre-colonial era where most African societies considered land as a community resource and asset. Agbosu states that "English law and conveyancing firms introduced ideas of individual ownership as a necessary step leading to the alienation and commercialisation of communal lands" (Agbosu, 2000:19).

Similarly, Claassens (2013) posits that absolute ownership of land was at odds with African land systems as land rights did not operate on an individual ownership basis in most precolonial African communities. Claassens argues that the "simultaneous introduction of nineteenth-century European constructs of absolute ownership and exclusive property rights" legally excluded women from owning land rights (Claassens, 2013:83). It is evident that some scholars position land rights in the form of a title deed as a colonial invention as before the arrival of colonialists in Africa, the land belonged to the community – exclusive ownership rights did not exist until the arrival of colonialism in Africa (Okoth-Ogendo, 1989:9).

According to Professor Lungisile Ntsebeza "it is important to note that no land rights are absolute, either in urban or rural areas" (Ntsebeza, 2003:74). It is therefore significant to note that neither men nor women have exclusive ownership rights to rural land owned by the State

and managed by traditional authorities. Thus, no one has absolute ownership rights in rural areas under the jurisdiction of traditional authorities, instead, they have various land use rights. Drawing from these scholars, in this study 'land rights' refers to customary land rights that allow 'owners' access and use of land in rural areas. These terms are fundamental in understanding the literature discussed in this study.

1.2 Purpose and Rationale of Study

The study's main purpose has been to examine whether the Communal Land Reform Act (Act No. 05 of 2002) (CLRA) has been successful in addressing historical gender disparities in land ownership between women and men in rural Namibia. The study examined whether the Act has been effective in uplifting women by granting them equal access to land rights. In addition, the study explored the conditions under which the CLRA was formulated and whether these conditions played a role in Aawambo women's claims to land rights in the Omusati region.

Essentially, the study interrogated the context and formulation of the CLRA and how these factors have contributed to the effectiveness of the Act, or lack thereof, in relation to women's land rights. It is therefore crucial to point out the distinction between Namibia's legal (*de jure*) situation and its practice on the ground (the *de facto* situation). Using the case study, I argue that there is a form of tension between the *de jure* and the *de facto* situation of women's land rights in Namibia's rural areas. Although Namibian laws stipulate that no sex can be discriminated against when it comes to acquiring land rights in Namibia's rural landscape, this study has shown that there are instances where women still face forms of prejudice, discrimination, and unfairness when it comes to securing rural land rights and this is primarily based on their social identity of being a woman (Mwetulundila, 2021:4).

As a consequence, the problem remains that after more than twenty years of the CLRA's application, there are still instances where gender inequalities persist on the ground even though it is unconstitutional (Werner, 2018:3). According to Nakanyete et al. (2020), the CLRA has not uprooted the injustices many women face in rural land tenure in obtaining secure land rights because the provisions of the Act have not been fully applied on the ground. Nakanyete et al. argue that "more research is needed to unpack these

complexities…understanding these complexities will allow better resolutions of these injustices against [women]" (Nakanyete, et al., 2020:144). This gap in the literature is addressed in this study which aims to contribute to national debates on women's claims to land ownership in Southern Africa, with specific reference to Namibia.

1.3 Research Aims and Objectives

Although the Communal Land Reform Act (Act No.5 of 2002) is associated with a number of benefits, the study shows that there is a discrepancy between what the Act states and the application of this Act in reality. To further explore women's land rights in the case study area, the study sought to examine the following sub-objectives:

- Are Aawambo women aware of their land rights in this region?
- Do Aawambo cultural traditions affect women's land rights in the region?
- Are there individuals who perhaps prevent women's access to land rights in the region based on their gender?

1.4 Research Question

The objectives and aims of the study generated the following research question: How has the Communal Land Reform Act (Act No.5 of 2002) impacted Aawambo women's land rights and their socio-economic empowerment in Namibia's rural Omusati region?

1.5 Main Argument

I argue that legal frameworks such as the Communal Land Reform Act (No. 05 of 2002) (CLRA) are not enough to ensure rural women's access to secure land rights, more targeted and gender-sensitive interventions are required. As such, through a case study, specific barriers are explored and the challenges faced by Aawambo women living in the Omusati region in exercising their land rights in the context of the CLRA and how these barriers have been resisted. The study further argues that the Act was unevenly formulated. My analysis confirms that the CLRA failed to consult the public adequately, specifically rural women, and thus fails to reflect the demands, needs, and experiences of the rural women whom the Act implies it protects.

1.6 Background of Study

Namibia has a population of approximately 2.8 million people according to the Namibia Statistics Agency (NSA) (2023). Namibia has fourteen regions, namely, the Oshana, Omusati, Oshikoto, Erongo, Zambezi, Kunene, Hardap, Kavango West, Kavango East, Ohangwena, Khomas, Karas, Zambezi and Otjzondjupa regions. Namibia's population comprises of approximately 87 percent of black individuals and the major 'tribal groups' or social formations consist of the Herero, Aawambo, Kavango, San, Damara and Nama groups (Namibia Statistics Agency, 2018:15). According to the USAID (2010) women make up the majority of the population in the northern regions of Namibia's rural landscape where these regions exhibit high levels of social exclusion and poverty.

In 2016, statistics revealed that more than 70 percent of Namibia's population lived on communal land under the jurisdiction of traditional authorities (Middleton et al., 2016:91). The US Agency for International Development (USAID) (2010) argues that Namibia has one of the highest income disparities in the world with poverty, unemployment, and basic health measures worsening over time. In 2018, Namibia had an unemployment rate of 33.4 percent (Namibia Statistics Agency, 2018:1). Approximately half live below the poverty line and most of Namibia's impoverished live in rural areas where they are dependent on rivers, forests and land for the food, shelter and fuel (Heinrich Böll Stiftung, 2013:5).

Land is a fundamental resource for economic empowerment; improving living conditions, providing basic subsistence and food security (Ezeuduji et. al 2022:25). It is further argued that ownership, access, and control of land largely remains in the domains of men and this is predominantly entrenched by patriarchal structures (Heinrich Böll Stiftung, 2013:5). Unequal access to land between women and men presents itself as a key obstacle to achieving gender equality and women's empowerment (SIDA, 2009:1). On this basis, the Rural Women's Assembly (RWA) argues that the dominant culture in most rural areas remains patriarchal and "those who are in charge of implementing, for example, women's equal access to land; are men who have been raised in a patriarchal system. They don't believe in women accessing land; despite our constitution and laws and even strong civil society" (Rural Women's Assembly, 2018:1). The tension between Namibian laws and the application of these laws in rural areas is that implementation of these laws on ground levels is usually slow

and dominant patriarchal beliefs overshadow the Constitution and the implementation of its laws in reality (Rural Women's Assembly, 2018:1).

For these reasons, the Namibian government has implemented several laws, policies, and international agreements to alleviate gender inequality within the region. These would include the UN's Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) which was approved by Namibia's Parliament in 1992; the SADC Declaration on Gender and Development; the Beijing Platform for Action (approved in 1995); and the African Regional Platform for Action among others (Hunter, 2004:5). All these international agreements support the principles of gender equality and have provided the guidelines for almost all Namibia's national gender programmes. All these factors contribute to Namibia's government's efforts to address and eradicate gender inequality in the country.

However, the problem this study grapples with is that literature revealed that some women are still denied land rights in rural areas based on their gender. Although one of the main objectives of the CLRA is to protect the land rights of rural women (Mwetulundila, 2021:5). Yet, some widows are still being evicted or dispossessed of their lands in cases of divorce, abandonment, or death of their spouse, respectively (Nakanyete, et al., 2020:132). This is supported by scholars such as Wolfgang Werner, who argues that the Act was established to improve gender inequalities between women and men within the communal land tenure systems. Yet, Werner posits that "discrepancies between the provisions of the Communal Land Reform Act and practices on the ground continue to exist" (Werner, 2018:3). This study has therefore examined whether the CLRA safeguards the land rights of women in reality and not only in law.

1.7 Significance of Study

This study is a contribution to existing debates regarding women's land rights in Southern Africa with specific reference to the Namibian context. The study is significant in several ways. First and foremost, the study amplifies the voices of the women participants who partook in this study by bringing their concerns and specific needs to the foreground regarding the CLRA. Documenting the lived experiences of these women may assist in ensuring the needs of these women are reflected in reforms and policy discussions regarding

the CLRA. Although this is an academic study, it adds valuable insight into the impact the CLRA has had in safeguarding the land rights of Aawambo women living in the Omusati region which can inform legal and policy reforms to ensure gender equality.

Through a case study approach, I sought to identify gaps and challenges certain Aawambo women face in acquiring secure rights to land in the case study area. As such, the study is significant in shedding light on the gender disparities that persist in rural land tenure systems in Namibia that undermine several women's claims to land rights, despite the Namibian Constitution's protection of women's land rights in rural areas under the control of traditional authorities. This knowledge can aid in the promotion of gender equality and transformative change. Fundamentally, the study enhances academic knowledge and contributes to existing bodies of knowledge that pertain to women's land rights in rural Southern Africa.

1.8 Theoretical framework

For the purposes of this study, the research methodology has adopted the theoretical framework of African feminism. African feminism is multi-faceted and is shaped by a variety of contexts, histories, and movements and reflects a very diverse nature of the feminist organization (Akin-Aina, 2011:69). Ruvimbo Goredma defines African feminism as a "feminist epistemology and form of rhetoric that has provided arguments, which validate the experience of women of Africa and of African origin against a mainstream feminist discourse" where Gordema further argues that it is a "social movement that aims to raise a global consciousness which sympathises with African women's histories, present realities and future expectations (Goredma, 2010:34). It is pivotal to note that there is no singular African feminist theory, but several theoretical framings of feminism (Akin-Aina, 2011:69). African feminism as a theory is an extremely important form of theory in understanding systems of oppression such as patriarchy that oppress and subjugate many women in Africa or living in the African diaspora (African Women's Development Fund, 2016:4).

Moreover, African feminism seeks to understand the root causes of African women's oppression and establish solutions to their subordination or ways to diminish it (Akin-Aina, 2011:72). Simi Afonja (2005) argues that it is important to reflect African realities by using appropriate theoretical frameworks that apply to the realities of African people, as opposed to

using western feminism which speaks to western experiences and provides western theoretical frameworks upon Africans which are inapplicable to the African society. This is supported by Anna-Sophia ten Brink (2021), who argues that western feminism is "narrow and exclusive" and is "designed for white women." western feminism is inapplicable and inappropriate to the realities of Africans or those living in the African diaspora because it is "based on western standards and liberations, which are then transferred to women in the global South, disregarding cultural differences" (ten Brink, 2021:7). African feminism is the most suitable framework for achieving the aims and objectives of this study whilst being appropriate to the realities of African women.

Among the key concepts that shape the African feminism theoretical framework, this study draws on the concept of 'intersectionality'. Intersectionality is a theoretical framework that is defined as the "interconnectedness and interdependence between social categories and systems" (Atewologun, 2018:1). The term was coined by Kimberlé Crenshaw in 1989, where it was used to argue that systems of oppression and privilege are interconnected and cannot be addressed in isolation (Christoffersen, 2021:573). The term intersectionality acknowledges that different facets of one's identity intersect with various other forms of oppression and/or privilege (Christoffersen, 2021:573).

As an advantage, intersectionality is a vital framework for understanding and challenging the various factors that play a role in the oppression of many women in rural land ownership contexts. The intersectional approach shows that many impoverished women seeking land rights in rural areas may face additional barriers to land that go beyond gender. They may be oppressed based on different social categories such as age, race, class, sexual orientation, and creed among others. The study, therefore, argues that oppression cannot be solved in isolation.

Furthermore, the system of patriarchy presents itself as an obstacle to women's equality (Akin-Aina, 2011:69). Patriarchy can be characterized as a system of male dominance and male power that legitimizes the inequality and oppression of women through various institutions such as economic, political, social, and religious institutions among others (African Women's Development Fund, 2016:4). African feminism moves away from solely

placing the blame on all men for the oppressions many women face but instead places the blame on the system of patriarchy as the root cause of many African women's oppression and discrimination within society (Akin-Aina, 2011:69).

African feminism critiques patriarchy and this critique allows a further understanding of how gender inequalities are perpetuated in customary land tenure systems at the expense of many women (Manisha & Mangla, 2009:65). However, it is important to note that there are scholars who have detached themselves from feminism as a whole based on general interpretations of feminism as 'anti-men'; 'anti-religion 'or 'anticulture' (Amaefula, 2021:300). According to Amaefula (2021) scholars such as Mariama Ba, Buchi Emecheta and Bessie Head have distanced themselves from feminism and using feminist frameworks based on the "amorphous meanings associated with feminism" and also based on the reasons mentioned above (Amaefula, 2021:300). However, research has indicated that African feminism has established strategies African women can use to improve their lives within patriarchal societies, both in academia and broader society (Goredma, 2010:35).

For this reason, there are some feminist scholars who make a clear distinction between matriarchal and patriarchal societies. For the purposes of this study, the term 'matriarchal' is used interchangeably with the terms 'matrilineal' and 'matriliny', and the term 'patriarchal' is also used interchangeably with the term 'patrilineal'. African feminism acknowledges the presence of matriarchal societies in some parts of Africa. In matriarchal societies, "social organisations and descent are reckoned through maternal lines (Ngohengo, 2022:220). Christel Manning defines matriarchy as "a political system in which women are the dominant political actors, as opposed to patriarchy, in which men are the exclusive or primary heads of families, social groups, or political states" (Manning, 2018:1). Under matriarchal societies, women generally have more authority and control over decision-making practices regarding the household and issues pertaining to land (Kachika, 2009:22). Women generally have more economic, social and political power under matrilineal societies (Ngohengo, 2022:220).

Feminist authors Fatou K. Camara and Jeremy I. Levitt argue that "matriarchal African tradition [existed] prior to European colonial conquest, when women, through their own organisations, shaped their own lives and participated fully in the social and political structures of the communities in which they lived" (Camara & Levitt, 2015:63). Anna

Merlini (2018) argues that in patriarchal societies the primary theme is domination whereas in matriarchal societies it is cooperation, which promotes social principles for both sexes to work harmoniously together for the well-being of the community.

According to Ifi Amadiume (1997) (quoted by Camara & Levitt, 2015:63) "patriarchy and matriarchy are social and political ideologies which directly decide the role and status of women in society; how society is to be organised; and how social subjects are to relate to one another" (Camara & Levitt, 2015:63). On this basis Merlini (2018) argues that as opposed to patriarchal societies, matriarchal societies generally do not function on principles of domination, authority, and hierarchies. It is important to note that "in matriarchies, women's power is counterbalanced by men's power, so that neither gender dominates the other, leading to gender equality. Here the governing principle is balance rather than domination" (Merlini, 2018:40). Ultimately, there is community involvement in matriarchal societies, where most decisions are "taken in the context of grassroots democracy" as opposed to patriarchy which functions on the principles of domination and hierarchy.

By critically discussing women's land rights in the rural landscapes of matriarchal and patriarchal societies in Southern Africa, African feminism explores the cultural traditions, power dynamics, and norms that impact and shape women's rights to land. This framework recognises the historical dominance of patriarchal societies in rural land ownership and offers insight into how to achieve levels of women empowerment and gender equality through the practices of matriarchal societies. Of particular interest, looking through an African feminism lens allows others to see the various new possibilities that can be opened for marginalised women through its intersectional approaches to identity and oppression (Knowles, 2021:3).

By choosing the African feminism, this study seeks to disrupt Eurocentric systems of knowledge by focusing primarily on how African women produce indigenous forms of knowledge. As stated earlier, western feminism often misrepresents the experiences of Africans. In particular, using African feminism provides a departing point to understand that not all women are socialised in the same ways – their social organisations, their differing worldviews, and variations in histories result in differing experiences of gender and land rights in rural areas (Afonja, 2005:5).

This theory is crucial to the aims and objectives of this study as African feminism "is more than a struggle to do away with male dominance, but it is also about 'transforming' what goes on in the mindsets of women and men, about asking new questions that require new conceptualisations" (Afonja, 2005:5). This study, therefore, attempts to open the minds of both women and men to reconceptualise the notion of women and land rights in Southern Africa through a more gender-equitable approach.

METHODOLOGY

1.9 Case Study Context

The study was carried out in the Omusati region during the period of 26-30 September 2022. The Omusati region belongs to one of Namibia's fourteen regions and is located in the northwestern part of Namibia, comprising of twelve constituencies (Namibia Statistics Agency, 2022:9). These constituencies include: Tsandi, Ruacana, Outapi, Okahao, Elim, Etayi, Ogongo, Anamulenge, Otamanzi, Oshikuku, Onesi, and Okalongo (Namibia Statistics Agency, 2022:10). Figure 1 visually displays the constituencies of the Omusati region. The region is approximately 800 kilometres away from Namibia's capital city Windhoek.

According to Namibia Statistics Agency (2022), the region is semi-arid, with relatively high temperatures experienced during both summer and winter months. The landscape in this region is primarily made up of fig trees, makalani palms, sand dunes, and marula trees (Mouton, 2014:289). The region is populated by approximately 250 thousand inhabitants and is almost entirely comprised of rural areas (Mouton, 2014:290). Focusing on a specific geographical area was pertinent to understanding how cultural norms, local dynamics, and historical factors have affected the land rights of the Aawambo people in this region, specifically the Aawambo women. Figure 8 illustrates the various constituencies of the Omusati region.

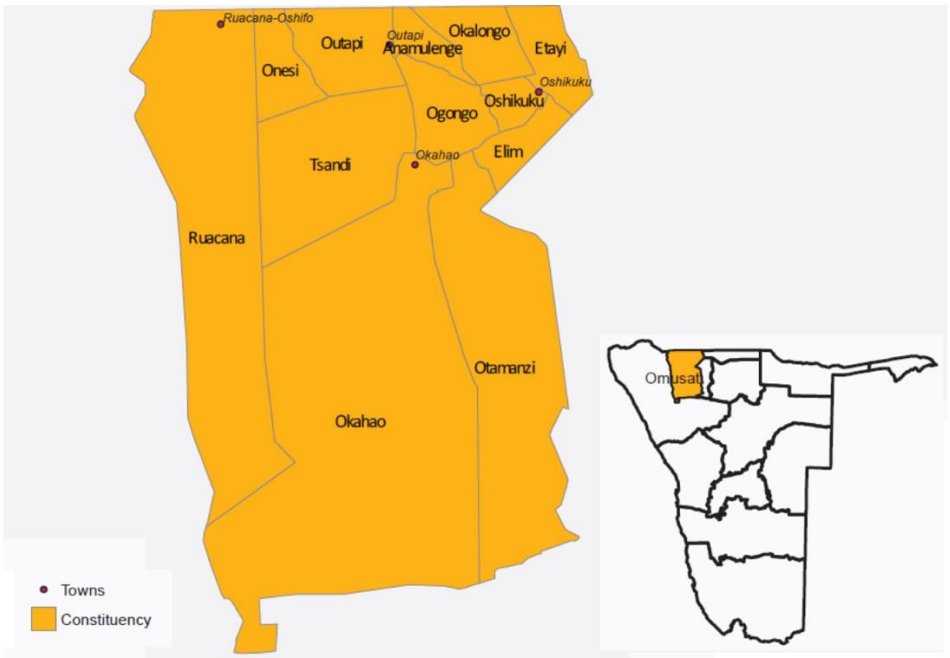

Figure 1: Regional Map of the Omusati Region.

Source: Namibia Statistics Agency (2011).

The decision to locate the Omusati region as the main area of study for this case study was motivated by several reasons. Firstly, the Omusati region is rich in history and culture that the researcher wanted to explore. Secondly, as the primary researcher, I have several family members living in this region which meant that I was more familiar with the area as opposed to other regions in Namibia's rural landscape. Thirdly, throughout the research process, I was in contact with a female senior traditional authority – who has opted to remain anonymous – who kindly assisted the study by connecting the researcher with Aawambo women who were willing to partake in this study. The senior traditional authority has worked with the government for several years in educating Aawambo women about their land rights. Unfortunately, on the day of the scheduled fieldwork, fifteen women were unable to make the interviews due to personal reasons which presented a limitation to the study. However, the responses from the participants who were able to partake were sufficient in achieving the aims of the study.

1.9.1 Research Design

For this study, a qualitative method was adopted. According to Sonia Ospina, qualitative methods of inquiry "try to understand how others make sense of their experience" (Ospina, 2004:2). Furthermore, she states that the researcher engaging with the qualitative research

approach “aims for a holistic picture from historically unique situations, where idiosyncrasies are important for meaning” (Ospina, 2004:2). Moreover, this method also added nuanced and strong detailed information, illuminating and revealing social and cultural meanings, aiding in the understanding of women’s land rights in Namibia’s rural landscape. Qualitative methods were best suited to the contextualisation, description, and interpretation of the collected data. The method used provided extensive insight into the land rights of Aawambo women in the case study area and provided a deeper analysis of the significance of the Communal Land Reform Act (Act No. 05 of 2002) and its impact on women’s land rights.

1.9.2 Secondary Literature

This study relied mainly on secondary literature in tracing Namibian women’s land rights in rural areas throughout the pre-colonial, colonial, and post-colonial periods of Namibian history. Contemporary and archival photographs were also used within this study to visualise information. The literature analysed within this study provided valuable contributions to this study by further situating this body of work within the broader debate of women’s land rights in Southern Africa.

1.9.3 In-Depth Interviews

In-depth interviews were done in person and were adopted as the main qualitative method of gathering the necessary information. According to Wafaa Abdullah Alamri, the interview process is used as a “method of qualitative data collection [that] involves two people discussing a specific human or social issue” Alamri further argues that “this flexible technique allows the interviewer and interviewee to elaborate on the topic to pursue an idea or response in greater detail (Alamri, 2019:65). Thirteen Aawambo women were interviewed. The structure of the interviews took on a semi-structured approach. Such interview structures were essential in instances of adding or omitting any pre-planned questions as well as in the inclusion of follow-up questions to provide clarity or further information from the interviewees. The interview questions were formulated by the primary researcher and based on the objectives of the study which focused on the topics of gender, land, and the CLRA.

Moreover, primary data was collected through field research conducted in Namibia. The in-person interviews took place in the village and town areas of Oshikuku, Tsandi, Okahao,

Outapi, and Okalongo – all located within the Omusati region of Namibia's rural landscape.. The interviews took place in the participants' homes or workplaces, this was subject to the participants' preference. These areas were chosen as the study participants were located in these village areas. Almost all the interviews were one-on-one, apart from two focus groups, each consisting of three people. It is essential to point out that the language barrier presented itself as a limitation of this study. The interviews took place in the Oshiwambo language, where some interviewees alternated between English and Oshiwambo. To address this limitation, after each question, the interviewees' answers were translated into English by my translator – Himwiika Amunyela. No issues arose during the translation process. The map depicted in Figure 2 points out the locations where the interviews took place in the Omusati region.

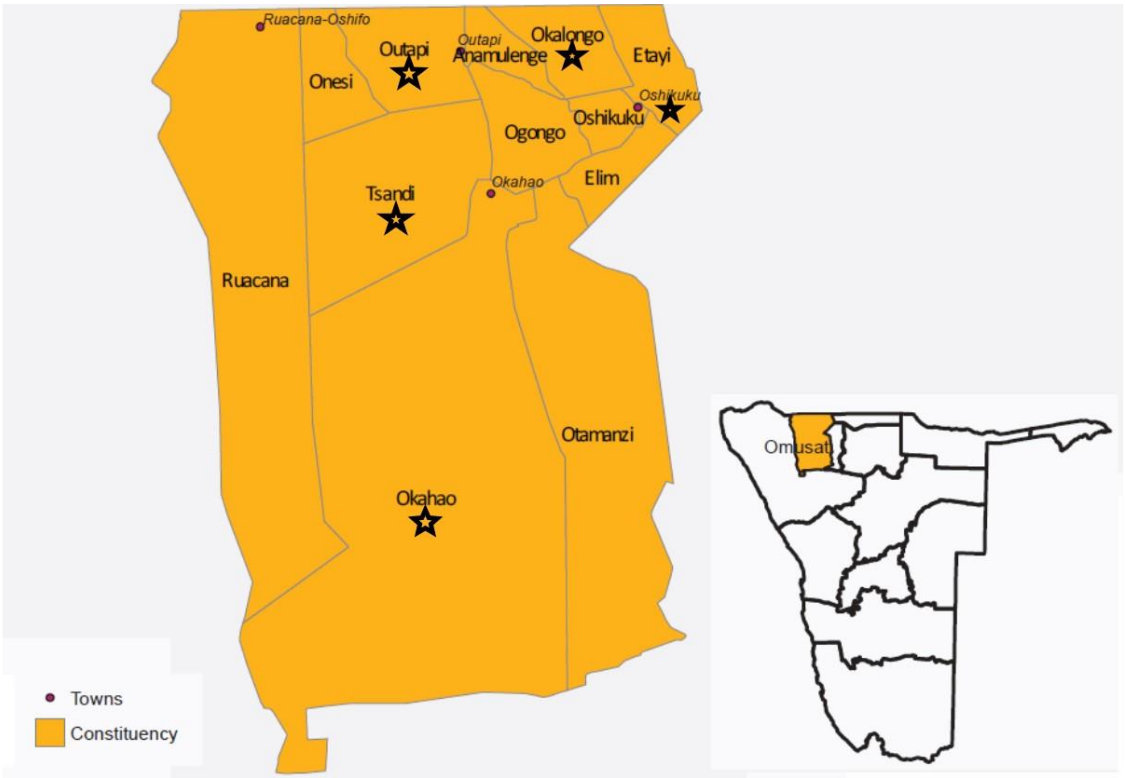

Figure 2: Areas in the Omusati Region where fieldwork and interviews were conducted.
Source: Namibia Statistics Agency (2011).

In addition, Figure 3 and Figure 4 are photographs of the primary researcher captured during the fieldwork process. No photographs of the participants are included in this study based on their requests.

Figure 3: Researcher in Oshikuku.

Source: Yamilla Martin (2022).

Figure 4: Researcher in Okalongo.

Source: Yamilla Martin (2022).

1.9.4 Method Used for Analysing Data

A thematic analysis was chosen for this study as this method revealed important information regarding the patterns and trends that arose among various individuals' knowledge; personal experiences; viewpoints; and opinions which were fundamental in meeting the aims and objectives of this study. Saraswati Dawadi argues that thematic analysis is "a qualitative research method that researchers use to systematically organize and analyse complex data sets" (Dawadi, 2020:62). Furthermore, Dawadi argues that "this approach makes the analysis more valid because of its accessibility, transparency, and flexibility" (Dawadi, 2020:62).

1.9.5 Case Study

By adopting a case study method, this chapter attempts to demonstrate the *de facto* situation on the ground. Kurt Schoch defines case study research as "a detailed and intensive analysis of a particular event, situation, organisation, or social unit" (Schoch, 2020:245). By the same token, Roberta Heale and Alison Twycross argue that a case study approach "has also been described as an intensive, systematic, investigation of a single individual, group, community or some other unit in which the researcher examines in-depth data relating to several variables" (Heale & Twycross, 2018:7). Schoch further posits that "a case study also allows you to collect different kinds of data, such as interviews, documents, observations, surveys, and others, about the case and provides you with the chance to get an in-depth look at an organisation or individual" (Schoch, 2020:246). In my view, the case study method provided the study with the opportunity to examine the multifaceted nature of rural land tenure and gender in a specific geographical location – the Omusati region.

It is therefore crucial to point out that the case study is not representative of the whole of Namibia but serves to provide a focused study of women's land rights in a particular region of Namibia.

1.9.6 Background Information Regarding Participants

Thirteen Aawambo women were interviewed as participants in this study. The participants who formed part of the sample of this study, ages ranged from 24 to 71 years. The sample consisted of single and married women. In terms of socio-economic factors, about three of

the participants had little to no educational background whereas the other ten had some form of formal education. The participants who had little to no educational background were formally employed as household managers (domestic workers). Four of the participants who had formal education were employed in the fields of engineering, administration, marketing, and as a rural government schoolteacher. The others occupied semi-skilled jobs as file clerks, salespersons, and government employees, and one participant as a pensioner.

Coupled with this, it is pivotal to note that the Omusati region consists of the Uukwaluudhi, Uukolonkadhi, and Ombalantu traditional authorities, among others. The choice to include the perspective of the Ondonga Traditional Authority King was mainly based on access and availability. As the primary researcher, I did not have access to the Omusati region's Traditional Authority King, instead, I was able to access the Ondonga Traditional Authority King to form part of the study – which added a layer of complexity to the study. The King's contribution has provided valuable insight into decision-making practices and power dynamics surrounding land rights under the control of traditional authorities. It is worth mentioning that Traditional Authority structures are layered with each layer consisting of its own function; the King of a traditional authority is not responsible for land allocation. However, the King is a key figure within the northern rural communities of Namibia; therefore, he has significant influence over land matters.

Hence, the contributions made reveal how some traditional authorities, community leaders, and other influential stakeholders perceive women's land rights and the CLRA. The inclusion of these viewpoints added further complexity to this study and broadened the understanding of Aawambo women's land rights in Namibia's rural landscape, relying not only on the voices of community members but also on the perspectives of a key figure in rural land matters. In addition, the figures below illustrate the women participants in this study's various forms of employment and level of education. The figures aid in providing a visual perspective of the participants' characteristics and how these identity markers affect their access to land.

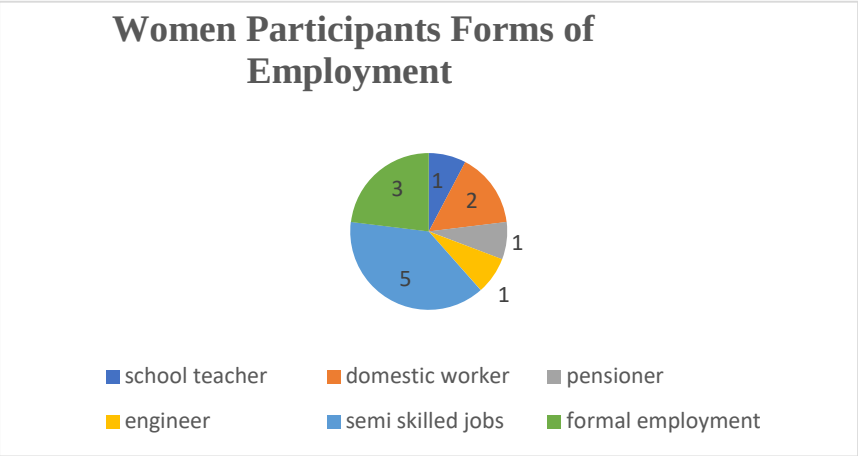

Figure 5: Employment Positions of Participants.

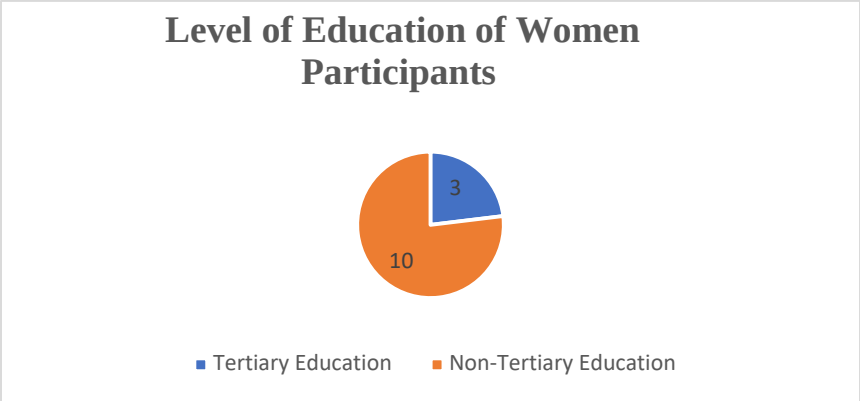

Figure 6: Participants' Level of Education.

Following the data collection process, all the interviews were then transcribed in English and attentively read through to establish any potential links, patterns, and trends between the participants' responses. The interviews were then placed into different thematic categories – also known as coding – so that the answers from the participants could be placed in specific themes to signify common trends or patterns between the different participants. Furthermore, the questions asked were attuned to collating data for an integrated single case study because this method allowed the study to focus primarily on Aawambo women's land rights and the impact the CLRA has had in practice to safeguard these women's land rights.

1.10 Ethical Considerations

As this study involved human participants, the University of Cape Town's ethical guidebook guidelines were adhered to. Before any interviews took place with the participants of the

study, approval from the University of Cape Town's Ethical Committee was granted. In addition, the participants of this study were informed about the contents of the study before the interview process took place and it was agreed between the participants and the researcher that their participation in this study would only take place through their written consent – in which they each had to sign the African Studies consent form provided by the University of Cape Town's African Studies Department. Participants were also informed before the interviews that if anonymity was requested from the respondent(s), their identity would remain completely anonymous even when quotations were used within the body of this study, and instead, a pseudonym would be used. A few of the participants of the study consented to their first names being used but requested that their last names remain anonymous. All interviews were conducted in the Omusati region of Namibia's rural landscape.

1.11 Chapters Outlined

This study consists of five chapters. **Chapter One** is devoted to the introductory chapter of the study which deals with the purpose of the study, the rationale, the theoretical framework, the aims and objectives of the study, the methodology, the scholarly significance, and lastly the chapter outline of the study. Following this, **Chapter Two** is dedicated to the literature review of the study which examines existing literature regarding the debates on women's land rights in the rural areas of Southern Africa. This chapter discusses the complexities and nuances of patriarchal and matrilineal social systems to better understand how these systems function and impact the rural land rights of women. This is done by using South Africa and Malawi as respective examples. **Chapter Three** of the study discusses the history of Namibian women's land rights in rural areas during Namibia's pre-colonial, colonial, and post-colonial periods as well as the subsequent laws that were established to redress gender inequalities in Namibian customary land tenure systems. **Chapter Four** is devoted to the data collection process and the analysis of findings, which includes detailed accounts of the Aawambo women participants' experiences of land rights and the CLRA in Namibia's Omusati region. In this chapter, an analysis of the findings is discussed. Lastly, **Chapter Five**, the final chapter of this study, is the concluding chapter which summarises the key findings of the study and provides concluding remarks.

CHAPTER TWO

WOMEN'S LAND RIGHTS IN RURAL SOUTHERN AFRICA: FOCUS ON SOUTH AFRICA AND MALAWI

2.1 Introduction

This chapter reviews and analyses existing literature regarding women's land rights in the rural areas of Southern Africa. It examines patriarchal and matriarchal societies in Southern Africa, using South Africa as an example of a patriarchal society, and Malawi as an example of a matriarchal society. It is important to point out that 'matriliny' indicates societies where inheritance, family ties, and lineage are traced through the maternal lines whereas 'matriarchal' societies refer to communities that are characterised by women as the authority and power figures (Johnson, 2018:8). Along with, 'patriarchal' societies refer to communities where men hold primary power in all aspects of society whereas 'patrilineal' societies refer to a social system whereby inheritance, kinship, and family lineage are traced through the paternal side (Kaarhus, 2010:176). South Africa and Malawi were selected as case studies to provide nuanced insights into how different societal factors impact women's land rights in rural areas under the jurisdiction of traditional authorities in comparison to women's land rights in the Omusati region.

Moreover, reviewing relevant literature relating to women's land rights in matriarchal and patriarchal societies in Southern Africa provides a conceptual framework, comparative insights, and a critical analysis of the power dynamics that generally shape women's land rights in rural areas. The literature examined provides a more comprehensive understanding of the complex issues associated with culture, gender, and land rights to provide an improved assessment of the effectiveness of the CLRA's impact on Aawambo women.

Additionally, the chapter is structured by commencing with a detailed discussion of the land rights of rural women in patriarchal societies using South Africa as the primary example. Here South Africa's colonial, apartheid, and post-colonial periods are discussed to examine the nature of women's rural land rights over time. Thereafter, the same has been adopted when discussing women's land rights in the rural matriarchal societies of Malawi. The chapter reveals that the land rights of rural women have not remained immutable over time. Furthermore, the chapter then discusses notable similarities and differences in the

abovementioned societies to demonstrate the complexities these land tenure systems have in relation to rural women's claims to land rights. Examining rural women's land rights under these contexts sheds light on the interplay between land rights, social norms, and cultural practices which are pivotal to understanding how these factors impact rural women's claims to land rights.

2.2 Contextual Background

This section briefly discusses the scholarly debates regarding women's rural land rights in Southern Africa. Fareda Banda (2006) argues that customary law systems subject many women to several challenges. Cotula, Toulmin, and Hesse argue that customary law "is characterised by its largely unwritten nature, is based on local practices and norms, and is flexible, negotiable, and location-specific" the scholars further argue that customary systems "are usually managed by a land or village chief, traditional ruler or council of elders. These systems are not static" (Cotula, Toulmin & Hesse, 2004:2). In her work, Banda (2006) states that gender inequalities have become embedded in many customary law systems, which has allowed many discriminatory practices and norms to be accepted among communities – to the disadvantage of women.

Banda's (2006) literature reveals there is a tension between traditional practices and cultural relativism, where promoting gender equality often comes in conflict with respecting certain traditional practices. Other scholars such as Patricia Kameri-Mbote (2007) have argued that customary practices pertaining to land ownership have generally prioritised men over women. Kameri-Mbote's literature has highlighted how the co-existence of formal legal systems and customary laws creates conflict, tension, and uncertainty for women when constitutional guarantees of gender equality do not align with the general patriarchal nature of many customary practices (Kameri-Mbote, 2007:38).

On the other hand, scholars such as Dzodzi Tsikata (2009) have argued that there are various mechanisms, institutions, and strategies at play that protect African women's claims to land ownership. In an attempt to recognise women's land rights, Tsikata's (2009) research argues that there have been cases where customary practices have been reinterpreted to ensure women's access to land rights. The position of Aninka Claassens more closely resembles Tsikata's arguments about reinterpretations of custom and has advanced the notion of 'living

customary', which is now legally recognised through jurisprudence in South Africa. The views of Claassens (2005) are opposed to formal titling.

Scholars such as Eneyew and Mengistu (2013) have argued that gender inequalities within customary land tenure systems remain invisible to certain women who readily submit themselves to local customs. On this basis, Chigbu argues that there are instances where women themselves restrict their own access to rural land by failing to distance themselves from patriarchal customs and beliefs that serve the interests of men as opposed to women, thus impacting the implementation of laws and policies aimed at redressing gender inequalities (Chigbu, 2018:44). According to Chigbu (2019), these are viewpoints that some scholars tend to ignore in the debate on women's land rights in the rural areas of Southern Africa.

On this basis, the arguments posed by Chigbu (2018) and Eneyew and Mengistu (2013) determine that there are occasions where African women themselves contribute to their lack of control and ownership of rural land. It can thus be argued that some women living in rural areas of Africa willingly comply with customary practices that discriminate against women. As the primary researcher, I partially agree with these claims that the actions, as well as inactions of women, do affect women's rights to rural land. Yet I do believe patriarchal systems in customary land tenure also play a significant role in marginalising women's ownership of rural land. Fundamentally, this study contributes to these existing debates regarding women's land rights in Southern Africa by deepening the understanding of the complex nature of gender, land rights, and rural land tenure in Southern Africa.

RURAL WOMEN'S LAND RIGHTS IN PATRIARCHAL SOCIETIES: SOUTH AFRICA

2.3 The Colonial and Apartheid Periods in South Africa

This section critically discusses women's land rights during South Africa's colonial and apartheid periods and explores how colonial legal frameworks and economic structures transformed the land rights of rural women. It is crucial to note that scholars such as Aninka Claassens, Jane Parpart and Kathy A. Staudt have argued that under the pre-colonial systems

of land tenure in South Africa, women did indeed have rights to land (Claassens, 2005:80, Parpart & Staudt, 1986:3). On this basis, South Africa's colonial and apartheid periods played a central role in reshaping women's claims to land by restricting women from acquiring land rights (Claassens, 2005:83). South Africa was colonised by the Dutch East India Company from the periods 1652-1795 and 1803-1806. South Africa was also colonised by Britain during the periods 1795-1803 and 1806-1961. In 1910, the Union of South Africa was established (Feinberg, 1993:68).

In 1948, the apartheid period commenced in South Africa (Hutchinson, 2021:32). Luiz (1998) characterises the system of apartheid as that of racial segregation where the apartheid regime used race as an instrument of control and subjugation. It is pivotal to note that the introduction of apartheid laws and policies within South Africa meant that no African could legally own land (Hutchinson, 2021:32). The period of apartheid left devastating legacies within South Africa of landlessness and suffering through the violence it inflicted on indigenous communities when they were forcibly dispossessed and removed from their lands onto marginal and less fertile lands at the hands of the apartheid regime – including numerous other apartheid legacies (Luiz, 1998:51).

On this basis, Sinmi Akin-Aina argues that "the arrival of colonialism transformed the roles and status of women, as a result of patriarchal capitalist norms and their collision with pre-existing patriarchal gender norms" (Akin-Aina, 2011:76). During these periods of South African history, South African women were considered as 'minors' where they would be placed under the authority of their fathers and once married under the authority of their husbands (Kuzwayo et al., 2019:33). Being classified as a 'minor' meant that no woman could make 'legal' decisions without the permission of their father, husband, or any other male relative (Hunter, 2004:3). Consequently, this meant that unmarried women were further disadvantaged, as their gender acted as a restriction to claim land rights as well as their marital statuses. In some instances, women may have felt obliged to enter into relationships with men in order to access land. This links to the intersectional nature of one's identity with systems of oppression and privilege.

It is important to note, that although no women could own land during these periods, women were the primary land users, as many of their husbands spent long periods away from their

family households due to migrant labour – leaving their wives to manage and maintain the land (Bohler-Muller & Mayet, 2021:1). In such cases, these women had full control over the land whilst their husbands were away, giving them full economic autonomy and decision-making power over the land. Due to migrant labour, gender relations shifted previous power dynamics where men were predominantly in control of the land and how it was used, into the hands of women although legally African women were excluded from holding land rights (Nakanyete et al., 2020:133).

Discussing South Africa's colonial and apartheid periods thus sheds light on how the legal frameworks, colonial policies, and economic structures of these periods significantly weakened the land rights of women. Therefore, based on the literature, it can be argued that European colonialists exploited the existing patriarchal structures in rural land tenure and exacerbated gender inequalities within the land tenure systems in most indigenous communities of South Africa.

Ultimately, South Africa's colonial history institutionalized discriminatory policies against women by restricting them from owning land. Along with restricting women from obtaining land rights, the customary systems of many South African social formations were reinterpreted to promote male authority – further disempowering women. Not only did women's gender play a role in their oppression, but other facets of their identity such as their class, race, and marital status (among others) also played a significant role in their denial of land rights. Uncovering the connections between gender, land, and colonialism has offered a more detailed understanding of the historical legacies that have shaped the land rights of women living in rural areas in the contemporary period.

2.4 South Africa as a Constitutional Democracy

In this section, debates pertaining to the clashes between customary law and constitutional law are analysed to examine whether the constitutional provisions promoting gender equality in land matters – established by democratic governments – have effectively addressed the gender disparities of the past. Understanding the judicial and policy frameworks that shaped women's land rights over time in South Africa provides insights into how women's rights have changed and adapted historically. This historical context aids in the comprehensive

analysis of Namibia's CLRA and identifies trends and shifts in the land rights of women to evaluate how effective the Act has been in addressing historical gender inequalities.

Historically, customary law was not legally recognised as a legitimate system of law in South Africa (Osman, 2019:2). Customary law was only legally recognised in the South African Constitution in 1996 (Osman, 2019:2). Furthermore, a division between 'official customary law' and 'living customary law' ought to be defined. According to Rita Ozoemena, 'living customary law' is defined as "customary law observed before the colonial period but developed and adapted to current circumstances" (Ozoemena, 2014:148). Living customary law is a flexible system that consists of the actual practices of an indigenous community that adapts to the changes in society. In contrast, 'official customary law' (also referred to as 'codified customary law') is argued to "comprise what was an oppressive form of customary law developed by colonial and apartheid states which exists in codes and precedents" (Moore & Himonga, 2018:61).

As such, the assertions made by Nthabisang Moleko state that most customary laws do not promote women's equal access to land in democratic South Africa (Moleko, 2017:2). Michael Clark and Nolundi Luwaya argue that this "further contributed to the legitimisation of a narrative that erased women's land rights and made women's access to land dependent on their husbands, fathers, and male relatives" (Clark & Luwaya, 2017:25). However, Tsikata (2009) has illustrated that there have been cases where customary practices have been reinterpreted in an attempt to recognise women's land rights.

In light of this, the legal pluralism in South Africa causes conflicts and tensions, and scholars such as Aninka Claassens argued in favour of harmonising constitutional law with customary law to mediate the gender disparities and their impacts on women's land rights. Claassens (2005) argues that customary laws need to recognise the land rights of women and they need to align with the South African Constitution's principles of non-discrimination and gender equality. Other scholars such as Cherryl Walker (2011) and Steven Lawry, Cyrus Sammi, Ruth Hall, Aaron Leopold, Donna Hornby, Farai Mtero, and Hugh Waddington (2014) have argued that customary laws should integrate gender-sensitive provisions and policies that promote gender equality in rural land tenure.

In response to these various scholars' views, this study argues that customary laws should be in alignment with the Constitution's non-discriminatory policies. I argue that customary laws should not only recognise the land rights of women but they should also include gender-sensitive provisions that promote and safeguard the land rights of women living under the jurisdiction of traditional authorities. Customary laws should act alongside Acts such as the CLRA and not in isolation. Traditional authorities ought to be transparent to their respective communities.

Traditional authorities remain one of the most pertinent issues in the debates regarding the land rights of rural women in contemporary South Africa. Similarly, Eric Naki (2019) argues that some rural South African women view traditional authorities as obstacles or barriers to obtaining secure land rights. Claassens argues "why [should] rural people not be able to choose their representatives on the same basis as urban people" (Claassens, 2005:45). This is because traditional authorities are often not democratically elected (as previously stated) which is significantly problematic because these individuals are responsible for the allocation of communal lands and can entrench historical discrimination on women's access to land rights based on their own personal opinions or political views.

Consequently, Songca posits that "tensions engendered by conflicting interests between the government's commitment to gender equality and its reluctance to alienate or re-visit the powers of traditional authorities continue to undermine the rights of womxn and their access to land" (Songca, 2019:6). In light of these scholars arguments, I am of the view that there ought to be stronger sanctions on land administration structures that do not successfully meet equality provisions that have been stipulated under the law. Additionally, women need to be involved in decision-making institutions regarding land ownership in rural areas to effectively define and establish legislative interventions that advocate in favour of gender equality.

2.5 Resistance

The case of Agnes Sithole is of significant importance in South African history. Sithole and her husband were married in 1972. During this period, all black individuals were married out of community of property under section 22(6) of the Black Administration Act of 1927 (BAA) – unknown to Mrs Sithole. In 2000, Mr Sithole purchased a home in KwaZuluNatal

(solely) where the couple and their children resided. The couple's marriage deteriorated in 2019, causing Mr Sithole to threaten to sell the house without her consent, leaving his wife and children homeless – an act that was legal at the time (Broughton, 2020:2).

Given the fact that the Sithole's had married out of community of property, Mr Sithole had the authority to administer joint assets against the wishes of his spouse (Arekapudi & Martins, 2022:1). However, the majority of black women during South Africa's apartheid had no choice to be married out of community of property under the BAA. Yet, the Matrimonial Property Act in 1988 allowed the change of status for Black couples – although it did not happen automatically, as individuals had to apply for the change. Mrs Sithole stated that "when I realised the law had cheated me, that's when I realised that I would have to fight this" (Arekapudi & Martins, 2022:1).

In 2019, Agnes Sithole filed an order restraining her spouse from selling their marital home, which she argued she had equally financially contributed to the home. Her case was argued by the Legal Resource Centre (LRC). In 2021, South Africa's Constitutional Court ruled that all marriages that have taken place before 1988, would be altered to be married in community of property, putting an end to decade-long apartheid laws that marginalised black couples, but black women specifically (Broughton, 2021:1). Sithole's case demonstrates her tenacious battle in fighting for gender equality in land matters. Sithole's efforts have put an end to apartheid laws that have discriminated against thousands of Black women by dispossessing them of their marital assets, including land (Broughton, 2020:2). According to Tania Broughton (2021), Agnes Sithole's legal victory awards "financial security to about 400 000 black women in South Africa" (Broughton, 2020:2). Essentially, Agnes Sithole's legal battle has advanced the land rights of black South Africans to control, access and own land.

Despite South Africa's government's efforts to alleviate gender inequalities in rural land tenure systems, Bohler-Muller and Mayet posit that "the shift to democracy has had no effect on patriarchal customary law; in fact it has strengthened neo-colonial customary law, despite attempts by the Constitution Court to reign it in" (Bohler-Muller & Mayet, 2021:1). As such, Evelyn Namubiru-Mwaura, therefore, argues that "the effectiveness of laws depends on awareness, about them, the abilities to invoke them, and to what extent cultural norms and traditions are practiced and followed instead of formal laws" (Namubiru-Mwaura, 2014:10).

Therefore, laws aimed at promoting gender equality between women and men in customary land tenure systems are significantly dependent on the communities themselves and their willingness to accept and practice these laws and policies. The following section of this chapter examines rural women's land rights in matrilineal societies of Malawi.

SOUTHERN AFRICAN RURAL WOMEN'S LAND RIGHTS IN MATRIARCHAL SOCIETIES: MALAWI

3.1 Colonial Period in Malawi

This section critically discusses women's land rights during Malawi's colonial period (18911964) and explores how the colonial legal frameworks and economic structures transformed the land rights of rural women. It is pivotal to point out that before Malawi's colonial period, many women living in the different communities of Malawi had land rights (Wilson & Kachipande, 2020:1), (Maliwa, 1970:7). The scholars argue that "in the pre-colonial period, principles of matriliny organised social structures within many communities in Malawi, affording women rights to land, property, products of labour, and children, and influence in group decision-making" (Wilson & Kachipande, 2020:1).

However, the land rights of indigenous women were re-interpreted with the arrival of British colonialists in Malawi in 1891. Malawi, formerly known as 'Nyasaland', was colonized by Britain and became a British Protectorate from the period 1891 up until 1964 – when they achieved independence from colonial rule (McCracken, 2012:3). The period of colonialism in Malawi introduced private land ownership within the indigenous communities of many Malawian societies which was an unfamiliar concept to these indigenous communities who previously predominantly functioned on collective ownership (Moyo, 2005:13).

In light of this, Randi Kaarhus argues that colonialists promoted patriarchal practices within land ownership as opposed to matriarchal practices (Kaarhus, 2010:173). Kaarhus states that "patrilineal rules and practices would be seen as more civilised and advanced than the practices of matriliny that Europeans encountered through colonial expansion" (Kaarhus, 2010:173). On this basis, Ziolire Moyo argues that during the period from 1886 to 1963, women generally did not own rural land in the patrilineal districts of Malawi, specifically in

the Mzimba district (Moyo, 2005: 8). Moyo further argues that in this district "women did not own land because they were not responsible for holding land. At times women could obtain land but men had more land than women. In practice land, was not allocated to females" (Moyo, 2005:16). In contrast to this, there were districts in the central and southern parts of Malawi where matrilocal and matrilineal social customs dominated whereby women had land rights (Kerr, 2005:62).

Pauline E. Peters in turn posits that "senior colonial agricultural officers saw matriliny and matrilocal residence as obstacles to agricultural progress" (Peters, 2010:185). Colonialists viewed matriliny as a threat to their advancement of patriarchal practices in land ownership. Similarly, Kaarhus states that colonial administration in the region sought to "replace matrilineal practices with the more 'advanced' arrangements associated with patriliny, such as virilocality and the role of husbands as 'household heads" further disempowering matrilineal social systems that generally favoured women (Kaarhus, 2010:176). Women's position under matrilineal systems was further weakened through the British colonial establishment of customary law in the region (Kaarhus, 2010:176). It can therefore be argued that British colonial policies and administration shifted the balance of power within traditional land governance systems which relatively resulted in weakening women's rights to land.

In addition, according to Colin Baker, the British colonial enterprise in Malawi introduced a form of "hut and poll taxes" in the early 1890s which forced many Malawian men into waged labour (Baker, 1975:41). The hut tax was intended for men and the poll tax for women, but in most cases, men paid for both. In this regard, traditional authorities were also responsible for the collection of the hut and poll taxes from their community members. According to Attati Mpakati, traditional authorities were regarded as the "heads of the community" and they were responsible for the allocation of rural lands upon the advice of their European colonial superiors (Mpakati, 1973:39). Mpakati points out that in 1918 traditional authorities "received ten shillings for every 300 taxes collected for the colonial power. In 1957, approximately 1,900,000 [pounds] was handed over in hut tax" (Mpakati, 1973:38). These taxes were used to fund colonial administrations and to bribe chiefs to comply with laws and values of colonialists.

As a result, many Malawian men migrated to various parts of Africa, including South Africa, in search of waged labour (Moyo, 2005: 8). David Massey posits that "Malawi was sending over 80 000 men through to Francistown to the mines" in Botswana (Massey, 1978:97). These figures demonstrate how significantly large numbers of men were leaving their rural communities in search of employment. According to Dr Robert B. Boeder, there were approximately 129 207 thousand Malawian men migrants in South Africa by 1972, about 31 percent of the entire workforce at the Transvaal Chamber of Commerce (Boeder, 1984:18). As such, not only were Malawian men forced to leave their homelands in search of waged labour, but these men were also forced into labour during the Second World War. From the period 1939 up until 1945, Mpakati states that "more than 30 000 indigenous people of Malawi were serving in an imperialist war" (Mpakati, 1973:39). Chiza Chiumya argues that many of the indigenous communities of Malawi resisted these taxes but instead were forced to comply as a means of survival (Chiumya, 2006:3).

In the process, the hut and poll taxes essentially resulted in migrant labour which directly impacted the wives of the men who left their villages in search of employment. Importantly, the labour migration of spouses to foreign countries meant that the wives were left alone in their villages to ensure the upkeep of the land, meaning these women became the primary users of the land (Mtombeni, 2021:1187). On this basis, many women thus became economically and socially independent from men as the colonial system dismantled family structures (Kerr, 2005:57). These arguments further demonstrate how rural women's land rights in Malawi transformed with the arrival of colonialism in the region.

3.2 Malawi's Post-Colonial Era

Exploring the land rights of rural women in Malawi's post-colonial period provides a comparative perspective to contrast with the Namibian context. A comparative perspective provides a broader understanding of the legal, historic, and social factors that have played a role in shaping women's claims to land ownership in the contemporary period in rural land tenure. In addition, analysing the land rights of Malawian women under matriarchal societies during this period assists in better understanding the successes and shortcomings of land reform policies in different contexts. This knowledge has been useful in evaluating the CLRA and its impact on Aawambo women by identifying areas of potential improvement and looking at how Malawi's experiences can be applied to the Namibian context.

Moreover, Malawi gained its independence from Britain in 1964. Research has shown that from the period 1964 to 1993, more women were able to own land in their own right under matrilineal and patrilineal systems (Moyo, 2005:16). Research conducted by Jessica Johnson has also illustrated that in contemporary Malawian society, "women have rights, and there are non-governmental organisations (NGOs) and institutions such as police victim support units that have been set up to educate and protect Malawian citizens" (Johnson, 2018:1).

However, the following statistics demonstrate how a relatively small portion of Malawian women own land. Vivian Hartlief and Andrew Mkandawire argue that based on national demographics "48 percent of women in Malawi own a piece of land (solely or jointly) and 23 percent own land solely" (Hartlief & Mkandawire, 2018:1). Madalitso Kateta (2018) argues that data statistics pertaining to the land rights of rural Malawian women remain fairly scarce. Yet a report conducted by the US Agency for International Development revealed that in 2015 "women owned only 17 percent of documented land in Malawi" (Kateta, 2018:2). Additionally, the African Institute for Development Policy (AFIDEP) has argued that land reform in Malawi has been a decades-long endeavour. The Malawian government established various laws aimed at providing equal land rights for its rural citizens including the Land Survey Bill, the Customary Land Right Bill, and the Physical Planning Bill (Komoto, Kamkwamba & Molosoni, 2021:iv).

Moreover, these laws also stipulate that the management of all customary land be done through customary land committees, consisting of at least three women out of a total of six committee members. The Customary Land Act of 2016 is designed on a decentralised system of land administration (Chikhenda et al., 2019:iii). Decentralisation in customary land tenure systems provides systems of transparency and accountability to ensure power is not abused by traditional authorities (Ntsebeza, 2001:2). Ntsebeza states "one of the main aims of decentralisation is to increase public participation in local decision-making. The claim is that public participation, coupled with locally accountable representatives with real public powers, will increase efficiency and equity in the use of public resources" (Ntsebeza, 2002:1). Although the above-mentioned legal frameworks provide women with gender equality in rural land tenure systems in law, gender inequalities have continued to persist.

Contrary to the arguments posed by scholars that matrilineal land tenure systems afford women more secure land rights than patrilineal systems of rural land tenure, some scholars argue that matrilineal social practices have little to no effect on the land rights of rural Malawian women (Johnson, 2018:8). Berg et al. argue that violence and threats to women's tenure security do occur at the hands of their male counterparts within the matrilineal societies of Malawi (Berg et al., 2013:10). There are instances in the Malawian context where brothers borrow land from their sisters in the rural areas, but later use means of force to permanently take ownership of the land (Berg et al., 2013:11). Berg et al., argue that "in some cases, those who rent land have a tendency to claim full ownership by saying they have bought the land" (Berg et al., 2013:11).

It is therefore vital to note that matrilineal social systems do not always ensure women's complete control of land issues (Ngohengo, 2022:221). Not only that, Kachika (2009) argues that some women in matrilineal social systems are vulnerable to tenure insecurity as their lands are confiscated by traditional leaders, husbands, or brothers when it comes to inheritance – when their parents die. Thus, tenure insecurity experienced by women does occur under matrilineal social systems and not only under patrilineal social systems.

3.3 Resistance

The following discussion signifies a noteworthy instance where two Malawian women won a case in the Malawian High Court in regard to being forcibly deprived of their rural land. The case took place in the Mzuzu region of Malawi, which is argued to consist of predominantly matrilineal communities (Berge, 2014:5). In 2006, Mary and Indesi Goba inherited land from their late husband and father, respectively. According to Southern Africa Litigation Centre (SALC), the land was used to sell sugarcane, and the income these women received from the land, was their only source of income (SALC, 2017:1). Yet, SALC states that in 2012 "the Village Headman and some Cane Grower's Trust allocated Mary and her mother's sugarcane plot to an elite couple" (SALC, 2017:1). There were attempts made by the Goga's to mediate the issue diplomatically, but these attempts proved futile. By August 2013, the Goba's customary land rights were affirmed when they took the matter to Malawi's Magistrate Court (Sigrid Rausing Trust, 2016:1).

As a result, the Magistrate Court ruled in favour of the Goba's, stating the land was legally inherited through customary laws (Mtkia, 2017:3). However, during the same year, the plaintiff – Lois Madikhula took the matter to High Court claiming the land was legally his (Mtkia, 2017:3). The women were then served with an "injunction" and forced to vacate their land leaving them homeless and without any land to earn an income from – as they previously did (Sigrid Rausing Trust, 2016:1). These women were arbitrarily dispossessed from their land by traditional authorities who used their power to unlawfully remove their land rights in favour of wealthy elites. Following a lack of evidence from the plaintiff's side, the SALC argues that the High Court "held the actions of the Village Headman and Caane Grower's Trust to allocate customary land to new owners as unlawful" (SALLC, 2017:2).

Inherently, the Mary and Indesi Goba versus Lois Madikhula case is a documented example of Malawian women resisting patriarchal structures that have subjugated the land rights of rural women. I argue that these women are agents of resistance, and have forged a way for other women to take legal recourse in cases where their land rights – which are under the control of traditional authorities – are marginalised, threatened, or insecure. Even though Mary and Indesi Goba were able to reclaim their land through legal action, it came at a significant cost – that many rural women are not able to afford, and are thus left vulnerable to the actions of self-serving traditional authorities and other elites. The legal actions of the Goba's challenges notions that imply traditional leadership invariably equates to just governance.

SIMILARITIES, TRENDS, AND DIFFERENCES BETWEEN PATRIARCHAL SOUTH AFRICA AND MATRIARCHAL MALAWI

The discussion below outlines the general similarities and differences between rural women's land rights that are evident in patriarchal South Africa and matriarchal Malawi, with specific reference to the Namibian context. The literature examined has determined that South Africa and Malawi did not practice individual land ownership before their respective colonial periods. The period of colonialism eroded the land rights of women and entrenched the dominance of men being the exclusive owners of land in South Africa and Malawi. British

colonialists in both countries used the institution of traditional authorities as an extension of colonial powers.

In addition, the scholarship drawn upon has shown that rural women's land rights under the jurisdiction of traditional authorities in patriarchal South Africa have been generally limited which has directly impacted the socio-economic status of rural women (Clark & Luwaya, 2017:25). In comparison, the scholarship examined has also determined that in matriarchal Malawi, the land rights of rural women under the jurisdiction of traditional authorities tend to be more secure and women have more access and control over natural resources which they are able to use for economic activities to improve their livelihoods and better their position in society (Chikhwenda et al., 2019:2).

For these reasons, both Malawi and South Africa's constitutions have been dedicated to eradicating gender inequalities in rural land tenure through gender-based laws, policies, and campaigns. Fareda Banda argues that after 1990, the governments of South Africa, Malawi, and Namibia have promoted "women-friendly" Constitutions that ensure that "in the event of a conflict, the non-discrimination or equality provisions are there to rank above the custom or culture under consideration" (Banda, 2006:16). These non-discriminatory policies can be found in Article 66 of Namibia's 1990 Constitution, Article 24 (2) of Malawi's 1994 Constitution, and in Articles 30 and 31 (2) of South Africa's 1996 Constitution (Banda, 2006:16). However, these countries have instances where rural women still experience insecurity of land tenure although there are laws protecting their land rights under both patrilineal and matrilineal societies. My analysis confirms that these gender-inclusive legal frameworks in rural land tenure have not successfully alleviated the historic gender disparities of the past due to challenges in their implementation.

Moreover, it is important to understand how women's rights to land function in both matriarchal and patriarchal contexts in Southern Africa as it provides a complex understanding of the spectrum of factors that influence women's claims to land ownership in diverse rural land tenure systems. This information has helped contextually situate this study within a broader regional context. The socio-economic status of rural women in Namibia is therefore highly dependent on the effectiveness of the CLRA which this study has examined and further analyses in the following chapter.

4.1 Conclusion

This chapter has analysed existing literature regarding the land rights of women under the control of traditional authorities in the rural areas of Southern Africa. The literature drawn upon has determined women's rural land rights were much stronger during the pre-colonial periods of Malawi and South Africa's history. With the arrival of European colonialists, rural South African women's land rights were erased, and rural Malawian women's land rights were relatively diminished. In addition, the chapter has shown that in both the South African and Malawian contexts, rural women's claims to land have adapted to socioeconomic and political changes. Under these political changes, both Malawi and South Africa's governments have implemented legislation directed at gender equality in customary land tenure systems. However, the literature examined has illustrated that in practice, some women still find themselves vulnerable to systems of patriarchy or instances where men abuse their power under matrilineal and patrilineal social systems.

Examining women's claims to land under the jurisdiction of traditional authorities in Malawian and South African contexts has revealed that legal frameworks do not necessarily guarantee women access to land rights. Even in the presence of gender-sensitive and progressive legal provisions, deeply entrenched patriarchal beliefs and stigmas still pose significant barriers for women in their claims of land ownership. Another consequence is that knowledge and information about the laws established to safeguard rural women's land rights do not reach all community members, and this limited information often prevents women from asserting their land rights.

It is therefore pivotal for Acts such as the CLRA to be complimented with interventions targeted at raising awareness, cultural transformations, and capacity building. Such holistic approaches are necessary for providing women with secure land rights in rural land tenure systems. I, therefore, argue that broader societal transformation is required. A transformation that challenges discriminatory attitudes and social norms that restrict women's claims to land rights in rural areas. This transformation would entail an all-encompassing approach that addresses these broader challenges, ensuring rural women's access to land rights under the control of traditional authorities.

CHAPTER THREE THE HISTORY & EVOLUTION OF WOMEN'S LAND RIGHTS IN NAMIBIA'S RURAL LANDSCAPE

3.1 Introduction

This chapter discuss Namibian women's land rights in rural areas during Namibia's precolonial, colonial, and post-colonial periods. Analysing women's land rights throughout Namibian history provides comprehensive knowledge of the contextual and historical factors that have shaped women's claims to land which is essential to understanding women's land rights in contemporary Namibia. The study mainly argues that seemingly progressive legal frameworks such as the Communal Land Reform Act (No. 05 of 2002) (CLRA) are not enough to ensure rural women's access to secure land rights, more targeted and gender sensitive interventions are required. As such, through a case study, the study explored specific barriers and challenges faced by Aawambo women living in the Omusati region in exercising their land rights in the context of the CLRA and how these women have resisted these barriers.

The chapter examines the tensions and compatibilities between rural women's land rights, the CLRA, and customary practices in Namibia's rural landscape. Furthermore, the chapter commences with Namibia's pre-colonial period. This section discusses in detail how land rights were organised during this historical period between women and men in Namibian precolonial communities. Following this section, the chapter critically discusses women's land rights during the colonial period. Thereafter, the chapter discusses women's land rights during the post-colonial period in Namibia's rural areas. Overall, the chapter has determined that women's land rights in Namibia's rural landscape require much more than legal interventions to ensure their rights to land are safeguarded and secure.

3.2 Pre-Colonial Era

This section of the chapter traces Namibian women's land rights during the pre-colonial era. Before the advent of colonialism, Namibia had a very rich history of its own. According to Tilman Dedering, "pre-colonial Namibian history is one of the most underdeveloped areas of southern African historiography" (Dedering, 1988:95). Information thus regarding Namibia's pre-colonial history remains somewhat scarce, however, available research about pre-colonial Namibia reveals that indigenous Namibian social formations were mostly egalitarian, dynamic, progressive and held immense indigenous knowledge regarding land and their natural resources (Dedering, 1988:95).

According to Elke A. Matthaei (2018), the land during Namibia's pre-colonial era was 'owned' by the community. Henning Melber states that "land had traditionally been the collective property of the local community" (Melber, 1985:186). Other scholars such as Mwetulundila have argued that "during that time, the economy was purely agrarian, based on collective utilisation" (Mwetulundila, 2021:2). This meant that no individual had individual ownership of land during this period of Namibia's history, but rather land was a "collective possession" that belonged to the community (Mwetulundila, 2021:2). Land was also viewed as more than a commodity, but the majority of indigenous communities regarded land as 'ancestral' land (Lund, Odgaard, & Sjaastad, 2006:12). Ancestral land is generally land that has been used and managed by indigenous communities for many generations. The land often represents indigenous communities' identity, heritage, and sense of belonging where the land links them to their ancestors and holds deep social, spiritual, and economic value (Lund, Odgaard, & Sjaastad, 2006:12).

Furthermore, Matthaei argues that the traditional structures of pre-colonial Aawambo social formations were generally centralised (Matthaei, 2018:90). Hayes posits that during the precolonial period, in the northern parts of Namibia, it was "kings [who] nominally controlled all the land, granting usufruct for the lifetime of the head of household (*omwene keumbo*), although this tenure could be revoked" (Hayes, 1992:39). Upon the death of the head of household, the re-allocation of land was common but on rare occasions, widows were able to retain the land through a form of payment (Hayes, 1992:39). This is supported by Matthaei who states that "usufruct rights were granted to land parcels in the north" (Matthaei, 2018:90). This essentially meant that those who lived in the rural areas of northern Namibia had the right to use and benefit from the land in which they lived on, but these rights could be revoked at any point from the King who nominally controlled all land in the region (Matthaei, 2018:90).

It is further argued by Patricia Hayes that during the pre-colonial era in Namibia, Aawambo "women did not have direct access to land and depended on husbands or male kin for plots to cultivate" (Hayes, 1992:29). However, women who belonged to royal clans were awarded privileged access to various resources which included cattle as well as land (Hayes, 1992:29).

Women did have a role in the production of their village lands, yet their economic involvement was limited and undermined (Mwetulundila, 2021:3). Hayes argues that there was a division between labour that was based on one's gender. For instance, Aawambo women, (including girls) were responsible for household reproductive roles, the cultivation of crops, and gathering water and food for their households among other responsibilities (Hayes, 1992:31).

Aawambo women were specifically excluded from animal husbandry which was reserved for the Aawambo men; who were generally the heads of the household (Mwetulundila, 2021:3). Mwetulundila states that "it was mainly men who decided when and how crops and livestock would be used. Thus, even though women did have a role in production, their economic involvement was undermined" (Mwetulundila, 2021:3). Thus, men generally were in positions of power and influence in pre-colonial communities in Namibia, yet other scholars have noted some exceptions.

According to Dr Debbie LeBeau and Eunice Iipinge (2004), some women in precolonial Namibian societies held positions of power. LeBeau and Iipinge (2004) further argue that "in pre-colonial African societies, women exerted pressure on men both as mothers and as wives. In addition, in some cultures, such as those of the Nama, Kavango, and Aawambo, women were traditional leaders and chiefs" (LeBeau & Iipinge, 2004:1). However, the political, economic, and social relations of these cultures were centred on the dominance of men (LeBeau & Iipinge, 2004:1). Mwetulundila, therefore, argues that although gender inequalities existed during the pre-colonial era in Namibia, they became intensified with the arrival of European colonialists as well as missionaries with the establishment of colonialism (Mwetulundila, 2021:3).

3.3 Colonial Era

Tracing Namibia's colonial history provides critical information regarding the evolution of women's land rights in rural areas. The period of colonialism in Namibia was a highly exploitative and oppressive period in Namibian history (Werner, 1993:138). Namibia became a German colony from the period 1884 until 1915 – known as former German South West Africa (Kössler, 2015:1). Namibia's colonial history can be characterized by immense

violence; brutal colonial policies; genocide; land dispossession; indigenous resistance; and racist ideologies among others (Kössler, 2015:1). Essential components of German colonial rule in Namibia was settler colonialism where German colonialists began dispossessing and alienating indigenous Africans from their ancestral lands so that white European settlers could occupy the land (Melber, 2019:73). In some instances, these European colonialists acquired land through signed protection treaties with indigenous rulers and in most instances, they used force and violence to acquire indigenous Africans land (Werner, 1993:138).

Wolfgang Werner states that "large-scale dispossession of black Namibians was as much intended to provide white settlers with land, as it was to deny black Namibians access to the same land, thereby denying them access to commercial agricultural production and forcing them into wage labour" (Werner, 1993:135). Such arguments are supported by Jonathan Baker, whose work resonates with the arguments posed by Hirut Girma who states that "indigenous Namibians were systematically dispossessed of land and confined to underdeveloped lands in the northern regions, while European settlers were granted freehold rights to commercial areas in the central and southern parts of the country" (Girma, 2016:2). Essentially, the appropriation of land by European colonialists in Namibia introduced new forms of land tenure in the region.

As a result of colonial expansion in the region, communal land utilisation was replaced by private land ownership which was accompanied by extremely rigid land boundaries in various parts of the country (Werner, 1993:135). Capital accumulation became intricately associated with colonial land policies. By the same token, European colonialists facilitated capital accumulation through the establishment of 'native reserves' which provided cheap labour for the settler economy (Melber, 2019:73). This argument is supported by Henning Melber who argues that the German colonial enterprise in Namibia "created the infamous structures of an apartheid society" (Melber, 2019:73).

Werner (1993) identifies that this was done through their 'native reserves' where colonial officials were able to control most of the population through the appointment of indigenous rulers and local headmen into the colonial system as "lower level bureaucrats" who were appointed to administer the 'native areas' on behalf of the European colonialists – and in return, were compensated for their work (Werner, 1993:136). Similarly, to South Africa's

apartheid era, the ‘native reserves’ served as wage subsidies towards the colonial economy under the systems of direct and indirect rule – the system of divide and conquer (Mamdani, 2001:24). Fundamentally, land alienation and land dispossession inflicted upon the indigenous communities of Namibia had devastating effects on these communities.

According to Werner (1993) by 1902, white European settlers had already acquired 3.7 million hectares of land; the colonial enterprise had acquired 19.2 million hectares of land; and concession companies had acquired 29.2 million hectares of land out of 83.5 million hectares of land in Namibia. In comparison to these figures, black Namibians had only retained 31.4. million hectares of land in the country (Werner, 1993:138). It is further argued by Austin Michael Hutchinson that by the year 1913 “white settlers owned 11,490,000 hectares of land compared to [Namibian] Africans holding 317,243 hectares in 1920” (Hutchinson, 2021:31). These figures reveal the very exploitative nature of European colonialism in Namibia and how many black Namibians were dispossessed of their lands through the violent and brutal land appropriations waged by European colonialists against indigenous Africans over a long period of time.

Similar to the South African and Malawian context, Nakanyete et al. (2020) argues that during this period, the respective spouses of Namibian women would leave their ‘homelands’ for long periods in search of waged labour in distant or neighbouring areas – leaving their wives to manage and maintain the land. The majority of the Aawambo women left behind thus became responsible for subsistence farming and caretaking of domestic animals, alongside their social reproductive roles. According to Kletus Likuwa and Ndapandulwe Shiweda, the number of Aawambo men involved in migrant labour recorded approximately “9 295 labourers in 1911, 6 076 in 1912, and 12 025 in 1913” (Likuwa & Shiweda, 2017:29). These figures indicate the immensity of the migrant labour system in Namibia among the Aawambo people.

However, it must be mentioned that historians have questioned why young Aawambo men engaged in migrant labour when there was no dire threat of taxation or external conquest forcing these men into waged labour (Likuwa & Shiweda, 2017:29). Nonetheless, in many instances, some of the husbands would never return due to getting remarried, due to death, or other reasons (Nakanyete et al., 2020:133).

Of particular interest, Namibia was occupied by the Union of South Africa in 1915 before Germany's defeat in the First World War (Wiechers, 2010:81). After Germany's defeat, South Africa was awarded the mandate by the League of Nations to administer the Namibian territory on behalf of the British Empire (Wiechers, 2010:81). Lynn Berat argues that "from the start, South Africa treated the mandate as a veiled annexation. It continually took actions that asserted South African sovereignty over the [Namibian] territory" (Berat, 1990:47). The colony of South Africa retained the oppressive, exploitative and violent colonial laws implemented by their German colonial predecessors which Hutchinson describes as laws aimed to "segregate, disarm, and obliterate the people of the country" (Hutchinson, 2021:31). John M. Luiz, however, argues that by 1948, the apartheid regime had been established in South Africa (and subsequently Namibia) which introduced even more oppressive, violent, racist and oppressive laws and policies against indigenous Africans (Luiz, 1998:50).

By the same token, Luiz and Hutchison characterize the system of apartheid as that of racial segregation where the apartheid regime used race as an instrument of control and subjugation. It is important to note that the introduction of apartheid laws and policies within Namibia meant that no African could legally own land (Hutchinson, 2021:32). The period of apartheid left devastating legacies within Namibia of landlessness and suffering through the violence inflicted on indigenous communities when they were forcibly dispossessed and removed from their lands onto marginal and less fertile lands at the hands of the apartheid regime – including numerous other apartheid legacies (Luiz, 1998:51). Girma (2016) further argues that during colonial rule in Namibia, women and men were precluded from owning property or land.

Equally important is the formation of the Aawambo-dominated South West Africa's People's Organisation (SWAPO) in 1964, which went on to be the political party that won Namibia's liberation in 1990. However, the 'South African Border War' – also referred to as the 'Namibian War of Independence'– took place before Namibia gained its Independence. The War occurred from August 1966 up until March 1990 and was fought between SWAPO's armed wing – the People's Liberation Army of Namibia (PLAN) and the South African Defence Force (SADF) (Scholtz, 2006:29).

The conflict took place in the northern regions of former South West Africa, Angola, and South Africa (Scholtz, 2006:29). With Angola's Independence in 1975, SWAPO was able to wage a guerrilla warfare campaign due to the shorter supply lines between the nations for weapons and other armed materials. Due to the high numbers of the population situated in the northern regions of Namibia, the SADF targeted those regions, forcing PLAN members away from the region. South Africa subsequently lost the war, however, the war caused disruptions in many Aawambo communities' livelihoods, traditional family structures, and the land they occupied (Soiri, 1996:51).

3.4 Post-Colonial Period

Once Namibia gained independence from the apartheid South African government, the Namibian government established legal frameworks to redress the gender inequalities of the past in a democratic Namibia (Malan, 2003:iii). Namibia held its first 'Conference on Land Reform and the Land Question' in June 1991 where the Conference aimed to "gather national opinion on the land reform question before government policy is determined and a programme to make changes is introduced" (van Wyk, 1992:35). The Conference established that there were no policy frameworks that existed which legally formalised the rights of customary land users (van Wyk, 1992:36).

In actuality, land rights were orally administered by traditional authorities before any formal policy frameworks were established. At this land Conference it was argued that the role of traditional authorities should be clearly defined in law as there were no clear legal guidelines traditional authorities followed before independence (van Wyk, 1992:36). Essentially, Namibia's first Conference on Land Reform and the Land Question included suggestions on what policies ought to be put in place to clearly document customary holders of land. In September 1996, the Communal Land Bill (CLB) was submitted to a 'Consultative Conference' on the Administration of Communal Land. Many powerful kings, chiefs, and high-ranking politicians were invited among the other 200 participants (Werner, 2021:19). Werner posits that "while individual women attended and provided inputs to these conferences, attendance registers do not show any organised women's group articulating gender issues" (Werner, 2008:12). Werner further argues that "none of the conferences came up with recommendations going beyond the assertion of equal rights for women obtaining and retaining land rights" (Werner, 2008:12).

Similarly, Becker (1997, quoted by Werner (2008:12), states that the Conference in 1996 failed to reference any gender aspects. Following this period, the Draft Bill was sent to Regional Governors in 1999, to be distributed to various regions. The Parliamentary Standing Committee on Natural Resources revealed that only 29 public hearings were held in various regions altogether, where very few members of the general public were aware of the contents of the Bill – especially in rural areas. It was therefore recommended that the Bill be withdrawn to be introduced at a later stage once the general public was satisfied and well-informed about the contents of the Bill. However, this recommendation was rejected and the Bill was approved by the National Assembly in February 2000 (Werner, 2008:13).

Not only was the Bill criticised for its lack of proper consultation with the general public, NGOs also criticised it for its suddenness. Nevertheless, other scholars such as Martin Adams argue that the CLB "did go through a process of public consultation" (Adams, 2000:10). Willem Odendaal argues that before the CLRA was passed in parliament, there was a decades-long negotiation process that included "various drafts of the Communal Land Reform Bill [that] exchanged hands in parliament, the National Council and the Council for Traditional Leaders for comment" (Odendaal, 2011:12). Nonetheless, Joseph Iita (2000) claims that it was traditional leaders who played leading roles in the consultation phase of the CLB – not rural women. Equally significant are the arguments Hirut Girma (2016) posited regarding the consultative process of the CLRA.

Girma argues that the consultative process for the CLRA was unsatisfactory (Girma, 2016:12). She states that certain communities were consulted but this was done on a limited basis where these engagements often occurred between traditional authorities and regional councillors. It is argued that "the government assumed that information shared with senior Traditional Authorities would be disseminated to local communities through traditional structures and that communities would be represented through the same" (Girma, 2016:12). The information disseminated was often inaccurate and contributed to the misinterpretation of the CLRA.

On this basis, the information shared with traditional authorities and regional councillors included the general features of the Act, failing to sufficiently grapple with the general issues women face and how the Act seeks to rectify them. Consistent with the views of Girma, Liz

A. Wily states that there was no clear democratic consultation process on the CLRA in Namibia (Wiley, 2003:23). Wolfgang Werner and Bertus Kruger argue that even when the public is consulted regarding land reform legislations, their viewpoints are often not even taken into account (Werner & Kruger, 2007:6).

Despite the arguments posed by the above scholars, Namibia's former President Hifikepunye Pohamba declared that the CLRA was initially developed in 1995, following several meetings, seminars, and workshops that were held (Malan, 2003:iii). According to Pohamba (2003, quoted by (Malan, 2003:iii), following Namibia's Independence, "land allocation and administration in communal areas of Namibia have been impeded by the absence of clear coherent communal land registration" (Malan, 2003:iii). Pohamba stated that providing Namibians with access to land was a significant priority for Namibia's government. In 1998, the Namibian government adopted the National Land Policy, giving all citizens equal access to customary land tenure. At the time, the National Land Policy recognised freehold tenure and Permission to Occupy (PTO) certificates, which were later phased out with the enactment of the CLRA and altered into leasehold rights (Malan, 2003: xiii). The CLRA followed the guidelines of the National Land Policy and was set out to clearly define the functions of traditional authorities and Communal Land Boards (CLBs) – concerning the allocation and administration of rural land.

Although the public consultation for the formulation of the CLRA is argued to be relatively unsatisfactory, more individuals living in Namibia's rural landscape have been able to acquire customary land rights. However, Werner argues that fieldwork conducted in 2007 revealed that the "majority of people in the communal areas of the north-central regions were unaware of the Act and its provisions" (Werner, 2008:13). Similar to the CLRA, the Land Bill also faced backlash for its limited public consultation. In 2010, the Land Bill was drafted and circulated to the public. The primary aim of the Bill was to amend and consolidate the CLRA and the Agricultural (Commercial) Land Reform Act of 1995 (ACLRA) into one Bill. The ACLRA governs the expropriation and acquisition of commercial land for resettlement causes (Legal Assistance Centre, n.d..:2). The amendment and consolidation were facilitated to ensure that all land in Namibia is on the same status in Namibia.

In 2016, the Bill was tabled in the National Assembly, but it was withdrawn to incorporate additional resolutions at Namibia's second Land Conference. In 2020, the Bill was revised

and recirculated to the public. According to Wolfgang Werner, the Bill improves the transparency and accountability of traditional authorities, but it is difficult to enforce this transparency among all traditional authorities. The Bill has been criticised for not including any legal mechanisms that stipulate the requirement of local populations in decision-making practices (Werner, 2017:16). The Bill was also critiqued for not adequately involving the public in its consultation phase.

According to the Namibian newspaper, Namibia's former minister of Land Reform Utoni Nujoma has been accused of making controversial comments regarding the Bill and the consultation process. Following the remarks made to the newspaper, Nujoma claimed that the government did not want "waste" money on the consultation process which is highly concerning for future land legislation (The Namibian, 2017:1). Nujoma's comments are problematic as public consultation is crucial to ensuring that the interests and needs of the public are reflected in legislation, especially marginalised and vulnerable groups such as women and children.

Furthermore, individuals involved in the consultation process, contribute to the formulation of policies and laws that directly affect their daily lives. Community involvement in the consultation processes of legal frameworks on land also offers individuals a better understanding of how various legislations function, contributing to a better-informed society. Werner (2017) argues that the Land Bill did not follow a democratic process in terms of consulting the public as there was very little input from marginalised groups – women, widows, and others deemed vulnerable whom the Act is supposed to protect, support, and uplift. Failing to consult the public may result in resistance from community members and lead to inadequate land legislation reforms.

3.4.1 Functions of the CLRA

Almost half of Namibia's population resides in rural land areas meaning that matters regarding customary land tenure are of high concern and importance to many Namibian individuals (Mendelsohn et al., 2012:3). John Mendelsohn, Louise Shixwameni, and Uda Nakamhela identify Namibia's two main land tenure systems as the freehold land tenure system in urban and commercial land areas and the customary land tenure system in communal land areas (Mendelsohn et al., 2012:3). Under the Act, customary land rights and

rights to leasehold may be allocated to Namibian citizens (Malan, 2003:20). A customary land right may consist of a residential unit, farming unit, or any other customary tenure that is approved by the respective traditional authorities.

The duration of the customary land right lasts until the customary land right holder is deceased, upon their death, the land is returned to the traditional authority for reallocation to either a surviving spouse or surviving children (Legal Assistance Centre & Namibia National Farmers' Union, 2009:24). However, before a customary land right holder dies, they have the choice to transfer the right to someone else. It is also important to note that traditional authorities can cancel a customary land right at any given time, according to regulation 6 of the Act (Legal Assistance Centre & Namibia National Farmers' Union, 2009:24).

According to Mwetulundila, the CLRA "grants women equal rights when they apply for communal land and protects the surviving spouse of the deceased holder of a customary land right by giving surviving spouse, who is a woman in most cases, the right to apply to the chief of a traditional authority to reallocate that right in his/her name" (Mwetulundila, 2021:5). In cases of discrimination against women, such as forced evictions, land grabs, or refusals to allocate land to women, the CLRA deems such acts as illegal. As mentioned earlier, land is vital to rural communities. Land has immense political, social, and economic value for women. The images below indicate Aawambo women fishing in shallow waters in Owamboland which can be seen as women using land to support and enrich their livelihoods.

Figure 7: Aawambo woman fishing on land.

Source: Friedrich Smeier (n.d.).

Additionally, traditional Owambo homes are referred to as ‘ondulushu’ in the Oshiwambo language. These homes represent a traditional history of the Aawambo people’s craftsmanship, building techniques, and architectural style. The homes are often made using local and renewable resources such as thatch roofing from grass and wooden sticks for the foundational frame of the homes. Figures 8 and 9 visually illustrate the appearance of typical Aawambo homes in the northern regions of Namibia’s rural areas. In comparison to their homes during the colonial era, the general architectural structures have remained the same, with minor alterations. These homes often reinforce the cultural identity of Aawambo communities and unique architectural designs preserve the Aawambo cultural heritage.

Figure 8: Aawambo home.

Source: Yamilla Martin (2022).

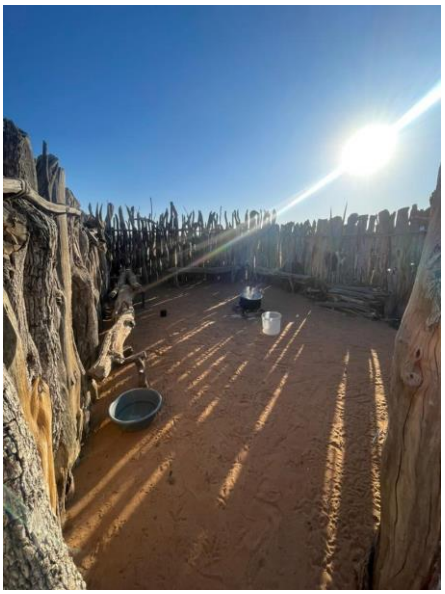

Figure 9: Aawambo home's fireplace.

Source: Yamilla Martin (2022).

Before new dwellings can be constructed, the land has to be identified, allocated, and paid for. Following the guidelines from the MLR (2023), there are seven steps required to apply for a customary land right in Namibia's rural landscape. The first step includes identifying the piece of land the applicant would want to purchase with their respective Traditional Authority which would be a village headman or headwoman. The second step involves paying N$ 25 Namibian dollars and completing the appropriate documentation. Applicants are also required to pay N$ 600.00 Namibian dollars to their respective headwomen or headmen to secure their customary land right, which is often unattainable for some impoverished women.

Following this step, the MLR will then map the chosen area and verify your application. The application will then be visible at the Traditional Authorities Office for seven days pending any objections. The fifth step in securing a customary land right involves the Communal Land Boards (CLBs) which decides if the application is in accordance with the law. According to Yaw Acheampong "agencies like the Ministry of Lands and Resettlement and Communal Land Board (CLBs) play respective roles in the administration and management of the communal land" (Amoah, 2011:1). According to Paul Hebinck, traditional authorities and CLBs use the CLRA as a guideline in democratising and regulating rights to communal land (Hebinck, 2021:2). Thereafter the customary land right certificate is printed and

received by the respective traditional authority. The final step includes notifying the applicant and then the verification of the certificate. Regarding the documents required to register a new customary land right, applicants require a copy of their identification document and a letter from a traditional authority providing their recommendation and approval.

It is, therefore, pivotal to differentiate the roles of traditional authorities and CLBs in rural land tenure systems. Hebinck (2021) posits that the Act affords traditional authorities and CLBs with the authority to intervene in rural land disputes. CLBs were introduced with the enactment of the CLRA, which can be found in section 2 of the Act. The CLRA ensures that a minimum of four women are required in all CLBs (Girma, 2016:12). This is a significant step in allowing women in decision-making positions pertaining to rural land.

According to the Republic of Namibia's Government Gazette, CLBs are responsible for "control over the allocation and the cancellation of customary land rights by Chiefs or Traditional Authorities under this Act; (b) consider and decide on applications for a right of leasehold under this Act; (c) establish and maintain a register and a system of registration of customary land rights and leasehold rights" (Republic of Namibia, 2002:5). Conversely, traditional authorities have several responsibilities, but they are mainly responsible for community development, dispute resolution, and the management and allocation of communal land (Nakanyete, et al., 2020:135).

When referring to land rights under the control of traditional authorities, Figure 10 below is an example of a customary land right certificate that was issued to Fiina Iipinge, a participant in this study. For privacy and security reasons, she requested that some information be omitted from her customary land right certificate. The customary land right is issued in accordance with the CLRA as stated in the certificate. Along with Table 1, the customary land right certificate of Iipinge are vital pieces of verifiable evidence that substantiates the claim that more Aawambo women have been able to obtain customary land rights since the CLRA took effect. Fundamentally, Table 1 has provided crucial data in understanding the impact and effectiveness of the CLRA on rural women's claims to land rights.

REPUBLIC OF NAMIBIA

MINISTRY OF AGRICULTURE, WATER AND LAND REFORM

CERTIFICATE OF REGISTRATION OF CUSTOMARY LAND RIGHT

As in the Communal Land Reform Act, 2002 (Section 25, Regulation 5)

It is hereby certified that a Customary Land Right has been granted to:

Right holder: *Fiina IIPINGE*

Nature of right holder: Individual

Description of land right which has been granted:

pproved land use: Crop Production and Residential (Farming and residential unit) approval date: 19.11.2021

her right on parcel: approval date:

Figure 10: The Customary land right of Fiina Iipinge, approved in 2021.

Source: Yamilla Martin (2023).

3.4.2 CLRA Figures

Middleton, von Carlowitz, and Becker argue that by 2015, more than 80 thousand land rights had been registered since the inception of the CLRA. Of the 80 thousand land rights registered, more than 40 percent were registered by women (Middleton et al., 2016:95). Looking at Namibia's present-day situation, approximately 59 268 customary land rights have been granted to women living in Namibia's rural areas under the jurisdiction of traditional authorities since the CLRA's enactment (MLR, 2023:1). The table below clearly indicates the total number of customary land rights in Namibia's rural areas under the control of traditional authorities, from 01 March 2003 up until May 2023. The table provides quantitative data on the land registration figures in Namibia's rural landscape, which have provided a factual basis to analyse the CLRA and its impact on Aawambo women living in the Omusati region. In the case study area, 18 271 customary land rights were granted to women in comparison to the 27 408 customary land rights granted to men in the Omusati region.

Table 1: Registration of communal land rights/Access to tenure rights April 2023

Regions	Customary Land Rights	Gender		Percentages	
	Total Registered	Men	Women	Men (%)	Women (%)
Kharas	2,923	1755	1168	60,04	39,9
Hardap	1,925	1,155	770	60	40
Erongo	5,319	3191	2,128	59,9	40
Ohangwena	32, 410	19447	12963	60	39,9
Omaheke	2,757	1,654	1,103	59,9	40
Oshana	19,111	11468	7643	60	39,9
Omusati	45,679	27408	18,271	60	39,9
Zambezi	8,458	5,076	3382	60	39,9
Oshikoto	18,976	11387	7,589	60	39,9
Otjozondjupa	4,068	2441	1627	60	39,9
Kunene	5,904	3,540	2,364	59,9	40
Kavango	660	400	260	60,6	39,3
Total	**148,190**	**88,922**	**59,268**		

Source: Ministry of Land Reform (2023).

Moreover, the table depicted above have been useful in identifying gender disparities and imbalances between women and men in customary land rights in Namibia's rural landscape. The data indicates that men have proportionately higher amounts of registered customary land rights than women in Namibia's rural areas. Additionally, in none of Namibia's regions do women possess more customary land rights than men, which suggests that further investigation is required into uncovering the barriers and challenges certain women face in obtaining secure land rights under the control of traditional authorities.

Nonetheless, the table has also highlighted the positive outcomes of the CLRA in granting 59 268 customary land rights to women. As previously stated, black women living in rural areas were unable to possess land during Namibia's colonial period, therefore, having almost 60 thousand women as legal landowners in Namibia's rural area under the control of traditional authorities is a significant achievement of the Act. It is also important to point out that the Omusati region has the highest amount of women-registered customary land right holders in Namibia's rural areas. Yet, the table also reveals that the Omusati region does not have the highest proportion of land rights issued to women living under the jurisdiction of traditional authorities but instead the Hardap, Omaheke, and Kunene regions present the highest proportion of land rights issued.

Moreover, relying on the figures alone, the land rights of women living in the Omusati region imply that they potentially benefit from greater access to and control of land than in other Namibian regions. However, the central argument of this study has argued that legal frameworks such as the CLRA have not been enough to secure women's land rights in Namibia's rural landscape. Yet, I have argued that huge strides have been made to ensure that Namibian women living in rural areas have access to land rights, equal to that of men. Nonetheless, I believe that patriarchal customary practices and traditions still act as barriers to rural women's access to land. I have also argued that the Namibian government failed to adequately consult the public – specifically rural women – in the formulation of the CLRA. The Act, therefore, fails to represent the demands, concerns, and needs of rural Namibian women living under the jurisdiction of traditional authorities based on failing to include the voices of marginalised groups of people the Act claims it safeguards (Wiley, 2003:23).

Analysing the land rights of rural women in Namibia's post-colonial era provides foundational knowledge on how contemporary land reform programmes have attempted to rectify historic injustices perpetuated against rural women living under the control of traditional authorities. Examining contemporary land reforms, specifically the CLRA, has provided insights into how effective reforms like these have been in successfully addressing gender disparities in rural land tenure systems. Article 10(2) of the Namibian Constitution, states that no individual can be discriminated against based on their race, sex, ethnicity, religion, creed, or sexual orientation (Republic of Namibia, 1990:28).

3.5 Resistance

There are instances where Namibian women resist patriarchal barriers to their land rights. According to Hertta-Maria Amutenja, in March 2019 a rural Namibian woman and her three children were forcibly "kicked out" of their homestead following the death of her husband (Amutenja, 2023:1). Aili Iilende is from the Okathitukambanda village (relatively close to Okahao) claimed in court documents in Oshakati's High Court that her late husband's nephews Eliaser and Simon Iyambo had unlawfully evicted her and her children from their marital home.

As a result, the brothers were taken to court by the Ongandjera Traditional Authority on behalf of Mrs Iilende for the failure to return the keys to her home (Amutenja, 2023:1). Amuntenja states that "the Iyambo brothers are now unlawfully occupying the premises, despite the land being allocated to her as Utoni's surviving spouse as provided for under the Communal Land Reform Act" (Amutenja, 2023:1). Interestingly, Eliaser Iyambo was the senior superintendent and head of legal affairs at Namibia's Police Force (NamPol). Eliaser Iyambo's prominent position at NamPol may have allowed him and his brother to abuse his power to dispossess Mrs Iilende of her land.

Furthermore, even though the CLRA deems land grabs and land dispossession from widows as unlawful, Mrs Iilende's property was moved out of the premises and she was denied entry into her home. By October 2020, Mrs Iitende's land had still not been returned. Although the courts ruled in favour of Mrs Iitende, the brothers refused to comply with the judgment which reiterates how the CLRA fails to sufficiently safeguard the land rights of numerous rural women when men are still able to dispossess women from their land, without any repercussions. The actions of Mrs Iitende depict her willingness to resist patriarchal structures that threatened and dispossessed her of her land rights. This demonstrates that not all rural women are passive observers in response to violations against their rights to land.

3.6 Conclusion

This chapter discussed women's land rights in rural areas throughout pre-colonial, colonial, and post-colonial Namibia. The chapter showed that land was generally collectively owned by the community during the pre-colonial era, where no individual could lay a single claim

over land. During the colonial period, women and men were legally excluded from owning land rights in Namibia's rural landscape. Furthermore, this chapter established that in contemporary Namibia, women can now legally acquire land rights in rural areas since the Namibian government passed various legislation – specifically the Communal Land Reform Act (Act No. 05 of 2002). The Act allows both women and men to equally claim land rights. Additionally, the chapter has determined that women in the Omusati region have significantly higher customary land rights than women in other Namibian regions – which signifies a positive step towards empowerment and gender equity for women in the area. However, the chapter has determined that pockets of injustice still persist.

The study primarily highlights the importance of continued endeavours aimed at the advancement of gender-sensitive land governance systems to empower rural women not only in Namibia but in other contexts that experience similar issues. Through a case study, the following chapter provides evidence-based research that demonstrates how the CLRA has impacted Aawambo women in practice in the Omusati region.

CHAPTER FOUR THE AAWAMBO WOMEN'S LAND RIGHTS CASE STUDY: DATA COLLECTION AND ANALYSIS OF DATA

4.1 Introduction

This chapter focuses on the data analysis and collection of data employed in a case study aimed at exploring the impact of the Communal Land Reform Act (Act No. 05 of 2002) (CLRA) on Aawambo women's land rights under the jurisdiction of traditional authorities. To guide the analysis and data collection process, several principle sub-objectives were formulated and guided by the primary research question, namely how has the CLRA impacted Aawambo women's land rights and their socioeconomic empowerment in Namibia's rural Omusati region? The sub-objectives examined whether:

- Are Aawambo women aware of their land rights in this region?
- Do Aawambo cultural traditions affect women's land rights in the region?
- Do Aawambo women themselves play a role in hindering the positive impacts of the CLRA or have they been active agents in resisting factors that discriminate against them in rural areas?

Moreover, the study utilised qualitative methods of inquiry as the case study design. This methodological perspective was well-suited to examining the interplay between the CLRA and Aawambo women's land rights by capturing complex experiences, meanings, and perspectives from each of the respective participants. Elke A. Matthaei successfully used this type of methodological approach when she conducted a case study that examined the formalisation of communal land rights in Namibia's rural areas (Matthaei, 2018:90).

A fundamental aim of this study has been to bring the voices of these Aawambo women to the foreground, demonstrating their hidden truths; voices; and experiences of rural land tenure within the field of academia – a space that many of these women would unfortunately not be privy to without the intervention of this study. The chapter does this intending to deepen one's understanding of Aawambo women's land rights in Namibia's rural landscape. The study contributes to existing knowledge on communal land reforms, gender, and land under the jurisdiction of traditional authorities in Namibia's rural landscape.

The next section of the chapter presents the responses from the participants who partook in the study. As mentioned in chapter one, a thematic analysis was adopted for this study and the following section is divided into the following themes: the importance of awareness in rural land reform, the power of tradition in rural land matters, and women's equality and the CLRA.

THE PARTICIPANTS' RESPONSES BASED ON A THEMATIC ANALYSIS

4.2 The Importance of Awareness in Rural Land Reform

A crucial point of discovery for this study was exploring whether Aawambo women were aware of their land rights in the Omusati region. It is vital to point out that the sample of the study was too small to deduce a quantitative presentation regarding Aawambo women's awareness of the CLRA. However, the deductions drawn in this section are based on the responses made by the participants of the study. On this basis, it was important to also establish whether the participants of this study were aware of the CLRA and how the Act benefits both women and men in their quest for land rights.

In addition, when examining other secondary literature, it became evident that several scholars have argued that a lack of awareness from community members has presented itself as a key limitation to the success of laws and policies on the ground. Scholars such as Mwetulundila (2021), Werner (2018), and Nakanyete et al. (2020) have argued that a major shortfall the CLRA faces is its lack of awareness from community members, specifically women. Daley et al. argued that "rural women are not empowered to claim and defend their land rights. They usually lack knowledge of their rights, as do others in the community" (Daley et al., 2013:9).

The arguments posed by Daley et al. (2013) resonate with Mwetulundila's (2021) literature where he conducted a study in the Oshana, Oshikoto, and Omusati regions of Namibia, where he argued that "women are also not adequately informed about their land rights and this is the current status quo despite various interventions from the government to address the existing disparities" (Mwetulundila, 2021:5). Santpoort et al. also argue that "women and

men at a local level may not be aware of women's rights to land, and social and cultural relations may prevent women from claiming their rights" (Santpoort et al., 2021:393). Despite the views of these scholars, this study shows that there are some women who are aware of their land rights as well as the CLRA. Information regarding the CLRA is generally disseminated through traditional authorities, NGOs such as the Legal Assistance Centre, and through the CLRA textbook guide displayed below.

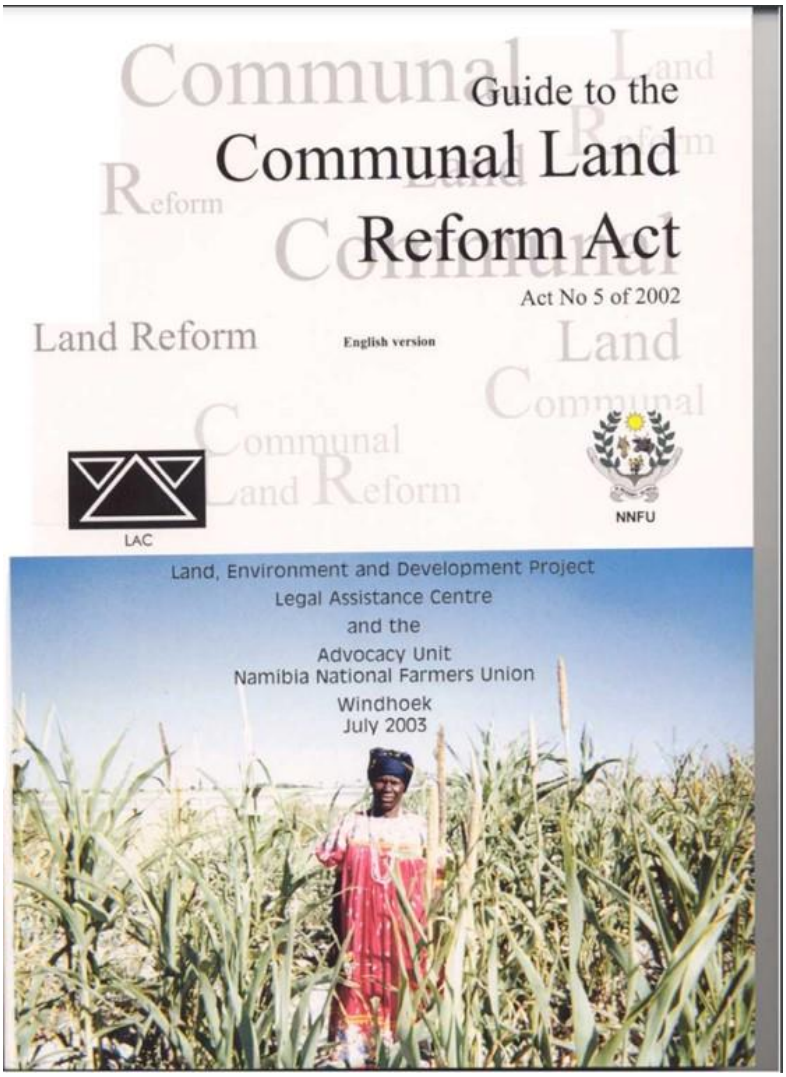

Figure 11: The Guide to the Communal Land Reform Act (Act No. 05 of 2002).
Source: Johann Malan (2003).

The guide offers detailed information about the Act which can be seen as significantly beneficial to rural populations under the jurisdiction of traditional authorities. Analysing the data that was collected, of the thirteen women participants, five participants were completely unaware of the CLRA and its entitlements – meaning that they had never heard of the Act

before partaking in this study. These women included Rosalia Endjala – the village headmen and primary school teacher; Lovisa the engineer; Angela Shikongo the government employee; Brandy Molo who worked in administration; and Kauna Shapa who worked with the Rural Women's Assembly in the Omusati region. The chart below visually represents the sample of participants informed or uninformed about the CLRA. Figure 14 below visually presents the percentage of women participants who were informed about the CLRA, and also the percentage of those who were uninformed about the Act.

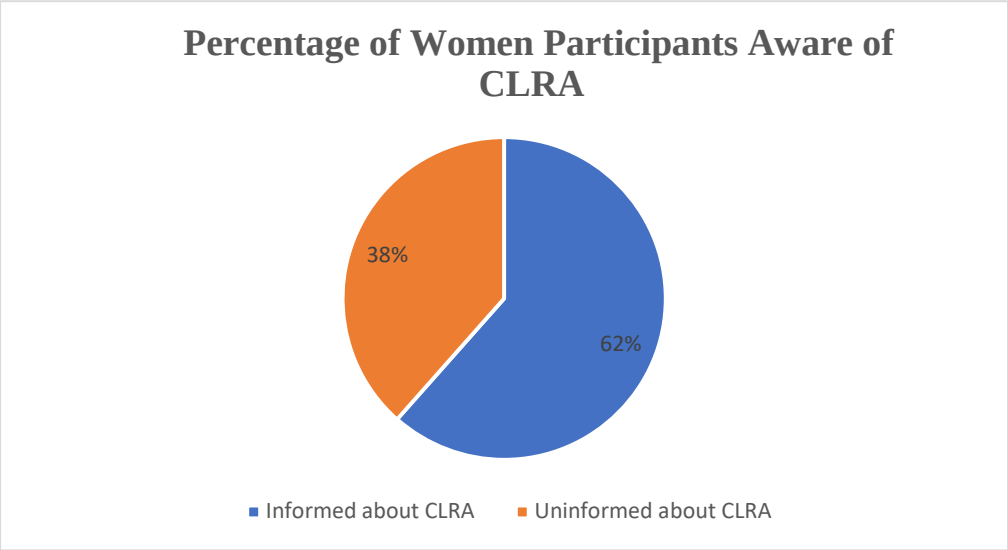

Figure 12: The Percentage of Women Participants who were informed of the CLRA.

Of the participants who were well informed about the CLRA, the responses from participants Annastasia Shilimeinbi and Erikka Nehunga stood out. Both of the women are landowners within their respective villages in which they were able to own land in their own right after the implementation of the CLRA (Nehunga, personal interview, 2022 September). Annastasia Shilimeinbi stated that "after the Communal Land Reform Act, we got land once we applied through a headman" she went on to say that the women living in her village know about their communal rights "because of the monthly visits from the non-profit organizations. They host workshops where they explain the laws and rights of women, and that now everything is equal and not like the past" (Shilimeinbi, personal interview, 2022 September).

These statements made by Annastasia Shilimeinbi demonstrate the active steps traditional authorities and non-profit organizations (NPOs) have made in reaching rural communities

and informing these women of their land rights. The mere fact that Annastasia Shilimeinbi and Erikka Nehunga own land in their own names as Aawambo women is an accomplishment and steppingstone for these women, given Namibia's history of gender inequality – where no women were able to acquire land rights (Nakanyete et al., 2020:132). Moreover, Erikka Nehunga stated that "the headmen, headwomen or sub-headmen inform the village members of new Acts, and they informed us that women can now get land. If there are any changes or announcements in law, they inform us. The headmen also ensure that there is an attendance register for every house to keep track of everyone's attendance at the meetings or workshops. Every household must send someone" (Nehunga, personal interview, 2022 September).

It is therefore clear that these two women are well-informed about their land rights through the initiatives hosted by NPOs and through the efforts of the traditional authorities within their respective villages. In contrast to these responses, other participants such as Rosalia Endjala argued that there are limited numbers of Aawambo women who are aware of their land rights in the region. Instead, she believed that those in leadership positions were more likely to know about women's land rights in the area as they are often connected to other traditional authorities who hold authority over land matters (Endjala, personal interview, 2022 September).

Another participant – Olivia Mulukeni – responded that some women are now being informed about the Act which has allowed them to acquire land rights as women. However, Mulukeni states that there are women who "still believe that land is only for the well-off or only for men or only for those who have resources" (Mulukeni, personal interview, 2022 September). From the other participants of the study, the women who own land rights without the aid of men include Fiina Iipinge, Hilya Intamba, Rauna, Rosalia Endjala, and Katrina. The rest of the women participants of the study either own land through their husbands – Olivia Mulukeni – or do not own any land at all, which includes Angela Shikongo, Brandy Molo, Lovisa, Mekondjo, and Kauna Shapa.

The theme of 'awareness' is thus very significant to highlight the importance of both women and men being informed of their land rights. Being well informed about one's land rights has the potential to offer individuals the opportunity to increase their bargaining power within

their households, engage in decision-making opportunities, and have control over their own resources, among many other benefits. Daley et al. thus argue that "there is an urgent need to increase women's awareness of their rights to inherit land, own land, and participate in land governance – through awareness campaigns, media work, and land rights educational programmes or modules but to also target traditional authorities and involve men in general" (Daley et al., 2013:16).

Additionally, other women participants of this study argued that it is more the educated Aawambo women who are aware of their land rights as opposed to the uneducated Aawambo women. Contrary to these perceptions, Fiina Iipinge and Mekondjo hold the views that more Aawambo women in their village know about their rights to land and as a result, more of these women are acquiring land in their own right through a communal land certificate.

Fundamentally, the data reviewed here demonstrates that although many Aawambo women are unaware of their land rights, there have been notable positive transformations that have allowed more Aawambo women to acquire land rights since they have been made aware of their land rights. For these reasons, it is evident that awareness campaigns are very helpful tools that can be used to address the issues of lack of knowledge regarding the CLRA. It is very difficult for an Act to positively impact women if they are not aware of the Act and its entitlements. This section of the chapter has determined that the majority of the participants who did not know about the CLRA did not possess land rights.

In comparison, all the other participants who were well informed of the Act were land right holders. Consequently, a lack of awareness from both women and men regarding the CLRA subsequently affects the impact of the Act in safeguarding the land rights of women. The study has thus argued that the CLRA as a legal framework alone is not enough to provide Aawambo women with secure land rights. More gender-sensitive interventions, workshops, and educational campaigns are required on the ground to inform rural communities about their rights to land under the control of traditional authorities.

4.3 The Power of Tradition in Rural Land Matters

One of the main objectives of this study was to examine whether Aawambo cultural traditions affect the land rights of Aawambo women living in the Omusati region. Gibbon

Rangel defines ‘culture’ as “a social phenomenon that reflects the characteristics of a particular society… culture is acquired and consists of traits such as beliefs, habits, values, art, music, language, rituals and knowledge” (Rangel, 2022:136). Rangel posits that “tradition and customs are beliefs and practices that have evolved over time” (Rangel, 2022:136). On a similar note, Nelson H. Graburn argues that ‘tradition’ is “the name given to those cultural features which, in situations of change, were to be continued to be handed on, thought about, preserved and not lost” (Graburn, 2013:6). One can argue that cultural traditions would then be the values and beliefs of a certain social formation that are preserved to be followed from generation to generation.

In light of this, from the collected data, it is evident that Aawambo cultural traditions still play a dominant role in the acquisition of land rights for Aawambo women. As such, the responses made by the participants of the study revealed very interesting results, where the majority of the participants agreed that Aawambo customs and traditions do indeed affect women’s claims to land rights. According to Rosalia Endjala:

> Yes, traditional culture still blankets over the Act and the information is not at grassroots or ground levels. It is still the old customs that dominate, where women still have fear. Let me give you an example. If I am a headwoman who is married and living in my husband’s house and want to buy land, there is still the question, why do you want to buy land, are you divorcing? Asking questions like who wants land if your husband is still alive? Why are you interested in getting land? The husband must give consent when you go to the committee. If your husband does not come with you, they will ask you where is your husband. Patriarchy is still a big thing (Endjala, personal interview, 2022 September).

Adding to that, Endjala further stated that “by law, old customs are out, technically women should get land freely but where society haven’t broken those old beliefs and customs that women should not own land” (Endjala, personal interview, 2022 September). Endjala’s response demonstrates that through the law, women should be able to acquire land more freely than historically. A part from that, her response demonstrates that many Aawambo women are forced to accept cultural traditions that essentially discriminate against them due to social pressures as well as fears of going against their cultural values and beliefs which often result in exclusion. Social transformation is therefore required for men and women to reconceptualise customary land rights as a right not only reserved for men.

In addition to that, another participant of the study, Hilya Intamba remarked that:

> In most villages especially in northern areas most prominent positions are occupied by men. There are a few rare cases whereby women are in soaring positions. Therefore, the respect which is given to women is very minimal. They believe more in, women should only be in the field or the kitchen, cleaning the house or looking after the children. In the end, women are not afforded the same platform which men have (Intamba, personal interview, 2022 September).

Intamba's account conveys that gender roles still play a prominent role within many Aawambo communities where women are stereotypically placed in household and social reproductive gender roles. Reproductive and social gender roles often limit women's ability to claim land rights or defend their right to land rights. On this note, the cultural norms perpetuating the belief that women should not own land is a significant concern that needs to be adequately addressed to dismantle such harmful beliefs within these rural communities.

More responses from the participants of this study revealed that Aawambo cultural traditions generally favour men over women. I found the response made by Rauna very significant to the purposes of this study. She stated that "yes, there are some cultural customs that affect rights to land for women for example, culturally when it comes to married people, when the husband dies, the Oshiwambo culture blankets over that women cannot inherit the land, but the land then goes to the late husband's family. But the Communal Land Reform Act is protecting women, but there are still limitations because the Act is not in full effect" (Rauna, personal interview, 2022 September).

It is therefore evident, that although the CLRA has made significant advancements within these communities – allowing women to own land – dominant patriarchal Aawambo cultural traditions are still limiting the effective implementation of these laws on the ground. The general patriarchal ideologies and cultural beliefs that men should be the only individuals owning land have been embedded into the minds of many Aawambo community members which has directly hindered certain Aawambo women from obtaining land rights under the control of traditional authorities.

It is worth mentioning that, according to Daley et al., "the root cause of discrimination against women in access to land and other natural resources is a pervasive patriarchy expressed in stereotypes, attitudes, perceptions, and norms, which creates legal, political, and economic limitations to the advancement of women" (Daley et al., 2013:9). Angela Shikongo stated that

“because in our culture, it’s mostly the males who own the land, not the female and that’s just how the tradition works, some males still believe in those traditions which is why it still affects their lands today” (Shikongo, personal interview, 2022 September). This can be attributed to the internal beliefs on the ground which present themselves as androcentric and patriarchal in nature which has generally perpetuated the discrimination many Aawambo women face when it comes to land rights in Namibian rural areas.

Comparatively, Mwetulundila posed the argument that one of the most evident reasons why rural women have not benefitted from the CLRA is because “women themselves believe that traditionally women are not supposed to own land. They were socialised into such norms and have internalised this oppressive belief that land does not belong to them” (Mwetulundila, 2021:11). Mwetulundila’s argument resonates with the arguments posed by Daley et al. (2013), where these scholars argue that most rural women have been conditioned to accept customs and traditional gender roles that discriminate against them and place them in roles of food production and social reproduction whilst denying them the right to own land.

In relation to the themes of ‘awareness’ and ‘cultural tradition’ Prisca Mandimika and Elke Matthaei, argue that women’s land rights are often hindered by “socio-cultural norms and women’s lack of knowledge of their entitlements” (Mandimika & Matthaei, 2013:5). Similarly, Nakanyete et al. posit that many discriminatory beliefs against women and land rights are embedded within customary practices and traditional Aawambo ideologies that position women as subordinate in relation to men (Nakanyete et al., 2020:132). On the other hand, participants Annastasia Shilimeinbi, Erikka Nehunga, and Katrina all believe that Aawambo cultural traditions do not affect the acquisition of women’s land rights. They believe that in their villages they have reached a level of equality between women and men (Shilimeinbi, personal interview, 2022 September). The results from this study illustrate that apart from a few individuals, all the participants believed that Aawambo cultural traditions and customs played a role in Aawambo women’s access to land and the acquisition of land rights in the region.

It is therefore essential to consider that the CLRA does not acknowledge the patriarchal nature of many of the Aawambo customs, which has hindered the Act from effectively safeguarding the land rights of women. Mandimika and Matthaei conclude that “including gender equality in legislation and policies alone will not address the problems faced by women to secure tenure,

since the implementation of these rights is too often hindered by sociocultural norms and women's lack of knowledge of their entitlements" (Mandimika & Matthaei, 2013:5). Primarily, the collected data has established that many Aawambo cultural practices and customs have presented themselves as socio-economic barriers for many Aawambo women to freely apply and obtain land rights in Namibia's rural areas.

4.4 Tradition, The King, and Women's Land Rights

A unique aspect of this study was the incorporation of Omukwaniilwa Fillemon Shumbwa Nangolo's personal insights into gender and land rights in the northern regions of Namibia. 'Omukwaniilwa' translates to 'King' in Oshiwambo, the language of the Aawambo people. Omukwaniilwa Nangolo is the King of the Ondonga Traditional Authority in Namibia's rural landscape. He is recognized by the Namibian government as the King of the Odonga Kingdom and is viewed as the paramount chief in the preservation of traditional African leadership; ritual authority; ethnic leadership and the allocation of lands within the Odonga kingdom. Omukwaniila Nangolo became King in 2019, where he expressed his desire for finding a balance between old and new customary practices to forge an equal future for his Aawambo people. Furthermore, Figure 13 below is a photograph of the primary researcher with Omukwaniilwa Shumbwa, which was taken during field research.

Figure 13: Primary Researcher with Omukwaniilwa Nangolo.

Source: Yamilla Martin (2022).

The Collaboration with Omukwaniila Nangolo produced information and knowledge that is insightful, useful, and valuable in assessing gender issues pertaining to land rights in Namibia. It is vital to note that Omukwaniilwa Nangolo is not the king of the Omusati region's traditional authorities – Johannes Tweuthigilwa Mupongolitha yaJafet Mupiya is the king of the Ogandgera Traditional Authority. However, in his interview for this study, he made it clear that all eight Traditional Authorities in the northern regions of Namibia use the same Traditional Act 'rulebook':

> Yes, it's still the same system. The traditional Act, you'll find in that book that we are using here, is the one you will find in Aakwambi, Aakwanyama, Aanganjera, all these eight traditional authorities, we are all just using the same. If we say no to the women to be chased away from their houses, so Aakwambi they are saying that and Aakwanyama they are also saying that and all the rest, it's like that (Nangolo, personal interview, 2022 September).

Drawing from the above-mentioned response, the King's testimony is very relevant to the area chosen for this case study, as the same rules apply in each traditional authority area – even if they are not applied equally. It is also worth mentioning that it is relatively difficult to gain access to the various kings of the other northern Traditional Authorities. As such, Omukwaniilwa Nangolo's response revealed interesting results. The King mentioned that they have strong rules and systems in place to prevent women from being dispossessed from their homes when their husbands die or in instances of conflict or disputes, for instance, the Land Dispute Committee. Omukwaniila Nangolo created the Land Dispute Committee to address any issues pertaining to land disputes; forced evictions; or gender discrimination when it comes to acquiring land rights. He further mentioned that the turnover rate for this Committee is very prompt, where complaints take as fast as one day to be addressed by the Committee:

> It will just take maybe, one day. Yes, because if you report it now now now, it would not go unto four o'clock without them driving to the place where there is the land dispute. They have their own cars – their department, and we don't involve in them. So, they went there, they solve the problem, they write the report and they bring it to the Ondonga traditional authority, the council sit and look at the decision that was made and then they approve (Nangolo, personal interview, 2022 September).

From the King's perspective, things on the ground seem to be functioning effectively and equally between women and men. However, drawing from the other participant's responses, this is not entirely true. The response made by Hilya Intamba illustrated that "the culture of peace plays a big role in the Oshiwambo community, whereby women would rather be

shunned from their possessions and keep quiet instead of fighting for their belongings" (Intamba, personal interview, 2022 September). This was very disheartening to hear.

For instance, the Namibian newspaper, *The New Era* published an article on the 15th of December 2022 that reported: "a widow and her children were allegedly left with nothing after her late husband's family cleaned out his bank accounts, scattered the business, and took all the properties, including cars and a homestead" (Hamwala, 2022:1). The widow – Celina Shuuveni – further stated that her deceased husband's relatives are constantly harassing her and instilling fear upon her (Hamwala, 2022:1). As a result of her husband's death, she and her children have been left in severely impoverished conditions. Her children were forced to drop out of school and university due to a lack of funds (Hamwala, 2022:1). The article goes on to say that Shuuveni did seek legal assistance through lawyers as well as through the Ombalantu Traditional Authority but to no avail. Yet, a spokesperson for the Ombalantu Traditional Authority, stated that what is happening to Shuuveni is 'unacceptable' and that no widow should be chased away from their husband's homestead (Hamwala, 2022:1).

This unfortunate story was on the front page of one of Namibia's leading newspapers. It demonstrates that although the CLRA stipulates that dispossessing women (especially widows) from their marital homesteads is unconstitutional, it is evident that such forms of gender discrimination still occur in many rural Aawambo communities. The system of patriarchy has heavily influenced the customs and traditions within many rural Namibian villages. When asked about Omukwaniilwa Nangolo's thoughts regarding the system of patriarchy, he was not informed about the term. However, once the term was explained to him, he responded "No, I don't think that word you said is working here. It's not working here; we are just equal. We don't favour any genders, we just check the right person for the right job, either she is a woman, or he is a man. So, that is what we are doing. We don't favour anybody" (Nangolo, personal interview, 2022 September).

Fundamentally, the King's overall stance from the interview process, demonstrated that he believes things are much more equal between women and men than they were in the past. Yet, the analysis of the responses made by the other participants, has indicated that this reality is not shared by all women. The data has portrayed that the CLRA does allow women

and men to acquire land rights equally in rural areas, however, this study has determined that gender inequalities and imbalances still persist on the ground.

4.5 Rural Women's Equality and The CLRA

Drawing from the theoretical framework adopted for this study, gender equality is a principal feature of African feminism. The Swedish International Development Cooperation Agency (SIDA) defines 'gender equality' as "a concept with transformative connotations, covering women's empowerment, non-discrimination, and equal rights regardless of gender" where it "points towards [the] change of gender-based power relations in all sectors of society, private as well as public" (SIDA, 2016:1). Gender equality does not mean that all women and men are the same, but instead, it speaks to the notion of women and men sharing equal opportunities, equal resources, and equal rights within society (Rolleri, 2013:3). As opposed to gender equality, gender inequality presents itself as an obstacle to many women's effort to acquire or retain land rights. Similarly, Ramya Subrahmanian posits that "gender inequalities arise from the unequal power relations between women and men" (Subrahmanian, 2005:397).

Drawing from this, Rolleri (2013) argues that three pivotal factors constitute as gender equality, that being: "equitable access and use of resources"; "equitable participation"; and "safety or freedom from violence." In light of the above, 'equitable access and use of resources' speak to individuals' awareness of resources that are accessible to them and that they have the information and knowledge required to use these resources effectively (Rolleri, 2013:5). Whereas 'equitable participation' relates to a society where the decision-making practices are valued and accepted by both women and men, where each sex can participate in decision-making activities. Lastly, 'safety or freedom from violence' expresses a society where both women and men do not have the fear or threat of violence, discrimination, victimisation, coercion, or harassment based on their sex when it comes to daily life (Rolleri, 2013:5).

It can be argued that if a society fails to meet these conditions, it does not constitute as a gender-equitable society. Assessing the case study area and the participants' responses, there remains a lack of awareness of the CLRA meaning the condition of equitable access and use of resources is not entirely fulfilled in this instance. The responses also revealed that

generally women are not involved or taken seriously in decision-making practices, which is another condition that is not met when it comes to equitable participation in a gender-equal society. Commenting on 'safety or freedom from violence', the responses from the participants also conveyed how some women experience feelings of fear when they want to acquire land rights without the aid of their husbands. Other participants also commented on the harassment some women have endured when their late husband's relatives try to claim back the land of their deceased relative essentially leaving these women landless and subsequently homeless.

Additionally, the participants of this study were vocal in their urgency to move towards a gender-equal society where women are afforded the same rights as men. Rosalia Endjala explained that:

> What I will say is there is a big need for awareness and educational campaigns. Please put in your recommendations that we need capacity building for headwomen, women, and men. There have been no outreach programmes now or in the past in my village. Nothing. Men are heads of households and some women understand their land rights and also men so there is no confusion there, but we have not reached equality yet. We are so far back actually, that even a woman buying land in town, even if the lady is buying the land with her own money and her husband or boyfriend does not contribute any money to the land and does nothing, the lady will still have the feeling that the land must still be registered in the man's name. The ideologies of the past still remain. I really ask that more educational campaigns and outreach programmes reach villages like mine, it is very necessary (Endjala, personal interview, 2022 September).

Endjala's response is very significant in revealing how some villages in the Omusati region have received absolutely no outreach programmes or educational campaigns as opposed to other villages. Villages such as the villages of Annastasia Shilimeinbi and Erikka Nehunga have received much attention from NPOs and government initiatives aimed at informing various rural villages about women's land rights. The collected data revealed that the positives associated with the CLRA and the awareness campaigns are not being applied equally among the villages of the Omusati region.

For instance, the responses made by Endjala significantly differ from the responses made by Nehunga and Shilimeinbi. In Shilimeinbi's village, they receive monthly visits from NPOs, where they discuss any changes in the Namibian Constitution pertaining to women and land rights so that the individuals of that village are fully informed. In contrast, Endjala's response revealed that there have been no visits from NPOs or any other government initiatives to

educate her community members about women and land rights. There is a significant disparity between the community of Endjala and that of Shilimeinbi when it comes to informing its community members about women and land rights information.

Correspondingly, Fiina Iipinge revealed, “I still think traditional authorities still need to send people to the village to inform those who do not know. Some people deep in the village still do not know about the positive changes that you can also own land in your own name. Some know and some don’t know” (Iipinge, personal interview, 2022 September). Alternatively, Olivia Mulukeni described the transformation she would like to see as:

> The positive change I would like to see is women standing together to advocate for their rights to land, and if they don’t have land rights, to set them up and have them gazetted into law. I would like to see women stand together to make a change. We have to come together. We also lack campaigns. We need campaigns to happen for ladies to know their land rights. Women have surrendered themselves to the laws men have created (Mulukeni, personal interview, 2022 September).

Mulukeni’s words are powerful. Mulukeni’s response highlights the significance land has in empowering women. As shown in earlier chapters, land can offer women a higher social status within society; increased autonomy; food security, and higher bargaining powers in the household setting, among other benefits (SIDA, 2009:1). In the same way, Rauna stated:

> I think there have been positive changes but many women still do not have the information on ground levels, they need to be educated. Some traditional authorities do not share the information and do not gather the people to inform them on what’s happening in the law and on the ground. We need more educational campaigns, and the responsibility should not just fall on the shoulders of traditional authorities, but the Ministry of Land needs to educate the people and collaborate with the traditional authorities (Rauna, personal interview, 2022 September).

The responses from the women participants demonstrated the willingness and receptiveness many of these Aawambo women share in being more educated about their land rights. More women would like to know about the entitlements associated with the laws and policies aimed at women’s land rights. There is still a dire need to establish awareness campaigns for rural women to inform them of their land rights. Essentially, there is a difficulty associated with making decisions based on imperfect information. Yet, if there were systems set in place to increase the awareness of women’s land rights

in rural Namibia, more women would be able to claim land rights and subsequently improve their livelihoods with the benefits associated with owning land.

The participants of the study played a significant role in revealing their personal experiences of how land rights operate in reality concerning the CLRA. Their responses revealed key insights into the tension between the *de jure* and the *de facto* situation of women's land rights in Namibia's rural areas and the actual reality on the ground. A lack of public consultation during the Act's formulation stages has contributed to its failures in sufficiently safeguarding the land rights of Aawambo women in the Omusati region. The participants' responses add value to scholarship by deepening and broadening one's understanding of Aawambo women and their land rights in the Namibian context.

5.1 Conclusion

The chapter has presented the collection and analysis of data that was employed in a case study that examined the impact of the CLRA on Aawambo women's land rights under the jurisdiction of traditional authorities. The chapter has shown that the case study approach has been the most appropriate method for exploring women's rural land rights in Namibia's rural landscape. From the collected data, the chapter has argued that the CLRA has been successful in granting many Aawambo women land rights in the region as opposed to the past. Yet, not all the participants of the study have benefitted from the Act due to a lack of awareness of the Act, cultural traditions that exclude women from owning land, and stigma from society members who are opposed to women owning land rights. There is thus a general disparity between the Namibian Constitution, the laws that flow from it, and the actual reality on the ground relating to women's land rights. Fundamentally, this study has demonstrated that there is still work that ought to be done on the ground to ensure that all women have equal access to land rights in Namibian rural areas.

CHAPTER FIVE FINDINGS AND CONCLUSION

5.1 Introduction

This study examined how the Communal Land Reform Act (Act No. 05 of 200) (CLRA) impacted the land rights of Aawambo women living in the Omusati region of Namibia's rural landscape. The Act has impacted some women positively by granting them customary land rights. However, the benefits of the CLRA have not been equally shared among the rural women in Namibia's northern regions. Additionally, the study adopted a contextualised and comparative approach examining matriarchal societies in Malawi and patriarchal societies in South Africa. Contextualising women's land rights in Southern Africa were important precedents in examining the intersections of legal frameworks, cultural practices, and women's land rights in different contexts.

Additionally, through a qualitative case study, the study sought to understand the opportunities and barriers rural Aawambo women experience within the context of the CLRA and land governance. For these reasons, the study was periodised into Namibia's pre-colonial, colonial, and post-colonial periods to better understand the land rights of rural women within Namibia's contemporary society, by tracing the evolution of women's land rights over time. This chapter commences with a discussion of the research findings and concludes with a summary of the key arguments and closing remarks.

5.2 Research Findings

Through a case study, the study primarily argued that legal frameworks such as the CLRA are not sufficient enough in safeguarding rural women's land rights. The study has therefore argued that the CLRA has partially failed in providing rural women with secure land rights as the Act did not consult with women adequately enough during the consultation process. One of the major shortcomings of the Act has been its failure to acknowledge the voices, needs, and experiences of rural women in its formulation stages (Wiley, 2003:23, Girma, 2016:12, Werner, 2018:3). The Act was hastily passed by the National Assembly without adequately consulting the rural public. Werner (2008) has maintained that the consultative period of the CLB did not include the voices of organised women's groups articulating issues about gender in communal land matters. This failure to include the voices of rural women has resulted in

land policies, such as the CLRA, that inadequately address gender disparities and thus perpetuate gender inequalities in rural land tenure.

Significantly, the study has determined that information pertaining to the Act does not reach all communities and villages in the Omusati region, which indicates that the benefits of the CLRA are not equally shared among women in the region. The study's results revealed that several women in the Omusati region are uninformed of the CLRA and its entitlements. Women who lack information about their land rights generally fail to challenge violations against their land rights, land disputes, or gender-based violence. The study has indicated that it is pertinent for women to be well informed of the legal frameworks, support systems, and procedures set in place by the CLRA to ensure women's claims to land are protected. However, this study has also illustrated that there are communities in the Omusati region where community members are being adequately informed about the CLRA and the rights women have to land in rural Namibia.

In addition to this, the findings of the study have shown that cultural traditions and gender equality struggle to co-exist in rural land tenure systems. The study has determined that customs are generally shaped by larger economic and political agendas that inherently favoured men over women. The findings of the study have shown that the CLRA has made a significant impact within some of the respective communities of the participants – where it has allowed more women to own land rights. However, dominant patriarchal cultural traditions still pose a limitation to the effective safeguarding of women's land rights on the ground. The findings revealed that apart from a few individuals, the participants believed that Aawambo cultural traditions play a role in Aawambo women's acquisition of land rights, where they generally hinder women from acquiring land rights without the aid of men.

While longstanding debates from scholars such as Werner (2018), Mwetulundila (2021), and Nakanyete et al. (2021) have questioned the disjuncture between what the CLRA stipulates and its reality on the ground. There has been a broad agreement among scholars that in Southern Africa, women's land rights are generally restricted by several factors which include male privilege, dominant patriarchal cultural traditions, and a history of colonial practices that legally excluded colonized Africans – specifically women from acquiring land rights (Knapman & Sutz, 2015:2, Yngstrom, 2002:22, Claassens, 2005:43). However,

disagreements have emerged among scholars regarding the role women themselves play in their general lack of land rights in Southern Africa. As outlined in chapter two, Chigbu posits that there have been several attempts to better educate scholarship about how gender impedes women's access to land, yet these contributions have failed to demonstrate instances where some women themselves contribute to their lack of access to land (Chigbu, 2018:44).

As a consequence, when analysing the literature that was consulted within this study and comparing it to the findings of the study, it is evident that some women do play a role in their marginalisation by accepting cultural traditions that are exclusionary towards women acquiring land rights. In this regard, the results revealed that many women are still required to seek permission from their spouses if they want to purchase land in their own right. Some women still believe that because they are women, they should not be able to own land because they believe only men should own land. The CLRA does not acknowledge the general patriarchal nature of many Aawambo cultural traditions, which directly affects its impact on women's land rights. My analysis suggests that the Namibian government is to blame for failing rural women by their failure to adequately conduct public consultations with marginalised groups before the Act was made legal.

However, the study also determined that many Aawambo women accept patriarchal traditions that discriminate against them due to social pressures and the fear of going against their cultural traditions and norms which often results in exclusion. Yet, the data has also illustrated how there are women who act as agents of change by rejecting patriarchal beliefs that discriminate against them by resisting these beliefs and obtaining land rights. The women also resisted patriarchal beliefs by attending educational workshops and campaigns that improved their understanding of laws and policies directed at land rights – these are instances where some women resist structures that marginalise them.

The efforts of these women symbolise their determination to resist existing norms and institutions that undermine women's claims to land ownership in rural areas. Fundamentally, analysing the prospects for the future, it is pertinent to increase community and village members' knowledge of the CLRA to ensure its success. My analysis confirmed that laws are not enough to safeguard women's land rights. Instead, the Namibian government needs to

promote social transformation among its rural populations to ensure equality between women and men.

Importantly, it is not possible to know from the information presented whether the land rights of rural women were issued for land they already occupied and de facto held, or whether these rights issued were for 'new land that they had prior. The study could therefore not make claims that extend beyond the evidence presented; that the CLRA strengthened Aawambo women's land rights. Nonetheless, according to Namibia's MLR (2023), in April 2023 a significant number of 18 271 women had registered customary land rights in the Omusati region since the Act's inception. This figure is remarkable given the fact that Aawambo women were completely excluded from possessing land rights during the colonial era. However, the data also revealed that men have proportionately higher numbers of registered customary land rights than women do in all of Namibia's rural regions. These figures signify a gender imbalance within rural land tenure systems between women and men. The data implies that men obtain significantly more customary land rights than women do in Namibia's rural landscape which calls for educational programs, awareness-raising campaigns, and capacity-building interventions that ensure that all communities in Namibia's rural landscape have access to knowledge about the CLRA and their land rights.

5.3 Conclusion

This study has explored the significance of the Communal Land Reform Act (Act No. 05 of 2002) (CLRA) and its impact on Aawambo women living in the Omusati region of Namibia's rural areas under the jurisdiction of traditional authorities. The CLRA was implemented to address a historic legal imbalance between women and men and to subsequently protect all genders from prejudice in rural land tenure systems. The study displayed how 18 271 women customary land rights were granted to women living in the Omusati region. However, customary practices, traditional beliefs, and cultural norms have hindered women's access to land rights despite the relatively progressive figures presented.

Nonetheless, African feminism conveyed how rural women are not a homogenous group of people. The study determined that there are social, political, and economic factors that play a role in the majority of rural women's attempts to obtain secure land rights – that the CLRA

fails to acknowledge. The shortcomings of the Act can be attributed to relatively limited knowledge about the Act from rural communities, inadequate enforcement of the Act, limited meaningful participation from rural minority communities, and insufficient protections for women who face land grabs and forced evictions. I have argued that the government is at fault for failing to consult marginalised groups of people – women specifically – in the formulation stages of the Act. The failure to consult women in the production of the CLRA has resulted in an Act that does not adequately represent the needs, demands, and experiences of rural women – which the Act claims it protects. Primarily, the Act has impacted some women positively, but certainly not all women.

The study, therefore, reinforced the notion that there ought to be a collaboration process between community members, civil society organisations, traditional authorities, and government institutions to ensure inclusive decision-making systems and the effective implementation of legal frameworks that protect the land rights of women living in Namibia's rural landscape. Moreover, the study contributes to broader bodies of knowledge of the land rights of rural Namibian women and communal land reforms. Fundamentally, the study underscores the importance of more targeted and gender-sensitive interventions in communal land reform initiatives, to ensure that historic gender disparities are rectified in rural land governance. The study maintains that promoting gender-responsive approaches in rural land governance and advocating for policy changes will result in a more just and gender-inclusive land governance system in Namibia's rural landscape.

BIBLIOGRAPHY

Adams, M. 2000. Land Reform in Namibia: Past, Present, and Prospects. (Unpublished). 1-53.

African Women's Development Fund. 2016. Charter of Feminist Principles for African Feminists. *African Feminist Forum.* 1-13.

Akin-Aina, S. 2011. Beyond an epistemology of bread, butter, culture, and power. *Nokoko*, *2*. 65-89.

Afonja, S. 2005. *Gender and feminism in African development discourse*. Bloomington, Indiana, USA. 2-17.

Alamri, W.A. 2019. Effectiveness of qualitative research methods: Interviews and diaries. *International Journal of English and Cultural Studies*, *2*(1). 65-70.

Amaefula, R.C. 2021. African feminisms: Paradigms, problems and prospects. *Feminismos.* 289-305.

Amoah, Y.A. 2011. *Interest of women by traditional authorities on access to land and land rights: a case study of Oshana region, Namibia*. Master's thesis. University of Twente. *i*-2.

Amutenja, H. 2023. Brothers Slapped with Lawsuit after Evicting Uncle's Widow. Windhoek Observer (Namibia). June 27: 1.

Arekapudi, N. & Martins, N.M.S. 2022. Challenging entrenched marital power in South Africa. World Bank Blogs. 1.

Baker, C. 1975. Tax collection in Malawi: An administrative history, 1891-1972. *The International Journal of African Historical Studies*, *8*(1). 40-62.

Banda, F. 2006. Women, law and human rights in Southern Africa. *Journal of Southern African Studies*, *32*(1). 13-27.

Berat, L. 1990. Namibia: The road to independence and the problem of succession of states. *Journal of Political Science*, *18*(1).44-50.

Berge, E., Kambewa, D., Munthali, A. & Wiig, H. 2014. Lineage and land reforms in Malawi: Do matrilineal and patrilineal landholding systems represent a problem for land reforms in Malawi?.*Land Use Policy*, *41*. 61-69.

Boeder, R.B. 1984. Malawian labour migration and international relations in Southern Africa. *Africa Insight*, *14*(1). 17-25.

Bohler-Muller, N. & Mayet, F. 2021. Women, (neo-)colonial customary law, patriarchy, custodianship and the land debate. Maverick Citizen (Johannesburg) 31 August:1-2.

Available: https://www.dailymaverick.co.za/article/2021-08-31-women-neo-colonialcustomary-law-patriarchy-custodianship-and-the-land-debate/.

Broughton, T. 2020. Court Victory for 400 000 elderly black women. Mail&Guardian (Johannesburg). 3 February:1. Available: https://mg.co.za/article/2020-02-03-court-victoryfor-400-000-elderly-black-women/.

Broughton, T. 2021. Concourt rules that marriage act oppressing thousands of women is unconstitutional. GroundUp (Johannesburg). 15 April:1. Available: https://www.groundup.org.za/article/concourt-rules-apartheid-act-was-still-oppressinghundreds-thousands-black-women-unconstitutional/.

Camara, F.K. & Levitt, J.I. 2015. African Women and Gender Equality in Africa. *Black Women in International Law*. 61-87

Chigbu, U.E. 2019. Anatomy of women's landlessness in the patrilineal customary land tenure systems of sub-Saharan Africa and a policy pathway. *Land Use Policy, 86*. 126-135.

Chiumya, C. 2006. *COUNTERACTING TAX EVASION IN MALAWI: AN ANALYSIS OF THE METHODS AND A QUEST FOR IMPROVEMENT*. University Library of Munich, Germany. 1-8.

Christoffersen, A. 2021. The politics of intersectional practice: competing concepts of intersectionality. *Policy & Politics, 49*(4). 573-593.

Claassens, A. 2005. Women, customary law and discrimination: the impact of the Communal Land Rights Act. *Acta Juridica, 2005*(1). 42-81.

Claassens, A. & Mnisi, S. 2009. Rural women redefining land rights in the context of living customary law. South African Journal on Human Rights, 25(3). 491-516.

Claassens, A. 2013. Recent Changes in Women's Land Rights and Contested Customary Law in South Africa. *Journal of Agrarian Change, 13*(1). 71-92.

Clark, M. & Luwaya, N. 2017. Communal Land Tenure 1994–2017. *Commissioned Report for High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, an initiative of the Parliament of South Africa. Land and Accountability Research Centre*. 1-32.

Daley, E. & Pallas, S. 2014. Women and land deals in Africa and Asia: Weighing the implications and changing the game. *Feminist economics, 20*(1). 178-201.

Dawadi, S. 2021. Thematic analysis approach: A step by step guide for ELT research practitioners. *Journal of NELTA, 25*(1-2). 62-71.

Dedering, T. 1988. Problems of Pre-Colonial Namibian Historiography. *South African Historical Journal, 20*(1). 95-104.

Ezeuduji, I.O., Nzama, A.T., Mbane, N.N. & Nzama, N. 2022. 3 Land Tenure and the Nuanced Gender Debates in Sub-Saharan Africa: Realities and Illusions. *Land Governance and Gender: The Tenure–Gender Nexus in Land Management and Land Policy*. 23-34.
Feinberg, H.M. 1993. The 1913 Natives Land Act in South Africa: Politics, race, and segregation in the early 20th century. *The International Journal of African Historical Studies*, *26*(1). 65-109.

Girma, H. 2016. Namibia: Good Practices and Lessons Learned for Gender and Communal Land. *Landesa*. 1-30.

Goredema, R. 2010. African feminism: the African woman's struggle for identity. *African Yearbook of Rhetoric*, *1*(1). 33-41.

Gottlieb, J. & Robinson, A.L. 2016. The effects of matrilineality on gender differences in political behaviour across Africa. *University of California, Berkeley, mimeo*. 1-7.

Graburn, N.H. 2000. What is tradition?. *Museum Anthropology*, *24*(2-3). 6-11.

Hamwala, F. 2022. Widow, 12 Children left in Poverty. New Era (Namibia). 15 December:1. Available: https://neweralive.na/posts/widow-12-children-left-in-poverty.

Hartlief, V. and Mkandawire, A. 2018. Building a women's land rights movement in Malawi. *Working Paper 4: Securing Women's Land Rights in Africa*. LANDac, Utrecht. 1-4.

Hayes, P.M. 1992. *A History of the Ovambo of Namibia, c 1880-1935*. Doctoral dissertation, University of Cambridge. 1-23.

Heale, R. and Twycross, A. 2018. What is a case study?. *Evidence-based nursing*, *21*(1). 7-8.

Hebinck, P. 2021. Institutionalisation and Institutional Voids of Namibia's Communal Land Reform Act. *Land, Environment and Development Project. Legal Assistance Centre.* 2-14.

Heinrich Böll Stiftung. 2013. Women's Land Rights in Africa. Perspectives Political analysis and commentary from Africa. 1-9.

Hunter, J. 2004. An Introduction into Gender Issues in Namibia. Namibia Institute for Democracy. 1-34.

Hutchinson, A. 2021. *The Effects of Colonization and Apartheid on The Development of South Africa: Namibian Influence, Impacts on Education, and State Capture* (Doctoral dissertation, Johns Hopkins University). 2-53.

Iita, J.S. 2000. *Land policy in Namibia*: Formulation and Constraints (Doctoral dissertation). 12-65.

Janse van Rensburg, A.M. 2003. The true capacity of women under customary rule to acquire land: an exposé on the law, land and the rules of succession. *Stellenbosch Law Review*, *14*(2). 282-295.

Kaarhus, R. 2010. Women's land rights and land tenure reforms in Malawi: What difference does matriliny make?. In *Forum for Development Studies*. Vol. 37, No. 2. Routledge. 171192.

Kachika, T. 2009. *Women's land rights in southern Africa: consolidated baseline findings from Malawi, Mozambique, South Africa, Zambia and Zimbabwe*. Netherlands Institute for Southern Africa. 1-49.

Kameri-Mbote, P. 2007. Access, control and ownership: Women and sustainable environmental management in Africa. *Agenda*, *21*(72). 36-46.

Kateta, M. 2018. Malawian Women Struggle For Land Rights Despite Equality Drive. *Thomson Reuters Foundation*. 1-2.

Kerr, R.B. 2005. Food security in northern Malawi: gender, kinship relations and entitlements in historical context. *Journal of Southern African Studies*, *31*(1). 53-74.

Kiger, M.E. & Varpio, L. 2020. Thematic analysis of qualitative data: AMEE Guide No. 131. *Medical teacher*, *42*(8). 846-854.

Knapman, C. & Sutz, P. 2015. Reconsidering approaches to women's land rights in subSaharan Africa. *IIED Briefing Paper-International Institute for Environment and Development*. 2-9.

Knowles, C. 2021. With Dreams in Our Hands: An African Feminist Framing of a Knowledge-Making Project with Former ESP Students. *Education as Change*, *25*(1). 1-22.

Kamoto, J., Kamkwamba, H. & Molosoni, B. 2021. Gender and land in Traditional Authority Mwansambo in Malawi: Gender assessment report. Washington, DC: USAID Integrated Land and Resource Governance Task Order under the Strengthening Tenure and Resource Rights II (STARR II) IDIQ.

Kössler, R. 2015. Namibia and Germany: Negotiating the Past. *University of Namibia Press.* 1-14.

Lawry, S., Samii, C., Hall, R., Leopold, A., Hornby, D. & Mtero, F. 2017. The impact of land property rights interventions on investment and agricultural productivity in developing countries: a systematic review. *Journal of Development Effectiveness*, *9*(1). 61-81.

LeBeau, D. & Iipinge, E. 2004. Namibia's Progress Towards Gender Equality: Post Beijing Policies and Programs. 1-3.

Legal Assistance Centre & Namibia National Farmers' Union. 2009. Guide to the Communal Land Reform Act, 2002 (No. 05 of 2002) Second Edition. *Land, Environment and Development Project.* 3-48.

Likuwa, K. & Shiweda, N. 2017. Okaholo: Contract labour system and lessons for postcolonial Namibia. *Mgbakoigba: Journal of African Studies, 6*(2). 26-47.

Luiz, J.M. 1998. The Evolution and Fall of the South African Apartheid State: A Political Economy Perspective. *Ufahamu: A Journal of African Studies, 26*(2-3). 49-61.

Lund, C., Odgaard, R.& Sjaastad, E. 2006. *Land Rights and Land Conflicts in Africa: A review of issues and experiences*. Copenhagen: DIIS. 1-13.

Maliwa, E.N. 1970. Legal Status of Women in *Malawi* From Pre-Colonial Period to Independence, 1964. PhD thesis. *SOAS University of London.* 3-18.

Malan, J. 2003. The Guide to the Communal Land Reform Act (Act No. 05 of 2002) First Edition. Land, Environment, and Development Project, Legal Assistance Centre and the Advocacy Unit, Namibia National Farmers Union. 1-56.

Mamdani, M. 2001. When Victims Become Killers: Colonialism. *Nativism, and the Genocide in Rwanda*. 3-39.

Mandimika, P. & Matthaei, E. 2013. Ensuring tenure security for women: A case study on Namibia's communal land rights registration programme. In *Annual World Bank Conference on Land and Poverty*. 2-21.

Manisha, M.S. & Mangla, S. 2009. Social Construction of Gender through Mediated Communication in India. *Journal of Content. Community & Communication Amity School of Communication, 9*(5). 64-67.

Manning, C. 2018. Matriarchy. *Encyclopedia*. 1-13.

Massay, G. 2020. The struggles for land rights by rural women in sub-Saharan Africa: The case of Tanzania. *African Journal of Economic and Management Studies, 11*(2). 271-283.

Massey, D. 1978. A case of colonial collaboration: The hut tax and migrant labour. *Botswana Notes & Records, 10*(1). 95-98.

Matthaei, E.A. 2018. *A critical reflection on the formalisation of communal land rights in Namibia: why local contexts matter for bridging the dichotomies of tenure rights*. Doctoral dissertation. Stellenbosch University. 3-21.

McCracken, J. 2012. A History of Malawi: 1859-1966. *Boydell & Brewer*. 5-21.

Melber, D. 1985. Namibia: A Nation in the Making. *Ufahamu: A Journal of African Studies, 14*(3). 177-186.

Melber, H. 2019. Colonialism, land, ethnicity, and class: Namibia after the second national land conference. *Africa Spectrum, 54*(1). 73-86.

Mendelsohn, J., Shixwameni, L. & Nakamhela, U. 2012. An overview of communal land tenure in Namibia: Unlocking its economic potential. *Windhoek, Namibia*. 1-16.

Merlini, A. 2018. Matriarchal societies: their social, political, economic and cultural structure as the only solution in the destructive phase of patriarchy. 1-32.

Ministry of Land Reform (MLR). 2023. Registration of Communal Land Rights/Access to tenure rights. Ministry of Land Reform. 1.

Middleton, J., von Carlowitz, L. and Becker, H.G. 2016. Land management as a vital basis for the implementation of land reform in Namibia. *ZfV-Zeitschrift für Geodäsie, Geoinformation und Landmanagement*. 91-98.

Moleko, N. 2017. Women Must Not Be Forgotten in the Land Debate, we too Want Land. *Commission for Gender Equality.* 1.

Moore, E. and Himonga, C. 2018. Living customary law and families in South Africa. *Children, Families and the State*. 61-69.

Mouton, R. 2014. Scraping the Pot: San in Namibia Two Decades After Independence. Legal Assistance Centre. 289-294.

Moyo, Z. 2005. Patriarchy and Its Impact on Women's Productivity in Mzimba District, 1864-2000. 2-18.

Mpakati, A. 1973. Malawi: The birth of a neo-colonial state. *African Review*, *3*(1). 33-68.

Mtombeni, B. 2020. Women and Colonialism: Southern Africa. In: Yacob-Haliso, O., Falola, T. (eds) *The Palgrave Handbook of African Women's Studies. Palgrave Macmillan, Cham.* 1-23.

Msukwa, C.A. & Keim-Lees, M. 2014. Endogenous African Governance Systems: what roles do women play in rural Malawi?. *Development in Practice*, *24*(5-6). 735-742.

Muduva, T. 2019. How Corruption Affects Women's Land Rights. The Namibian (Namibia). 02 April:7. Available: https://allafrica.com/stories/201904020636.html.

Mutangadura, G. 2004. Women and Land Tenure Rights in Southern Africa: A human rightsbased approach. In *Presentation at Land in Africa: Market Asset or Secure Livelihood Conference, London, UK*. 1-16.

Mwetulundila, P. 2022. Gender Perspectives in Namibia's Communal Land: Exploring Women's Hindrances to Equitable Land Ownership. *Journal of Asian and African Studies*, *57*(3). 481-496.

Nakanyete, N.F., Nghitevelekwa, R.V., Matsa, M.M., Mendelsohn, J., Lendelvo, S. & Shikale, F. 2020. Communal land tenure security for widows in the Eenhana Constituency of the Ohangwena Region, Namibia. *Journal of International Women's Studies*, *21*(1). 131-147.

Naki, E. 2019. Women Demand Equal Land Rights from Traditional Leaders. The Citizen (Johannesburg). 9 April:1-2. Available: https://www.citizen.co.za/news/women-demandequal-land-rights-from-traditional-leaders/.

Namibia Statistics Agency. 2011. Population and Housing Census. Omusati Regional Profile. 1-22.

Namibia Statistics Agency. 2018. Namibia Land Statistics Booklet. 1-39.

Namibia Statistics Agency. 2022. Omusati Regional Profile. 1-15.

Namibia Statistics Agency. 2023. Official Website. 1.

Ngohengo, J.K. 2022. Matriarchy at the Crossroads in Africa: The Clash between its Theoretical and Practical Orientation in Tanzania's Land Tenure Systems. *African Journal on Land Policy and Geospatial Sciences*, *5*(1). 215-233.
Niboye, E.P. 2020. International Labour Out-Migration In Mzimba District, Malawi: Why Persistent?. *Tanzania Journal for Population studies and Development*, *26*(1). 8-14.

Odendaal, W. 2011, April. Land Grabbing in Namibia: A case study from the Omusati region, northern Namibia. In *International conference on global land grabbing*. 1-15.

Osman, F. 2019. The consequences of the statutory regulation of customary law: An examination of the South African customary law of succession and marriage. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, *22*(1). 1-12.

Ospina, S. 2004. Encyclopaedia of leadership. *Qualitative Research*. Sage Publications. 1-13.

Ozoemena, R. 2014. Living customary law: a truly transformative tool?. *Constitutional Court Review*, *6*(1). 147-163.

Parpart, J.L. & Staudt, K.A. 1989. Women and the State in Africa. 1-28.

Peters, P.E. 2010. "Our daughters inherit our land, but our sons use their wives' fields": matrilineal-matrilocal land tenure and the New Land Policy in Malawi. *Journal of Eastern African Studies*, *4*(1). 179-199.

Rangel, G. 2022. Characteristics of Culture, Customs, and Traditions. *J Anthropology*. 136138.

Rural Women's Assembly. 2018. Successful Rural Women's Assembly in Namibia. *WordPress* 1-2.

Santpoort, R., Steel, G., Mkandawire, A., Ntauazi, C., Faye, E.H. & Githuku, F. 2021. The Land Is Ours: Bottom-Up Strategies to Secure Rural Women's Access, Control and Rights to Land in Kenya, Mozambique, Senegal, and Malawi. *Frontiers in Sustainable Food Systems*. 393-395.

Schoch, K. 2020. Case study research. *Research design and methods: An applied guide for the scholar-practitioner*. 245-258.

Scholtz, L. 2006. The Namibian border war: An appraisal of the South African strategy. *Scientia Militaria: South African Journal of Military Studies*, *34*(1). 20-34.

Soiri, I. 1996. *The radical motherhood*. Nordiska Afrikainstitutet (Uppsala). 49-58.

Songca, R. 2018. Land, Violence and Womxn's Bodies: an overview of implications of land reform and customary law on the rights of women in South Africa. *Agenda*, *32*(4). 3-9.

Swedish International Development Cooperation Agency (SIDA). 2009. Women and Land Rights Brief. SIDA Evaluation. 1-4.

Sigrid Rausing Trust. 2016. Malawi Court rules in favour of women illegally deprived of their land. Sigrid Rausing Trust 1.

Smeier, F. 1914. Alamy Stock Photo. Retrieved from: https://www.alamy.com/stockphoto/ovambo.html?page=3&sortBy=relevant.
Smeier, F. n.d. Alamy Stock Photo. Retrieved from: https://www.alamy.com/stockphoto/ovambo.html?page=3&sortBy=relevant.

Southern Africa Litigation Centre (SALC). 2017. Malawi: Protecting Women from Illegal Land Seizure. Southern Africa Litigation Centre 1.

Subrahmanian, R. 2005. Gender equality in education: Definitions and measurements. *International Journal of Educational Development*, *25*(4). 395-407.

ten Brink, A.S. 2021. A critical introduction to Western Feminism–Liberation or Domination. 1-13.

The Namibian. 2017. Nujoma insists he consulted on Land Bill…but thinks public consultation are a waste of money. The Namibian (Namibia). 12 January:1. Available: https://www.namibian.com.na/nujoma-insists-he-consulted-on-land-bill-but-thinks-publicconsultations-are-a-waste-of-money/.

Republic of Namibia. 1990. The Constitution of the Republic of Namibia. 1-69.

Republic of Namibia. 2002. Namibia Government Gazette 2002-08-12 number 2787. 1-35.

Tripp, A.M. 2004. Women's movements, customary law, and land rights in Africa: The case of Uganda. *African studies quarterly*, *7*(4). 1-19.

Tsikata, D. 2009. Gender, Land and Labour Relations and Livelihoods in Sub-Saharan Africa in the Era of Economic Liberalisation. *Feminist Africa*, (12). 11-30.

US Agency for International Development (USAID). 2010. USAID Country Profile: Property Rights and Resource Governance. LandLinks. 1-19.

Van Wyk, J. 1992. The Namibian land conference-a first step towards addressing a burning problem. *SA Publiekreg= SA Public Law, 7*(1). 30-39.

Walker, C. 2011. Women's land rights, agrarian change and gender transformation in postapartheid South Africa. *Du grain à moudre. Genre, développement rural et alimentation*. 247-267.

Werner, W. 1993. A brief history of land dispossession in Namibia. *Journal of Southern African Studies, 19*(1). 135-146.

Werner, W. & Kruger, B. 2007. Redistributive land reform and poverty reduction in Namibia. *Country paper of the livelihoods after land reform project, Windhoek, Namibia*. 434.

Werner, W. 2008. *Protection for women in Namibia's communal land reform act: is it working?*. Legal Assistance Centre. 1-44.

Werner, W. 2021. *Land Governance on Communal Land in Namibia*. Land, Environment and Development Project, Legal Assistance Centre. 1-46.

Wiechers, M. 2010. Namibia's long walk to freedom: The role of constitution making in the creation of an independent Namibia. 81- 95.

Wiley, L.A. 2003. Land and the Constitution. *AREU Policy Brief.* 1-2.

Wilson, A. & Kachipande, S. 2020. Women in Malawi. In *Oxford Research Encyclopedia of African History.* 1-3.

Yngstrom, I. 2002. Women, wives and land rights in Africa: Situating gender beyond the household in the debate over land policy and changing tenure systems. *Oxford Development Studies, 30*(1) 21-40.

List of Appendices

Appendix A:

Interview Questions

Question 1:

In your own words, what does land mean to you?

Question 2:

Do you believe women should own land? Specifically, communal land?

Question 3:

Do you own any land in your own name? If yes, how did you go about acquiring the land rights?

Question 4:

Do you know anything about the Communal Land Reform Act of 2002?

Question 5:

In your own opinion, are Aawambo women aware of their land rights in this region?

Question 6:

Do you think that Oshiwambo customs and cultural traditions affect women's communal land rights?

Question 7:

In your opinion, do traditional authorities make it difficult for women to access or own communal land rights?

Question 8:

In your opinion, are (your) customary land rights linked to a man or men?

Question 9:

Interviewer: Do men generally get preference over inheritance?

Question 10:

In your own opinion, do you think there have been any positive changes regarding women's communal land rights in the region?