



STRENGTHENING GENDER EQUALITY IN LAW:

MAPPING AND ANALYSIS OF SIERRA LEONE'S
LEGAL LANDSCAPE



Strengthening Gender Equality in Law: Mapping and Analysis of Sierra Leone's Legal Landscape

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Produced by: IDLO and UN Women, in partnership with the Justice Sector Coordination Office, Office of the Attorney General and Ministry of Justice of Sierra Leone.

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ACRONYMS

ACRWC	African Charter on the Rights and Welfare of the Child
APPWA	All Political Parties Women’s Association
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CRC	Constitutional Review Committee
ECOWAS	Economic Community of West African States
FGM/C	Female genital mutilation/cutting
FSU	Family support unit
GEWE	Gender Equality and Women’s Empowerment
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDLO	International Development Law Organization
ILO	International Labour Organization
LAWYERS	Legal Access through Women Yearning for Equality Rights and Social Justice
LGBTQ	Lesbian, gay, bisexual, transgender and queer
NEC	National Electoral Commission
PPRC	Political Parties Registration Commission
RCMDA	Registration of Customary Marriage and Divorce Act
SGBV	Sexual and gender-based violence
TRC	Truth and Reconciliation Commission
UN	United Nations
UNICEF	United Nations Children’s Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal Periodic Review

FOREWORD

Laws that discriminate against women and girls drive the systemic denial of their human rights and block their advancement and empowerment. They prevent women and girls from accessing resources, opportunities and rights. When women and girls can live free from discrimination, with laws that protect their human rights, they realize their full potential and society benefits as a whole.

As a State Party to the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) and numerous other international conventions that protect the rights of women and girls, Sierra Leone is committed to accelerate and lead progress on women's rights. At the national level, the review, development, enactment and revision of a range of laws to tackle gender discrimination present a positive trend and demonstrate increased political will to reach gender equality. These included the enactment of the three Gender Acts, which respectively address domestic violence, women's access to land through inheritance, and women's rights in marriage and divorce. In addition, Sierra Leone also passed the Gender Equality and Women's Empowerment policy in 2020 which aims to mainstream gender into all the national, sectoral and local policies, plans, budgets and programmes. The existence of these national laws and policies is a significant point of departure for women's empowerment and provides the needed framework within which the government can address gender discrimination.

Despite the progress made in the area of legal reform, women and girls continue to face impediments to the recognition and full enjoyment of their rights. Laws on customary leadership, education, violence against women, political and public life, marriage, divorce and inheritance, are a few of those that have been identified as perpetuating discrimination against women and girls in the country. The repeal and revision of these laws, as well as the enactment of new gender equal laws can contribute to the alignment of Sierra Leone's legislative framework with its international and regional obligations on gender equality and reaffirm the country's strong and unwavering commitment to women's empowerment and human rights.

The need to eliminate discriminatory laws is of utmost concern not just in Sierra Leone but also globally. Over 2.5 billion women and girls around the world are affected by discriminatory laws and the lack of legal protections, often in multiple ways. In response, at the global level, inter-governmental, civil society and development partners, including UN Women and the International Development Law Organization (IDLO), launched the "Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action" calling for urgent action to fast-track the repeal of discriminatory laws in six thematic areas: comprehensive reforms, women's economic empowerment, minimum age of marriage provisions, nationality rights, discriminatory rape laws, and family and personal status laws. The focus area on comprehensive reform highlights the need to undertake a thorough analysis of national laws from a gender perspective and design roadmaps to guide reform processes.

In support of the strategy and the country's commitment to gender equality, IDLO, UN Women and the Office of the Attorney General and Ministry of Justice of Sierra Leone through the Justice Sector Coordination Office (JSCO) have partnered to produce this legal assessment report. The assessment constitutes a comprehensive review of laws and policies in Sierra Leone aiming to identify the provisions which directly or indirectly discriminate against women and girls, and presents recommendations for repeal, reform, or amendment.

IDLO, UN Women, and the Office of the Attorney General and Ministry of Justice of Sierra Leone hope that the Government and relevant stakeholders will turn the recommendations of this report into action and guarantee the centrality of gender equality in all fields.

**International Development
Law Organization**

UN Women

**Justice Sector Coordination Office
Office of the Attorney-General and
Minister of Justice of Sierra Leone**

EXECUTIVE SUMMARY

The International Development Law Organization (IDLO), UN Women and the Sierra Leone Office of the Attorney General and Ministry of Justice in Sierra Leone through the Justice Sector Coordination Office have, in a joint partnership, commissioned a gender and law consultant to undertake a comprehensive legal assessment, or mapping of the laws of Sierra Leone from a gender perspective. This legal assessment comprises a review of legislation including statutes, legislative instruments and case law. Brief reference will also be made to policies and norms that impact on the rights of women and girls, to the extent that they point to shortcomings in the existing legislation, or gaps in the legal protection of the human rights of women and girls.

The purpose of this legal assessment is to provide a gender analysis of these laws and make recommendations for reform, repeal or the passing of new laws with the goal of eliminating or reforming discriminatory laws against women and girls in Sierra Leone and ensuring that the principle of equality and non-discrimination is reflected in law. This review of laws and the elimination of those that discriminate against women was a recommendation of the Truth and Reconciliation Commission (TRC).¹ The review is therefore consistent with the Government of Sierra Leone's agenda of post-conflict reconstruction.

The objective of the review is also in line with IDLO's commitment to "promoting gender equality through non-discriminatory gender responsive laws and institutions, enhancing women's access to justice and increasing their legal empowerment to achieve sustainable development".² It is furthermore grounded in the UN Women-led "Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action", a global framework and plan of action for eliminating gender discriminatory laws.³

While the country has signed on to all nine of the core human rights treaties, it has ratified only seven.^{4,5} Moreover, Sierra Leone has neither signed nor ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) or ratified the Optional Protocol to the Convention on the Elimination of All

Forms of Discrimination against Women (CEDAW), which limits women's ability to advocate for their rights at the level of the United Nations treaty bodies in situations where their rights have not been vindicated by the authorities in Sierra Leone.

At the national level, Sierra Leone developed in 2019 the Gender Equality and Women's Empowerment (GEWE) policy, which, if implemented, could be transformative for women and girls. A gender empowerment bill incorporating components of the policy has also been gazetted, although it has yet to come before Parliament. The bill provides for a minimum 30 percent quota for political representation and appointment positions as well as improved access to finance and gender mainstreaming. However, implementation is key – despite a seemingly robust national policy framework for gender equality,⁶ the country still lags behind in many gender and development indicators.⁷ Additionally, Sierra Leone retains Section 27(4)(d-e) in the Constitution, which claws back the anti-discrimination provisions of the Constitution. For example, exemptions "with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law" from the ambit of the Constitution, the supreme law of the land, have entrenched customary law practices that include the exclusion of women from paramount chieftaincies in the northern and parts of the eastern provinces of Sierra Leone. This section is explored in more detail later in this report.

This legal assessment will help to identify laws that hinder gender equality and provide recommendations for law reform that should result in greater equality and attendant dividends, including improved socio-economic and political benefits for women. To ensure that reform is comprehensive, the legal assessment covers not only those laws that are explicitly designed to address issues that affect women and girls, but also sectoral ones that have a direct or indirect impact on gender equality. Using CEDAW and GEWE thematic areas as guides, these sectors comprise economic, social, political and cultural laws. Within these sectors, thematic areas include, but are not limited to, laws on employment; health; education; violence against women; political and public

life; marriage, divorce and inheritance; and the environment. This legal assessment identifies those laws that directly and indirectly discriminate against women and girls, reflecting on laws that clearly treat women and girls differently from men and boys, as well as those laws that while appearing neutral, in practice result in gender discrimination and hinder women's empowerment on all levels.

This report is structured along the following lines: an introduction, which outlines the methodology, provides a literature review, legal assessment of laws and policies, and literature to be reviewed as well as recommendations for repeal, revision or reform. The report proceeds as follows: the scope of work is introduced, followed by the methodology. Part 1 of the report then provides an overview of global and regional commitments and concomitant gaps, while Part 2 examines the gaps in Sierra Leone's domestic laws. Recommendations to address these gaps are provided in both sections, and Part 3 concludes with a road map on how to implement these recommendations.

The analysis of domestic laws covers 38 laws; seven bills that are in various stages of consideration by the Cabinet and other government departments and agencies; and several policy measures, which if fully implemented, can complement the legislative reform agenda in Sierra Leone. The analysis also reveals that a total of 22 laws, including key sections and provisions of the Constitution of Sierra Leone, 1991, must be amended or revised; six must be repealed in whole or in part; and at least seven new laws must be enacted to bring Sierra Leone's legislative framework in line with its international and regional obligations on gender and women's empowerment. The report also emphasizes the need to prioritize the implementation of national laws that fulfill gender and equality standards, and in this context, recommends at least two policy measures to complement the legislative reform agenda.

INTRODUCTION

Located in West Africa, the Republic of Sierra Leone emerged from British colonial rule as a unified and unitary independent State on 27 April 1961. Prior to gaining its independence, Sierra Leone was a British colony and protectorate. Founded in May 1787, British anti-slavery advocates and philanthropists envisaged the Freetown settlement as a “Province of Freedom” for recently freed African slaves from the revolutionary wars of the United States, Britain (known as the “Black Poor”), Nova Scotia and Jamaica (known as the “Maroons”). British vice admiralty courts also resettled in Freetown the Recaptives, that is, Africans the royal navy rescued from trans-Atlantic slave traders. The colony operated under British common law principles and norms until 1799 when British statutory laws also took effect.

In 1808, the British government took control of the near-bankrupt Freetown settlement from the Sierra Leone Company and transformed it into a Crown colony. In 1896, the British government declared a protectorate over various kingdoms and states adjoining the colony. Since its establishment, customary law operated in the protectorate alongside British common and statutory laws as long as the former was not inconsistent with the latter, in which case British law took precedence. Sierra Leone’s pluralistic legal system, therefore, owes its origins to the establishment of the colony and protectorate in the 19th century.

Customary law as it operated prior to and since the establishment of the protectorate was not codified, meaning unwritten, and varied from one ethnic community to another. Customary law lacks uniform rules or procedures to regulate land tenure, marriage, divorce and inheritance. Its foundations are rooted in patriarchy, which means that in matters of land tenure, for instance, eldest male members of families control, manage and protect family and community interests in land. Therefore, women’s interests in land, if at all, are subordinate to those of male family members.⁸ In the northern districts of Sierra Leone, for instance, women are barred from holding chieftaincy positions, which are reserved exclusively for men.

Ten years after independence, on 19 April 1971, Prime Minister Siaka P. Stevens declared Sierra Leone a republic, ending the titular role of the British monarch (Queen Elizabeth II) as Head of State. The country, nonetheless, remains a member of the Commonwealth of Nations, a constellation of former British dominions, colonies and territories.

The Independence Constitution of 1961 created Sierra Leone’s current judicial structure, though it has undergone some modifications. For instance, the Judicial Committee of the Privy Council in England served as the final court of appeal. With Stevens’ declaration of republican statehood in 1971, the role of the Privy Council in hearing final appeals from Sierra Leone ended. Instead, Parliament created the current Supreme Court, which now acts as the final court of appeal in Sierra Leone. In 1978, Stevens spearheaded the creation of a one-party system of government, further restricting the political space not only of opposing political parties but also of women. The restricted space of one-party rule led to clamors for the restoration of multiparty politics. The current Constitution ushered in a plural, multiparty political system in 1991. Section 170(1) sets out the laws of Sierra Leone as comprising:

- (a) “this Constitution;
- (b) laws made by or under the authority of Parliament as established by this Constitution;
- (c) any orders, rules, regulations, and other statutory instruments made by any person or authority pursuant to a power conferred in that behalf by this Constitution or any other law;
- (d) the existing law; and
- (e) the common law.”

Furthermore, subsection (2) defines the common law to include “the rules of law generally known as the common law, the rules of law generally known as the doctrines of equity, and the rules of customary law including those defined by the Superior Court of Judicature”. Subsection (3) defines

“customary law” as “the rules of law which by custom are applicable to particular communities in Sierra Leone”. The “existing law” includes, inter alia, “the written and unwritten laws of Sierra Leone as they existed immediately before the date of the coming into existence of this Constitution”.

This section recognizes the plural nature of society and the plurality of the laws of Sierra Leone, stemming in part from various cultural and religious practices in the then protectorate, now provinces, and the received British colonial-era common and statutory laws. As discussed below, the laws accommodate Christian, Muslim and customary marriages and divorces as well as property ownership and inheritance.

Moreover, Section 27(4) of the Constitution is a clawback clause, which excludes matters of adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law from the general obligation to secure equality and non-discrimination. This constitutional Gordian knot puts women’s and girls’ equality and empowerment at risk of not being realized until and unless Parliament and the electorate in general decide to amend or repeal the offending provisions of the Constitution of 1991. Given this clawback, as well as other concerns, the architects of the Lomé Peace Accords of 1999,⁹ which laid the basis for ending the civil war (1991–2002), recommended a review to “ensure that the Constitution of Sierra Leone represents the needs and aspirations of the people of Sierra Leone and that no constitutional or any other legal provision prevents the implementation of the present Agreement” (Article X). It also recognized “respect for human rights and humanitarian law” (preamble) as cornerstones of post-conflict peace.¹⁰ Members of the TRC¹¹ also called on the government to review the Constitution.

In response to the calls by architects of the Lomé peace agreement and the TRC, successive governments of Sierra Leone have established two constitutional review bodies, one in 2007 and another in 2013.¹² While both bodies made extensive recommendations to repeal and/or amend constitutional provisions that perpetuate discrimination against women and girls, the government has not implemented any of the suggestions and recommendations.

However, this legal assessment comes at an opportune time, with several ongoing efforts to review and document gaps in current laws, particularly as they impact women. This includes efforts by the Ministry of Gender and Children’s Affairs to review all child-related laws with a view toward harmonization, as well as the Ministry’s efforts to pass a bill that will address the issue of quotas for women’s participation in political and economic life, based on the recently passed GEWE policy.¹³ Also underway is a review by Campaign for Good Governance on referral pathways for the Sexual Offences (Amendment) Act, 2019. The latter research has a similar mandate as this present consultancy, except that the focus is on identifying the gaps in the Sexual Offences (Amendment) Act, 2019, that have the potential to undermine legal efforts to prevent and respond to sexual and domestic violence with the goal of proffering recommendations to address those gaps through repeal, harmonization or other measures. The National Electoral Watch and the Political Parties Registration Commission (PPRC) have jointly commissioned a consultant who is reviewing their respective laws to update them and include sections that are more supportive of women’s political participation, both as participants and candidates.¹⁴ The Ministry of Gender and Children’s Affairs has also commissioned a review of the Child Rights Act, 2007, and the Adoption Act, 1989, which is ongoing. Among other things, it is hoped the review of the Child Rights Act, 2007, will address age inconsistencies in the definition of a child across different legislation, while the review of the Adoption Act, 1989, will address limitations in protections offered to children against trafficking and other similar crimes by adoptive parents as well as the absence of legislation around inter-country adoption. Although a draft bill was developed in 2010, it was never passed into law. This list is not exhaustive. Thus, the current legal assessment of both domestic and international laws may benefit from renewed interest in identifying and closing the gaps that perpetuate discrimination against women and girls in Sierra Leone.

SCOPE AND METHODOLOGY

It is important to note for this legal assessment, as already stated, the plural nature of society and the plurality of the laws of Sierra Leone, stemming in part from various cultural and religious practices in the then protectorate, now provinces, and the received British colonial-era common and statutory laws.

The current Constitution ushered in a plural, multiparty political system in 1991. As the principal document governing the laws of the land, the 1991 Constitution is a critical target for comprehensive reforms, as are laws under the thematic areas of focus of the strategy on “Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action”¹⁵ by UN Women, the African Union, the Commonwealth, the Inter-Parliamentary Union, the Organisation internationale de la Francophonie and Secretaría General Iberoamericana, in cooperation with civil society organizations.

The research employed three distinct methods to generate a comprehensive mapping and legal assessment of laws, policies and norms to inform positive legislative reform for women and girls: namely, desk review, key informant interviews and external validation and support. The latter is being provided by a review committee commissioned by IDLO, UN Women and the Sierra Leone Office of the Attorney General and Ministry of Justice in Sierra Leone through the Justice Sector Coordination Office. This committee was closely engaged at every stage of the research process and provided feedback in a national multi-stakeholder report validation forum. The forum included members from the review committee along with other key informants, identified as experts in the field of gender and law, and provided a platform to validate and refine research findings.

Desk review of national and international legal frameworks

First, a desk review was conducted that encompassed Sierra Leone’s international, regional and national commitments.

At the international level, the consultancy team reviewed Sierra Leone’s international obligations that relate to gender equality, including CEDAW and the Convention on the Rights of the Child and their concluding observations and recommendations, among other United Nations human rights treaties. The extent to which the country is meeting these obligations is assessed, gaps are identified and recommendations for addressing constraints are advanced. Similarly, Sierra Leone’s commitments to regional obligations such as the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) and the African Union’s African Charter on the Rights and Welfare of the Child (ACRWC) were examined.

Finally, at the domestic level, the team reviewed the Constitution (as the overarching law of the land), as well as legislation, statutes, policies and judicial decisions. At all levels, the gaps between international and national commitments and Sierra Leone’s compliance were examined as were discriminatory laws that impede women’s empowerment and socio-economic and political development. Findings from ongoing and past review and mapping exercises, including the reports of the two constitutional review committees¹⁶ and other national reform processes, contributed to the recommendations around repeal or revision of these discriminatory laws and the potential development of new laws to address identified gaps, all as fundamental steps toward comprehensive law reform. The review drew on thematic obligations identified in CEDAW as well as the GEWE policy, which outline areas targeted for addressing discrimination in law as well as promoting women’s socio-economic and political empowerment.

While some laws and international conventions and protocols may appear to be gender neutral, their application may have a disparate impact on women and girls. Discrimination then is understood broadly – in terms of both the substance of the law as well as its tangible de facto impact on women and girls, or what CEDAW, in practice, terms direct

and indirect discrimination.¹⁷ For instance, in Sierra Leone, a lack of resources (funds, personnel and equipment) in rape and sexual assault cases has contributed to the low number of successful prosecutions of cases of sexual and gender-based violence.¹⁸ Thus, despite the President's Declaration in 2019 of rape as a national emergency, and the 2019 revision of the Sexual Offences Act, more needs to be done.¹⁹ To ensure a robust set of policy recommendations then, not only are overtly discriminatory laws examined, but also, in line with the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW Committee), laws that are potentially indirectly discriminatory are also reviewed. This includes sectoral laws around, for example, rape and the processes for seeking justice.

A sectoral approach was applied to determine which laws should be included as outlined above, grounded in CEDAW's thematic obligations, the Maputo Protocol, the Convention on the Rights of the Child and the ACRWC. Discriminatory provisions are measured against Sierra Leone's legal obligations under international and regional human rights treaties and the extent to which the law falls short of these commitments that Sierra Leone has adopted.

In addition to a first-hand review of all relevant laws, other literature was also explored, including previously and presently conducted research that has discussed the limitations of particular laws and advanced recommendations for repeal or reform in ways that promote gender equality and end discrimination. This includes findings from the 2016 report of the Constitutional Review Committee (CRC),²⁰ the 2008 report of the CRC that preceded it,²¹ the 2018 Sierra Leone Women's Manifesto co-created by several women's organizations, and current review efforts mentioned in the introduction. Also included in this review are the concluding observations and recommendations of United Nations treaty bodies such as the CEDAW Committee as well as Universal Periodic Reviews (UPR) that assess Sierra Leone's compliance with its international legal obligations.

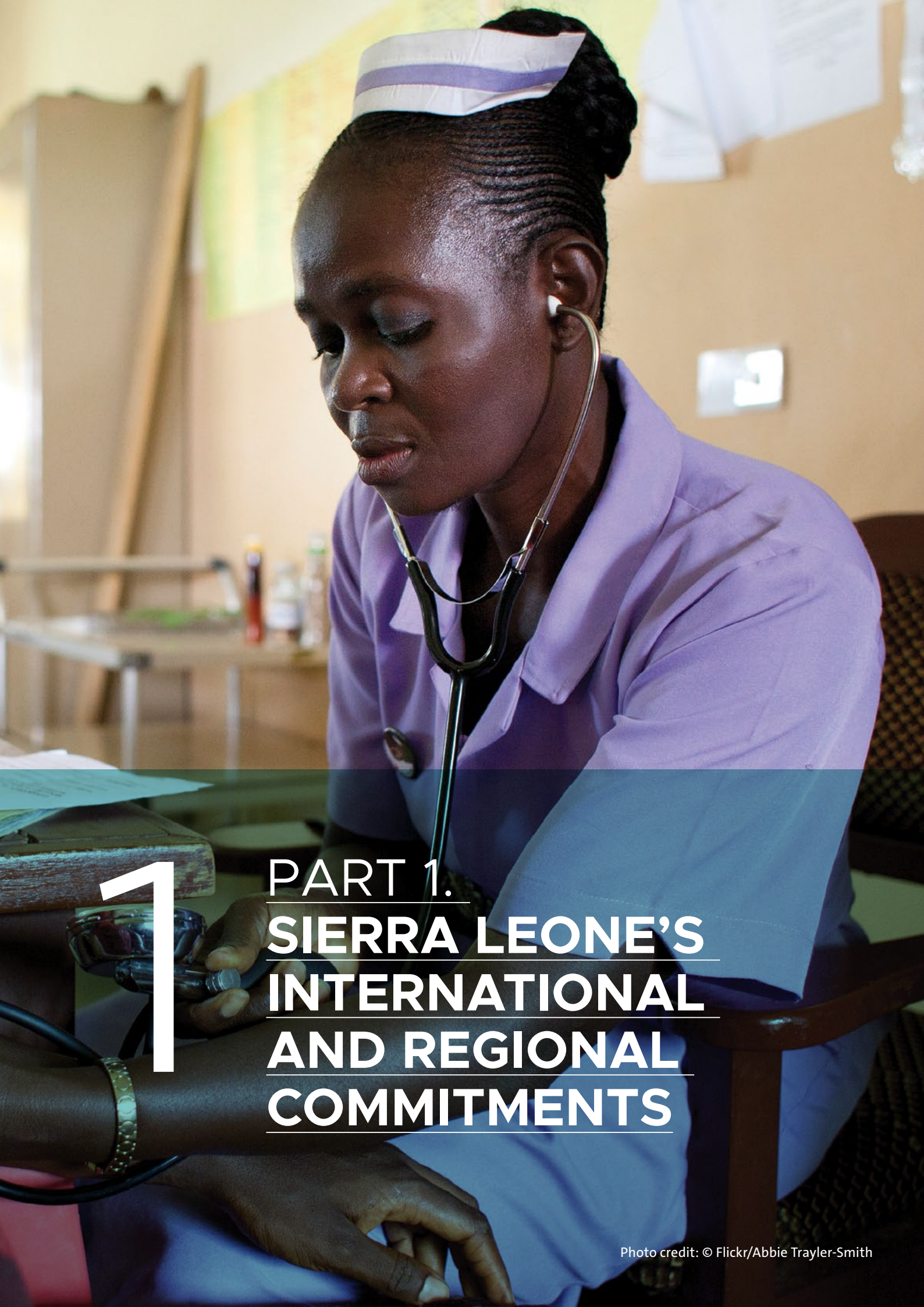
Primary data collection

Findings from the literature review were triangulated through primary data collection. Key informant interviews were held with relevant stakeholders across government, civil society organizations and non-governmental organizations. Second, a review committee spearheaded by the Ministry of Justice provided input into the overall research findings in a national consultative workshop as well as mapped out a strategy for the implementation of research recommendations at a second consultative workshop, both held in August 2021. The Justice Sector Coordination Office in the Office of the Attorney General and Minister of Justice coordinated this project.

Key Informant Interviews

Key informant interview respondents were drawn from actors in the legal arena or from those who had a sound understanding of women's legal, socio-economic and political issues in Sierra Leone. They possessed substantive knowledge of the legal framework in Sierra Leone from a gendered perspective and were able to speak to the limitations in the laws, as well as areas for repeal and reform.

Key informants were asked to comment on the extent to which international and regional commitments have been domesticated into law, and what implementation gaps persist. These interviews helped inform the analysis of gaps, limitations and discriminatory components of domestic laws as well as potential recommendations to address identified shortcomings across all levels.



1

PART 1.
SIERRA LEONE'S
INTERNATIONAL
AND REGIONAL
COMMITMENTS

PART I:

SIERRA LEONE'S INTERNATIONAL AND REGIONAL COMMITMENTS

Sierra Leone is party to a wide range of regional and global instruments designed to ensure gender equality in all aspects of life in the country, ranging from the socio-political to the economic. Although the country has adopted, signed and/or ratified many of these instruments, there remain gaps. The extent of Sierra Leone's domestication of international and regional commitments and identified gaps are reviewed in this section, drawing heavily on concluding observations and recommendations of United Nations treaty bodies, the Maputo Protocol, UPR and the African Commission on Human and Peoples' Rights.

Overview of Sierra Leone's global and regional commitments around women's rights

As a Member State within the United Nations, Sierra Leone is legally bound by the Charter of the United Nations, which commits Member States to the implementation of human rights, including equality between men and women. In addition to the Charter, Sierra Leone has signed all nine of the core international human rights treaties, including CEDAW, although it has ratified only seven.²² These treaties cover civil, political, economic, social and cultural rights; racial and gender-based discrimination; torture and disappearances; and the treatment of vulnerable groups, including children and persons with disabilities. Although CEDAW is widely recognized as the international bill of rights for women, Sierra Leone is a party to a wide range of conventions, both national and regional, which also incorporate commitments to secure women's and girls' rights across a broad array of thematic areas. In the section below, an overview of the main international and regional treaties to which Sierra Leone is a signatory is provided, before focusing on CEDAW and the Maputo Protocol as the chief

instruments against which we measure progress on Sierra Leone's global and regional obligations.

Sierra Leone is a party to the following: the International Convention on the Elimination of All Forms of Racial Discrimination; the Bill of Rights [International Covenant on Civil and Political Rights (ICCPR), and ICESCR]; CEDAW; Convention on the Rights of Persons with Disabilities, and Convention on the Rights of the Child. Sierra Leone has signed but not ratified the International Convention on the Protection of the Rights of Migrant Workers, and Members of their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.

Outside of the principal international human rights treaties, Sierra Leone is a party to other treaties, conventions, political declarations, guidelines and principles etc. that cover themes related to women's equality. On women's equality and political participation, for example, Sierra Leone is a party to the Convention on the Political Rights of Women; on violence against women, Sierra Leone is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000); and on children, Sierra Leone is a signatory to the Convention against Discrimination in Education (1960), and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000).

Sierra Leone is also a signatory to several International Labour Organization (ILO) conventions that cover women's economic empowerment and work conditions, including those on remuneration (Equal Remuneration Convention 1951, or C100) and workplace discrimination [Discrimination (Employment and Occupation) Convention, 1958

(No. 111 or C11], among others. Sierra Leone, like all other UN Member States, is obliged to implement declarations of UN bodies, such as the UN General Assembly and the UN Security Council, which relate to women's equality, including the Beijing Declaration and Platform for Action, and Security Council Resolution 1325 and subsequent resolutions relating to women, peace and security.

In addition to global commitments, Sierra Leone is a party to several regional obligations that are in line with or expand on its global commitments. Key among these is the Maputo Protocol, which Sierra Leone signed in 2003 and ratified in 2015. The Maputo Protocol guarantees women's social and political equality with men as well as their right to participate in political processes. Sierra Leone was among the African Union Heads of State and government that adopted the Solemn Declaration on Gender Equality in Africa in July 2004. It had earlier in 2001, at the sub-regional level, signed the Economic Community of West African States (ECOWAS) Protocol on Democracy and Good Governance, in which States committed to take necessary measures to ensure that women have equal rights to vote and be voted for in elections, and to participate in the development of government policies.²³ Sierra Leone has also ratified the ACRWC and the Africa (Banjul) Charter on Human and People's Rights, signed in 1981 and ratified in 1983.

Given the comprehensive nature of CEDAW and the Maputo Protocol, these two treaties are used as an organizing principle in this legal assessment to analyze and indicate gaps in de jure and de facto equality for women and girls in Sierra Leone. Reference to specific provisions in national laws, statutes and policies are highlighted in the process of analysis. The next section uses Sierra Leone's reports to the CEDAW Committee and the CEDAW Committee's concluding observations and general recommendations, along with the reports assessing progress on the implementation of the Maputo Protocol, to illustrate the areas where Sierra Leone is lagging behind in its international commitments, and offer recommendations for improvement. The recommendations are drawn from the concluding observations of the CEDAW Committee in response to Sierra Leone's first, second, third, fourth and fifth periodic reports issued in 2007,²⁴ and the concluding observations on the sixth periodic report in 2014;²⁵ the African Union's concluding observations and

recommendations on Sierra Leone's 2013 Initial and Combined Periodic Report on the Implementation of the African Charter on Human and Peoples' Rights and the Maputo Committees, in 2016;²⁶ and recommendations from various countries on Sierra Leone's most recent UPR, in May 2021. As has been done elsewhere,²⁷ using CEDAW's thematic areas, a summary of obligations is provided for both the Maputo Protocol and CEDAW, given the areas of overlap between the two. This section concludes with a reflection on the ways in which custom and tradition continue to hinder implementation, even where Sierra Leone has domesticated these treaties into its national law. This lays the foundation for Part 2, which examines both discriminatory laws as well as laws that while not discriminatory de jure, have discriminatory effects in the application of the law due to the context in Sierra Leone.

Gaps in Sierra Leone's international and regional obligations

Gaps in Sierra Leone's international and regional obligations are assessed largely using general recommendations and concluding observations from the CEDAW Committee, Maputo Protocol and UPRs. Sierra Leone submitted its combined first, second, third, fourth and fifth periodic reports to CEDAW in 2007,²⁸ and its sixth periodic report in 2014. It submitted its initial and combined periodic report on the implementation of the African Charter on Human and Peoples' Rights and the Maputo Committees, to the African Union in 2013, and received concluding observations and recommendations in 2016.²⁹ Most recently, the country underwent its third cycle of UPR in May 2021.

These various reports have pointed to some gaps in Sierra Leone's international and regional obligations. These include international agreements that the country has yet to ratify; treaties that Sierra Leone has signed and ratified but has either failed to domesticate or only partially incorporated into domestic legislation, without ensuring their full implementation; and treaties that have been domesticated but with shortcomings or gaps that contribute to de facto and/or de jure discrimination against women. In terms of ensuring that its international and regional commitments were adequate, the African Commission³⁰ recommended the following: the ratification of key international and regional human rights instruments, as well as

domestication of others. Concerns were expressed around the non-domestication of the African Charter, as well as the non-ratification of several relevant regional and international human rights instruments, including the following: the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol on the African Court); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the International Convention for the Protection of all Persons from Enforced Disappearance; the Optional Protocol to CEDAW; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the ICESCR; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; and the Second Optional Protocol to the ICCPR, aimed at the abolition of the death penalty.³¹ Ratification of these international human rights instruments will help strengthen the protections and accommodations for persons with disabilities, particularly women; help protect women migrants from abuse, especially given the harrowing experiences of women in the service industry in countries in the Middle East; as well as provide women recourse where the State has not addressed their rights, among other protections.

Notwithstanding these gaps, there have been positive signs of the government's commitment to ratification and domestication of outstanding human rights treaties. An enduring recommendation across multiple UPRs and CEDAW reviews has been the need to abolish the death penalty, and while there has been a moratorium in effect since 1998, in the government's national report, submitted for the third cycle UPR,³² it announced that it has committed to abolishing the death penalty. On July 23, 2021, Parliament voted to abolish the death penalty, replacing it with life imprisonment for murder under the Offences Against the Person Act, 1861; aggravated robbery under the Larceny Act, 1916; aiding and abetting the enemy and mutiny under the Sierra Leone Military Forces Act, 1961; and treason under the Treason and State Offences Act, 1963.³³ Sierra Leone, therefore, joins 21 other countries in Africa that have abolished the death penalty.³⁴

Similarly, while concluding observations by the CEDAW Committee in 2014 had noted the absence of an employment bill,³⁵ the government's national 2021 report to the UPR noted that it has recently ratified several ILO treaties, although these are yet to be reflected on the ILO website as insufficient time has passed.³⁶ These include the following: Protocol 029 of 2014 to the Forced Labour Convention, 1930; Social Security (Minimum Standards) Convention, 1952; Labour Administration Convention, 1978 (No. 150); and Labour Statistics Convention, 1985 (No. 160),³⁷ with the process for domestication underway. In Sierra Leone, following ratification, laws must be domesticated and passed by Parliament before they can take effect. Moreover, there is still need for the ratification of other ILO conventions that cover issues such as maternity protection and employment policy, equal pay and allowance, childcare and harassment protection. Currently, policies on these themes are ad hoc and sectoral-specific, enshrined in gazettes specific to that sector.³⁸ It is recommended that Sierra Leone ratifies key ILO conventions that can address such discrimination that women face in the economic sector. These include the Employment Policy Convention, 1964 (No. 122); Workers with Family Responsibilities Convention, 1981 (No. 156); and Maternity Protection Convention, 2000 (No. 183).

Nevertheless, Sierra Leone is recommended to fully domesticate the Maputo Protocol and CEDAW, in line with the African Union's concluding observations and recommendations on Sierra Leone's initial and combined periodic reports to the CEDAW Committee,³⁹ and to repeal provisions that run counter to the obligations under these treaties. Moreover, even though Sierra Leone signed the Optional Protocol to CEDAW in September 2008, Parliament has not ratified it. Sierra Leone should also ratify the Optional Protocol to the ICESCR.

Notwithstanding, Sierra Leone has passed several instrumental laws to meet its international obligations under both the Maputo Protocol and CEDAW. These include the Sexual Offences Act of 2012 and its 2019 amendment, both geared at protecting women from all forms of violence; the three gender Acts of 2007; the Child Rights Act of 2007; as well as the Legal Aid Act of 2012, among others. Sierra Leone made two amendments to its citizenship laws, one in 2006 and the second in 2017,

to enable women to pass on their citizenship to their children who hold other nationalities, and to remove other discriminatory provisions.

However, despite the enactment of a range of laws that show commendable commitment to domestication, there remain gaps where existing laws run counter to international commitments, as is explored in more detail in Section 2. For example, Article 2 of the Maputo Protocol obligates State Parties to undertake appropriate legislative, institutional and other measures to eliminate all forms of discrimination against women. States are also required to commit themselves to modifying the social and cultural patterns of conduct of women and men through public education, information and communication strategies. This aims to support the elimination of harmful cultural practices and all other practices based on the idea of the inferiority or superiority of either of the sexes. Article 5 of the Maputo Protocol calls for State Parties to ensure women's protection from harmful practices through both prohibition and elimination of all practices that harm women, including female genital mutilation/cutting (FGM/C)⁴⁰. CEDAW also requires the elimination of harmful practices such as all forms of gender-based violence against women.⁴¹

United Nations Children's Fund (UNICEF) data suggests that up to 90 percent of women in Sierra Leone have undergone circumcision, although rates have been declining over time.⁴² However, Sierra Leone has yet to pass a law criminalizing the practice of FGM/C, although the government has signed a memorandum of understanding with Soweis,⁴³ committing to no cutting of girls under 18.⁴⁴

Another area in which there is a gap in Sierra Leone's international obligations and its domestic law is around the minimum age of marriage. Article 16(2) of CEDAW and the Maputo Protocol speak against child marriage, with Article 6 of the Maputo Protocol providing 18 years as the minimum age for marriage. While the Child Rights Act sets the minimum age of marriage at 18 years, it conflicts with the Registration of Customary Marriage and Divorce Act, 2009 (RCMDA), which allows for marriage before 18 with the consent of a recognized authority, including a parent.

A key recommendation, as discussed in Section 2, is the repeal of such provisions within the RCMDA. However, along with law reform, there is a need

for broad-based sensitization on the content of the Child Rights Act, 2007, as well as on the dangers of child marriage, to discourage the practice.

Similarly, Articles 4,7 and 8 of CEDAW call for the development of temporary special measures that can help fast-track equality between men and women in political participation and governance. Although a gender and equality bill was developed, it did not pass. Among the reasons provided by those opposed to the idea of reserved/safe seats was that such a law would be discriminatory as it would not allow men to compete or contest in those constituencies/seats deemed to be safe or reserved.⁴⁵ However, the Ministry of Gender and Children's Affairs has developed a gender empowerment bill that calls for quotas, which will be considered once the Parliament returns from recess in September 2021.

Finally, while Sierra Leone has signed several international and regional treaties and developed domestic laws to domesticate these treaties, these laws suffer from certain limitations. These limitations and recommendations to address them are the subject of Section 2 of this report.

Broad recommendations for Sierra Leone to address the gaps in domestic and international law include fully incorporating the Maputo Protocol, CEDAW and other relevant international instruments into domestic legislation and ensuring their full implementation. For example, the African Union concluding observations and recommendations urge Sierra Leone to domesticate the African Charter, and of particular relevance to this report, to provide training on the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa and on the Principles and Guidelines on Fair Trial, to officers within the formal as well as local courts.⁴⁶ Given that women in Sierra Leone are disproportionately affected by the criminalization of petty offenses such as loitering and non-payment of debt, this could be helpful.⁴⁷ Other recommendations include addressing areas where domestic legislation is inconsistent with the Maputo Protocol and CEDAW through either repeal or revision of pertinent provisions, and the enactment of new legislation; and to ratify and domesticate outstanding international conventions that can protect women, particularly around labor and employment, such as the ILO conventions discussed above, and again, ensure the domestication of

these conventions. Section 2 elaborates on specific recommendations that address shortcomings in current laws.

As important as laws are, the most recent concluding observations and recommendations of the CEDAW Committee show that challenges remain. Structural constraints present barriers to implementation, including deeply ingrained norms and values that militate against women's socio-political, economic and judicial equality. These concerns are discussed in the next section and suggest that alongside laws, there must be campaigns aimed at transforming the patriarchal norms and values that underpin society. Initiatives must be undertaken to raise awareness on the importance of gender equality, and to identify and address those practices that impinge on this across all sectors as well as advance measures to reduce and ultimately eliminate all forms of discrimination against women.

Constraints in Sierra Leone's implementation of laws

Despite a robust body of laws to support the empowerment of women and girls, implementation is lagging. This is largely due to a cultural context that is grounded in patriarchy. This has affected all aspects of society, including legal, political, social and economic, and continues to constrain women in Sierra Leone. For example, on harmful traditional practices, Sierra Leone has found it difficult to enact legislation prohibiting FGM/C due to its entrenched support in society (based on customs and traditions) and hesitation on the part of politicians to address it out of fear of losing political support.⁴⁸ Other issues include access to justice, high rates of sexual and gender-based violence (SGBV), as well as challenges in the economic sector where women's work is largely undervalued and undercounted. In the following section, we examine closely the various laws that Sierra Leone has enacted with a view to understanding what gaps exist in these laws and Sierra Leone's obligations under CEDAW and the Maputo Protocol. In the analysis we also note, where relevant, socio-cultural constraints that must also be addressed.

Women face strong challenges in accessing justice, despite the gender laws, whose enactment reflected commendable attempts by the State to meet its CEDAW and Maputo Protocol obligations. A 2020⁴⁹ report by the United States Department of State notes that in terms of access to justice, traditional

justice systems — which are often the most widely used by rural residents to resolve cases ranging from land tenure, over which they have jurisdiction, to SGBV cases, over which they do not — regularly issue rulings that discriminate against women and girls. The lack of codification of customary laws results in rulings that are both inconsistent and disenfranchise women and girls, given that they rest on patriarchal foundations. Thus, the plurality of laws, where customary and common law compete, has meant that in practice, rulings over matters such as marriages, divorce, property ownership and inheritance are settled using customary law, where social norms and practices contribute to discriminatory rulings that undermine equality in family relations.

Relatedly, despite high-level attention being paid to SGBV, in line with commitments made in the Maputo Protocol, SGBV rates remain high. Steps to address SGBV include the President's Declaration of rape as a national emergency in 2019, and the subsequent amendment of the Sexual Offences Act that same year, as well as the establishment of one-stop centers to address survivors' needs and the Sexual Offences Model Court to fast-track cases. Notwithstanding, the Rainbo Initiative reported an increase in cases, from 3,137 in 2018 to 3,897 in 2019.⁵⁰ While some believe this represents an increase in reporting rather than in prevalence, it nevertheless indicates a need to go beyond the laws, especially as conviction rates remain low. It is important to address norms and values that either tolerate or promote violence against women, and strengthen the institutions that are supposed to protect women and ensure they can enjoy effective access to justice, such as the security and justice sectors. Also key is helping women (and men) know what is available to them, both in terms of laws and services. Added to this, these laws should be popularized, that is, the intention to promote equality through the establishment of these laws as well as the provisions in the laws should be widely disseminated. This important follow-up action on passing a new law to ensure effective implementation is usually not embarked upon in a coordinated, effective way. Lack of information/education on existing laws and policies affecting women (positive and/or negative) remains a challenge to access to justice for women. Therefore, legal literacy campaigns to ensure that women and girls know how to vindicate their rights are also important.



2

PART 2. LEGAL ANALYSIS OF DOMESTIC LAWS

PART II:

LEGAL ANALYSIS OF DOMESTIC LAWS

In this section, Sierra Leone's domestic legal framework is examined, starting with the Constitution, and then moving on to statutes. Case laws are considered where they serve to provide additional context and information on the ways in which the law discriminates against women and girls. Each respective instrument is reviewed in turn, discriminatory sections and/or limitations identified, and recommendations made. Recommendations to address identified discriminatory sections include tangible recommendations for repeal or revision, including removal of discriminatory sections, and/or adding components that will make the laws more consistent with Sierra Leone's international commitments on gender equality. Laws are grouped by theme. As CEDAW and the Maputo Protocol are arguably two of the most instrumental international and regional agreements that seek to end discrimination against women in all areas, they will be used as the basis for the thematic organization.

Any legal analysis of the domestic laws of Sierra Leone must begin with the Constitution of Sierra Leone, 1991, the fourth such fundamental law since the country gained its independence from Britain on 27 April 1961. Section 171(15) states that: "This Constitution shall be the supreme law of Sierra Leone and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect."⁵¹ The Constitution is the wellspring of the general and specific laws of the country. The Constitution of 1991 marked a return to a plural, multiparty political system after the disastrous experiment with the one-party republican Constitution of 1978.⁵² This notwithstanding, it contains several clauses that enshrine gender inequality in the country. One example of this is the already mentioned clawback clause contained in Section 27(d-e) that allows for discrimination if in line with the customs and traditions of particular groups.

Following the 11-year civil war, several outputs of the peace process recommended a review of the Constitution, including the 1999 Lomé Peace Agreement and the 2004 TRC report. Among the concerns cited was the lack of a participatory process in the development of the Constitution, and the fact that parts of the Constitution were inconsistent with Sierra Leone's international obligations. In response to the recommendations of the signatories to the Lomé Peace Agreement and the TRC report, the governments of presidents Ahmad T. Kabbah (1996–2007) and Ernest B. Koroma (2007–2018) each set up a commission/committee to review the Constitution and suggest recommendations in 2007 and 2013 respectively.⁵³ President Kabbah appointed Dr Peter L. Tucker to head a 47-member Constitutional Review Commission in January 2007. Its terms of reference were: "To review the Sierra Leone Constitution of 1991 with a view to recommending amendments that might bring it up to date with the economic, social and political developments that have taken place nationally and internationally since 1991."⁵⁴ The Commission presented its report (the Tucker report) to President Kabbah's successor, President Koroma, in January 2008.⁵⁵

In July 2013, President Koroma appointed an 80-member Constitutional Review Committee with Justice Edmund Cowan as its head. Its terms of reference were to:

- Ascertain from the people of Sierra Leone, their views on the operation of the 1991 Fourth Republican Constitution and, in particular, the strengths and weaknesses of the Constitution.
- Articulate the concerns of the people of Sierra Leone on amendments that may be required for the comprehensive review of the 1991 Constitution.
- Make recommendations to the government for consideration and provide a draft bill for possible amendments to the 1991 Constitution.

The Committee presented its final report (the Cowan report) to President Koroma in January 2017.⁵⁶ While both review bodies made recommendations to repeal and/or amend constitutional provisions that perpetuate discrimination against women and girls, the government has failed to implement any of the recommendations. In the absence of action to implement the recommendations of the constitutional review committees, discriminatory provisions in the 1991 Constitution are a barrier at the legal level to eliminate all forms of discrimination against women and girls. Therefore, the starting point to any changes in domestic laws that accommodate international legal instruments to which Sierra Leone is a signatory must be the repeal and/or amendments to those provisions in the Constitution that claw back gender equality for women and girls. Anything short of that will subject the law or enactment to challenge and scrutiny in the Supreme Court, on the grounds of being inconsistent with the Constitution and therefore void and of no effect. Pertinent recommendations are discussed later in this section. However, the government, in its most recent UPR, has indicated that it is considering a white paper on the CRC recommendations, which suggests that positive changes are forthcoming.

Detailed review of the Constitution (1991)

Nature of domestic laws

The laws of Sierra Leone, according to Section 170(1) of the Constitution of 1991, consist of the following:

- (a) This Constitution.
- (b) Laws made by or under the authority of Parliament as established by this Constitution.
- (c) Any orders, rules, regulations and other statutory instruments made by any person or authority pursuant to a power conferred in that behalf by this Constitution or any other law.
- (d) The existing law.
- (e) The common law.

Subsection (2) defines the common law to include “the rules of law generally known as the common law, the rules of law generally known as the doctrines of equity, and the rules of customary law including those defined by the Superior Court of Judicature”. Subsection (3) defines “customary law”

as “the rules of law which by custom are applicable to particular communities in Sierra Leone”. The “existing law” includes, inter alia, “the written and unwritten laws of Sierra Leone as they existed immediately before the date of the coming into existence of this Constitution”. The Local Courts Act, 2011, which establishes a local court in each of the chiefdoms in Sierra Leone, gives a fuller meaning to customary law, which it describes as: “any rule other than a rule of general law, having the force of law in any Chiefdom of the provinces whereby rights and correlative duties are acquired or imposed in conformity with natural justice and equity and not incompatible, either directly or indirectly, with any enactment applying to the provinces, and includes any amendment of customary law made in accordance with the provisions of any enactment”.⁵⁷

Additionally, subsection (2) recognizes the plurality of society and the plurality of the laws of Sierra Leone, stemming in part from various cultural and religious practices in the then protectorate, now provinces, and the received British colonial-era common and statutory laws. Section 171(15) states the supremacy of the Constitution: “This Constitution shall be the supreme law of Sierra Leone and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect.” This critical section appears in Chapter XIII, styled “Miscellaneous”. It is suggested that any future amendments to the Constitution must ensure the repositioning of the “supremacy clause” in Section 171 in a chapter other than “Miscellaneous”. It gives the impression to the legal practitioner and lay person alike that the Constitution is just another document that people often ignore or do not take seriously. This “otherness” in Sierra Leone’s constitutional jurisprudence must end.

According to the report of the TRC, both common and customary laws discriminate against women in the areas of marriage, divorce, inheritance, property rights, domestic violence and political participation, in violation of the country’s international obligations. The TRC, while urging respect for the institution, status and role of traditional rules of customary law, nonetheless concluded that such rules must be subject to the dictates of the Constitution of Sierra Leone, the supreme law of the land.⁵⁸ The TRC also recommended that the judges of the Superior Courts of Judicature (High Court, Court of Appeal and Supreme Court) should

be empowered to rule on the constitutionality of customary laws that are inconsistent with Chapter III of the Constitution.⁵⁹

As presently constituted, the High Court exercises “supervisory jurisdiction over all inferior and traditional Courts in Sierra Leone”, while the power to interpret and enforce the provisions of the Constitution, or determine the constitutionality of laws enacted by Parliament or any other authority so designated by law remains with the Supreme Court of Sierra Leone.⁶⁰ The “inferior and traditional courts”, which are outside the ambit of the Superior Courts of Judicature, save for the appeal and supervisory powers of the High Court, and, therefore, not courts of record, sit in judgment over customary law cases and controversies in the country’s 190 chiefdoms and 16 districts.

These “inferior and traditional courts” include the local courts in each chiefdom of Sierra Leone. They have jurisdiction over civil and criminal cases arising in the chiefdoms, cases governed by customary law, and the administration of the estates of deceased persons that are governed by customary law so long as they do not contravene the Devolution of Estates Act, 2007, discussed below. The chairperson and other members of the local courts are appointed by the Chief Justice after consultations with members of the Judicial and Legal Service Commission. Appeals lie in district appeal courts and the local appeals divisions of the High Court.⁶¹ Furthermore, the constitutionality of their judgments is beyond legal challenge because of the clawback provisions of Section 27(4)(d-e) of the 1991 Constitution. In addition to being uncodified, customary laws accord women and girls lower status than that of men and boys.⁶² Amending or repealing the offending provisions of the Constitution must be central to the efforts to realize women’s and girls’ equality and empowerment in Sierra Leone.

RECOMMENDATIONS

- A decision about clawback clauses must be front and center of law reform efforts in Sierra Leone.
- The titling of Chapter XIII as “Miscellaneous” could be reconsidered and it could be retitled, “General Principles of Interpretation” or along similar lines, and the chapter could be repositioned in a more visible location within the Constitution.

Chapter II: Fundamental Principles of State Policy

Gray areas of the Constitution have impeded the realization of the rights of women and girls in Sierra Leone. One such gray area is Chapter II (Sections 4–14), which states the fundamental principles of state policy. These lofty principles include the fundamental obligations of government; relations between the government and the people; political, economic, social, educational and foreign policy objectives; obligations of the mass media; enhancement of national culture; and the duties of the citizen. In Section 5 for instance, the Constitution declares that the principles of freedom, democracy and justice include the notion that “sovereignty belongs to the people of Sierra Leone from whom Government through this Constitution derives its powers, authority and legitimacy”. This ensures the people’s participation in the State’s governance.

In practice, however, women’s access to and participation in politics and decision-making have been restricted at various levels of society. According to the TRC report findings, “... a culture of exclusion and marginalization in the management of political affairs in Sierra Leone existed before and during the civil conflict, and even persists today. Women are largely absent from the structures of government and traditional forums that are critical in formulating policies. The exclusion of women resonates across the various divides – cultural, religious, economic and domestic.”⁶³

Among the subjects covered by the fundamental principles are political objectives, which include discouraging discrimination on the basis of sex, among other attributes; the economic objectives include social justice and equality of opportunity, while the educational objectives speak of “equal rights and adequate educational opportunities for all citizens at all levels”. To fulfill the educational objectives [Section 9(1)(b)] requires “safeguarding the rights of vulnerable groups, such as children, women and the disabled in securing educational facilities” and eradicating illiteracy by the provision of “free adult literacy programmes; free compulsory basic education at primary and junior secondary school levels; and free senior secondary education when practicable”. [Section 9(2)(a-c)].

Section 14, however, claws back these principles declared to be fundamental by stating that they “shall not confer legal rights and shall not be enforceable in any court of law, but the principles contained therein shall nevertheless be fundamental in the governance of the State, and it shall be the duty of Parliament to apply these principles in making laws” for the country.

That these fundamental principles are not justiciable yet can be applied by Parliament in enacting legislation is the ultimate in constitutional contradictions. Section 14 negates many of Sierra Leone’s international obligations under CEDAW, the ICCPR, 1976 (ratified by Sierra Leone in 1996), and the Child Rights Act of 2007, among others. These include, but are not limited to, freedom from discrimination on the basis of sex or gender, social justice, equality of opportunity in the face of customary law and practices that inhibit women’s and girls’ upward socio-economic and educational mobility, and the right to adequate educational opportunities in a patriarchal society that undervalues women’s and girls’ education, in spite of the fact that their illiteracy rates are high. According to UNESCO data, only 34.85 percent of women in Sierra Leone are literate.⁶⁴ Articles 2(3), 3 and 26 of the ICCPR, as well as CEDAW and the Convention on the Rights of the Child ensure the equal protection of the law, including protection against discrimination based on sex. As discussed below, these lacunae can be found in the Constitution and many of the laws Parliament has enacted in recent years. This contradicts Sierra Leone’s legally binding commitments to the international conventions and protocols on human rights, including the elimination of all forms of discrimination against women and girls.

RECOMMENDATIONS

- Under Section 14, an aggrieved individual cannot bring an action for damages against any government employees exercising legislative, executive and judicial powers for deprivation of the principles of state policy. Parliament should consider legislation to make these provisions justiciable. This gap in the Constitution is not conducive to the realization of women’s and girls’ rights and empowerment.

- This legal assessment concurs with the recommendation of the CRC report of 2016 that the fundamental state principles enshrined in Chapter II should be made justiciable⁶⁵ with an accessible legal process to vindicate the rights. Alternatively, if the principles of state policy are not made justiciable, they should be repealed due to their inherent contradictory nature.
- In light of women’s low participation in political decision-making⁶⁶ prior to and since the end of the civil war, Parliament should consider adopting affirmative action policies, drawing from the analysis of temporary special measures elaborated in CEDAW General Recommendation 25.
- The government of Sierra Leone should ensure that its Constitution and laws reflect its obligations under international conventions, treaties and other instruments to which it is a signatory member.

Chapter III: The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual

Unlike British colonial-era jurisprudence that rendered nugatory customary law that was inconsistent with British common and statutory laws, the Constitution of Sierra Leone, 1991, has done the reverse by according to it pride of place. But as the TRC report reminds us, both common law and customary law discriminate against women in matters of marriage, divorce, inheritance, property rights, domestic violence and political participation.

Section 27(1) states that “no law shall make any provision which is discriminatory either of itself or in its effects”. In subsection (3), the Constitution defines “discriminatory” as “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description”.

Subsection (4)(d-e), nevertheless, claws back the constitutional protection from discrimination “with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law”, or the application of customary law to a particular race or tribe. Moreover, as customary law varies from one ethnic group to another (and varies even within ethnic groups) and from one district/province to another, the result is uncertainty in its application. Further, the lack of codification of these laws leads to inconsistent rulings.⁶⁷ In addition, given the patriarchal nature of society and its impact on traditions and customs, customary court rulings, particularly around inheritance and family law, disenfranchise women, a finding that was echoed by institutions helping women with legal services.⁶⁸ This has implications on matters such as marriages, divorce, property ownership and inheritance, which are all subject to customary law, and social norms and practices have contributed to discriminatory rulings that undermine equality in family relations. One solution is to codify customary law. However, it is important to ensure that in the process, negative norms and practices are not crystalized into law and serve to perpetrate and ingrain injustice to women who seek justice within these customary and informal justice mechanisms. Thus reform of customary law must seek to weed out negative norms and practices and amend or do away with them in codification.

The TRC took exception to Chapter III of the Constitution, which it described as “extremely elaborate and detailed, undermining clarity and the force of the text. There are numerous ‘claw-back clauses’, by which a right is guaranteed in one provision but curtailed in the next. A bill of rights should be comprehensible and framed in straightforward terms. A bill of rights should provide an enumeration of the basic principles on which society is based, accessible to the citizen, instead of losing itself in details and exceptions. Some fundamental rights to which Sierra Leone is bound by international law do not figure at all, such as the right to education, which is recognised in articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights”.⁶⁹

Free education is a flagship policy of the current government and significant investments have been made to advance the same. However, access to quality trained teachers on government salary is still a challenge, particularly in rural communities,

which struggle to find teachers willing to relocate, and rely more on the services of volunteer teachers who often lack proper qualifications.⁷⁰ The right to education, including tertiary education as stipulated in the Education Act, 2004, must mean what it says so as to level the playing field for women and girls.

With regard to political participation, the TRC report once again comments on Chapter III of the Constitution, highlighting women’s political participation as a priority area for the progressive development of women in Sierra Leone.⁷¹ The current Parliament of Sierra Leone comprises 146 members. Sixteen of the 146 members are women, accounting for 11 percent of the membership. According to the TRC, “The Commission believes that it is only when the legal and socio-political system treats women as equals to men, giving them full access to economic opportunities and enabling them to participate freely in both public and private life, that they will realise their full potential.”⁷²

Similarly, the Sierra Leone Cabinet includes five women out of thirty Cabinet positions, accounting for 17 percent.⁷³ On 30 April 2021, the President, Julius M. Bio, reshuffled his Cabinet, dropping a female member, Mrs Nabeela F. Tunis, the Minister of Foreign Affairs and International Cooperation. On 7 May, she was back as Regional Minister, Western Region, with “Cabinet rank”. Therefore, the percentage of women in the Cabinet has dropped to 13.3 percent. Sierra Leone is a State Party to the ICCPR and CEDAW, which oblige Member States to ensure the equal rights of men and women to the enjoyment of all civil and political rights. Similarly, the Security Council Resolutions on Women, Peace and Security also call on States to ensure women’s equal political participation in post-conflict and peacebuilding situations, which is particularly relevant for Sierra Leone. Although a gender bill failed to pass, the GEWE policy launched at the end of 2020 calls for the government to adopt affirmative action at the level of the Constitution as well as within party policies. In its national report to the Human Rights Council for its third cycle UPR, the government shared that a white paper on the CRC recommendations is currently before the Cabinet, and that approved recommendations include the proposal for a legislative quota.⁷⁴ Further, the Minister of Gender and Children’s Affairs has tabled the gender empowerment bill before Cabinet, with the draft bill revealed on 12 August 2021. The bill has four key provisions: 30

percent reserved seats for women in politics; 30 percent appointment positions for women; access to finance; and gender mainstreaming and budgeting. If the bill passes, Sierra Leone will join several other African countries that have amended their laws, including their constitutions, to ensure that women have minimum representation in parliament. For example, in Uganda's "no party" Parliament, each district is guaranteed at least one female representative. In Rwanda, all political parties must ensure at least 30 percent of their candidates are women with a similar percentage of women in decision-making positions. The bill would also fulfill a recommendation by the 2008 CRC, which called for quotas not just for elected positions (within Parliament) but for appointive and other posts as well. According to the report: "All the Convention demand affirmative action in favour of women. We, the Commission, support this and strongly recommend greater educational opportunities for women so as to prepare and enhance them for a major participation in politics and public offices. In this regard, special provision should be made for the empowerment of women in the hinterland of the provinces, in education, business and other development."⁷⁵ This recommendation can be submitted to Parliament for its consideration.

RECOMMENDATIONS

- Repeal Section 27(4)(d-e) of the Constitution. The TRC report states that, "To the extent that customary law is inconsistent with Chapter III of the Constitution, courts should be empowered to declare it unconstitutional. This recommendation requires the repeal of sections 27(4)(d) and (e) of the Constitution which exempts certain areas of the law such as adoption, marriage, and divorce from protection against discrimination. This is an imperative recommendation."⁷⁶
 - Furthermore, the Government of Sierra Leone should incorporate into domestic law the right to education provisions of CEDAW and the Maputo Protocol. Adequate funding of education and strategies to ensure the provision of trained and experienced teachers in the classrooms throughout the country are key.
 - To address the regional and cultural variations of customary law, the TRC recommended that customary laws should be codified and brought into line with CEDAW and the Convention on the Rights of the Child. This legal assessment concurs with this recommendation. We further suggest
 - a participatory process of codification in which women play a central role to ensure they can participate in their own cultural interpretation of the laws. This should minimize the risk of making the discriminatory aspects more tenacious and ensure that in the process, negative norms and practices are done away with.
- The TRC also recommended a reformulation of the fundamental human rights provisions of the Constitution. Therefore, Parliament should consider incorporating Sierra Leone's international human rights obligations into domestic law as justiciable provisions.
 - This report concurs with the recommendation of the 2016 CRC report, which stated that Parliament should repeal Section 27 in its entirety and replace it with a new section as follows:
 - "(1) Every person is equal before the law and has the right to equal protection and benefit of the law.
 - (2) Equality includes full and equal enjoyment of all rights and fundamental freedoms. Women and men have the rights to equal treatments including the rights to equal opportunities in political, economic, cultural and social spheres.
 - (3) A person may not be discriminated against on the grounds of race, colour, ethnic origin, religion, creed, social or economic status.
 - (4) For the purposes of this section, discriminates means to give different treatment to different persons attributable or mainly to their respective description by race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language, or birth.
 - (5) Neither the State nor any person shall discriminate against any other on any of the grounds specified in Section 5.
 - (6) The State shall take legislative and other measures to implement the principle that not more than two thirds of the members of elective or appointive bodies shall be of the same gender.
 - (7) Nothing in this section shall prevent Parliament from enacting laws that are necessary to provide for the implementation of policies and programmes aimed at addressing social, economic, and educational imbalances in the Sierra Leonean society."⁷⁷

- Parliament should consider legislation on affirmative action (laws, policies, guidelines, and administrative practices) to eliminate discrimination, correct past discrimination against women and minority groups, and prevent discrimination going forward.⁷⁸ Particularly, in relation to women’s political participation, temporary special measures to ensure women’s equality in political participation should be included in the Constitution, including quotas. Cross-regional analysis on best practices should be undertaken, including for example, on the two-thirds gender rule, to understand potential constraints as well as proposed benefits. This will also enable Sierra Leone to implement Article 9 of the Maputo Protocol on the right of women to participate in the political life of their countries. In its entirety, it states that:

“1. State Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: a) women participate without any discrimination in all elections; b) women are represented equally at all levels with men in all electoral processes; c) women are equal partners with men at all levels of development and implementation of state policies and development programmes.

2. State Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.”⁷⁹

Along similar lines, Article 7 of CEDAW commits States to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country”.⁸⁰ Therefore, in compliance with Article 9 of the Maputo Protocol, Parliament should consider affirmative action legislation that guarantees a minimum 30 percent of the appointive and elective positions in the public and private sectors to be reserved for women. There is precedent for this recommendation. Section 95(2c) of the Local Government Act, 2004, mandates that five members of a ward committee should be women elected by its residents.

- Parliament should also fully implement Articles 1 and 2(f) of CEDAW. Article 1 defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. Article 2(a) of CEDAW requires that State Parties immediately “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”. Article 2(f) requires State Parties to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”.⁸¹ This can be done by repealing Section 27 and replacing it with the new section that the 2016 CRC report has recommended.

Review of legislation

Gender and Equality Bill, 2011⁸²

At present, Sierra Leone lacks a comprehensive law that harmonizes all laws that relate to women in Sierra Leone. Instead, there are several laws that touch on various areas including maternity, remuneration, right to education and political participation.

As the discussion above has shown, the issue of women's low level of political participation is a key concern in Sierra Leone, and numerous organizations and activists have made recommendations for a quota that would establish a minimum threshold for women in Parliament. It features frequently in Election Observation Mission recommendations, including the latest recommendations from the European Union following the 2018 elections.⁸³ There have been efforts to try to institute a quota, but these have failed as they are counter to principles in the Constitution. A notable example was the gender and equality bill, 2011, which sought to address gender imbalances in elective and appointive decision-making positions in both the public and private sectors. To that end, it sought a minimum 30 percent gender representation in those positions, and "equal pay for the same work or work of equal value". The bill recognized the salience of equality of opportunity for men and women in terms of national, political, cultural and socio-economic development. The bill contained reporting requirements and affirmative action by the PPRC and the National Electoral Commission (NEC) to monitor compliance with the law when enacted. Although the bill did not pass, in line with the government's stated commitment during its third cycle UPR, the gender empowerment bill has provision for quotas for women's political participation as well as other positions. Both PPRC and NEC have indicated plans to revise their electoral laws to enable them to monitor and enforce compliance should a law be passed on quotas.⁸⁴

Thus, any change will have to be at the constitutional level first. However, PPRC and NEC have also stated that another approach would be for political parties to adopt gender policies, ideally at the level of their constitution. As PPRC is charged with ensuring that political parties abide by rules and regulations, if parties have official gender policies as part of their constitution, PPRC would be able to monitor the parties and ensure

their compliance with these policies. At present only four parties, the All-People's Congress, the Sierra Leone People's Party, the National Democratic Alliance and the People's Movement for Democratic Change, have developed gender policies, but these are voluntary. For example, the Sierra Leone People's Party has a memorandum of understanding committing the party to giving women 30 percent symbols.⁸⁵ However, compliance is not enforced, either by the party or by PPRC. One of the suggested revisions, according to respondents from both PPRC and NEC, is for parties to formalize such arrangements within the party constitution, and for PPRC to gain more powers to enforce sanctions for non-compliance with gender policies, such as a 30 percent quota in party nominations. Sources suggest that, in addition to sanctions for non-compliance, PPRC should ensure that all political parties have an up-to-date gender policy and affirmative action policy that contains provisions for safe seats for women in Parliament.⁸⁶

Women candidates often complain about the exorbitant nomination fees that candidates have to pay to run for President and Parliament. In the March 2018 general elections, for instance, the nomination fee for a presidential candidate was Le30 million and Le3 million (approximately \$3,000 and \$300 respectively) for a parliamentary candidate. Although the government subsidized the fees due to Parliament's inaction before dissolution, the perception was that the fee structure was designed to frustrate female and smaller party candidates. In the 2018 general elections, there were 98 female (12 percent) candidates out of 793 candidates. This number falls far short of the proposed 30 percent minimum number of women in elective positions called for in the gender equality bill.⁸⁷

It was also suggested that civil society should pressure Parliament to set these fees at more manageable rates, and/or work with political parties to encourage them to pay the fees for female candidates.⁸⁸

In addition to financial constraints, women candidates have faced violence and intimidation from male candidates, both within their party and from the opposition. In December 2017, PPRC updated the 2006 Code of Conduct for Political Parties as well as developed codes of conduct with the All Political Parties Women's Association

(APPWA)⁸⁹ and the All Political Parties Youth Association⁹⁰ in November 2017. The codes were in line with Section 6(2)(c) of the Political Parties Act, 2002, “to promote political pluralism and the spirit of constitutionalism among political parties” and geared at ensuring a level playing field and freedom from violence during the elections. To this end, the Code of Conduct for Political Parties, Candidates and Supporters has several commitments to ensure equitable participation of women along with men. For example, all parties subscribed to the code agreed to provide “equal opportunity for youth, people with disabilities and women candidates in particular to contest and campaign in a conducive and violence-free environment and with full access to and support of all party machinery”.⁹¹ They were to refrain from any actions linked to intimidation and violence, with special mention made of violence against women: “Specifically, parties shall be prohibited from ... use of derogatory language and statements on the basis of gender, ethnicity, religion, disability or socio-economic status and region that may cause intimidation and fear or incite violence in any form.”⁹²

Measures to increase women’s political participation and safeguard women’s security were more elaborate in the code of conduct signed with APPWA. Among other measures, APPWA members committed themselves and the political parties they represented to: “Review and develop policies and procedures that will allow for the active participation of women in political leadership and opportunity to compete for higher office within party structures; ... ensure equitable women representation within their political parties structures down to the lowest structures.”⁹³ On intimidation and violence, APPWA committed to ensuring, among other things, “the protection of its female officials, candidates, members or supporters from being intimidated by any member, official and or supporter; that their respective political parties understand and accept that intimidation of female candidates, officials and supporters, in any form is unacceptable; that cases of sexual harassment and abuse ... acts of intimidation, abuse and violence towards female members are exposed and punished within and across political parties”.⁹⁴ Moreover, they are to address stereotypes about women in political leadership to help counter negative attitudes toward women and promote their participation. While not binding, or what was termed “a gentleman’s agreement”, the codes were

nevertheless supposed to guide and regulate the conduct of the parties. Violations of the codes were to be reported to PPRC and the issue taken up in a committee established in all districts, chaired by PPRC with representatives from several institutions, including Office of National Security, Human Rights Commission of Sierra Leone, Legal Aid Board and civil society organizations such as the 50/50 Group and National Electoral Watch. However, although the codes clearly spell out that political parties should not tolerate intimidation of women and should punish party members who engage in this behavior, as well as promote women’s political participation, in practice little is done. The codes are non-binding and there is lack of clarity on who precisely has the mandate to handle any breaches in the codes, as courts, NEC and PPRC are all allocated responsibility in the codes.⁹⁵ Moreover, resource constraints can impede efforts at mass sensitization.

NEC’s gender policy is geared primarily to advancing women’s participation in elections through increasing women’s access to employment opportunities, with quotas for women established; ensuring gender disaggregated data collection at all levels, from recruitment and staffing to electoral activities such as voter registration, nomination of candidates, election and voter turnout; ensuring that gender is mainstreamed in all NEC policies; expanding access to NEC services for women; and ensuring that voter education, information and so on target women and are delivered in formats that are women-friendly.⁹⁶ NEC also has a disability policy that commits the organization to ensuring expanded employment opportunities for people with disabilities; expanding access to NEC services; and promoting the right for disability inclusion and sustained engagement with disabled persons organizations during the electoral cycle.⁹⁷

PPRC complements NEC’s work, with a focus on political parties, including monitoring their registration and compliance with party finance regulations and asset declarations, and ensuring that their behavior and activities conform with the country’s laws (the Political Parties Act, 2002). However, during the interviews, sources highlighted that PPRC lacks significant powers, and so enforcement capacity is limited. Strengthening the regulatory powers of both PPRC and NEC is one of the central areas of concern in the current review processes.⁹⁸

With the publication of the GEWE policy, discussions are underway as to how to translate this policy into a bill as well as what this bill should look like. There are currently two strands of thought, as evident from a two-day workshop the consultant held with stakeholders on 13-14 April 2021 to discuss both the policy and the way forward. One strand is for the policy to be comprehensive and include all aspects related to women, while another strand of thinking is to have a more focused bill that emphasizes quota considerations, among other things. It is currently unclear which path the advocates of the bill will follow.

On the question of quotas specifically, the CRC recommends wording that incorporates the principle that not more than two-thirds of the members of elective or appointive bodies should be of the same gender; many believe that the seeming neutrality will help minimize the perception that a quota will unduly advantage women. However, it would be useful to analyze how effective this principle has been in countries such as Kenya that have adopted it yet are facing challenges with implementation. Moreover, civil society activists have stressed the need to not simply have a quota, but also to be specific about how the quota will be met, with clear, actionable steps for implementation. Discussions around safe seats, reserved seats and appointed seats are all on the table.⁹⁹ More research needs to be done to identify the best approach for Sierra Leone.

RECOMMENDATIONS

- This report concurs with the recommendations made by O’Reilly, et al.¹⁰⁰ to implement CRC recommendations on women’s representation in politics, including:
 - Amending Section 5(1) of the Constitution: “The republic of Sierra Leone shall be a State based on the principles of Human Dignity, Equality, Freedom, Democracy and Justice.” (Recommendation 4.6)
 - Repealing Article 27 of the Constitution and replacing with a new Article 27 subsection 6 to read: “The State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.” (Recommendation 5.32)
 - Amending Section 35(2) of the Constitution as follows: “(e) The internal organisation of

a political party shall conform to democratic principles, and its aims, objectives and purposes and programmes shall not contravene or be inconsistent with any provisions of this Constitution. At least 30% of the party’s nominees for national and local government shall be women.”

- Parliament should urgently draft and pass the gender equality and women’s empowerment bill and ensure that it has adequate funding for implementation. The bill should have clear monitoring and evaluation guidelines to monitor progress of implementation. The bill should incorporate quotas in Parliament, and in all sectors of life where women are under-represented, including social, economic and political sectors.
- Parliament should take action to ensure the removal of barriers to women’s participation in the country’s electoral process by providing an electoral legal framework that eliminates gender-based discrimination.
- Comparative, cross-country research and analysis must be done to identify best practices on how to implement gender quotas successfully.
- Political parties, pursuant to the Political Parties Act, 2002, and the Public Elections Act, 2012, can also work to eliminate stereotypes about and discrimination against women candidates, and provide women candidates at all levels of the electoral process the funds and support needed for them to compete on an equal footing with male candidates.¹⁰¹
- Parliament should reconsider the fee structure in Section 46 of the Public Elections Act.
- PPRC and civil society should encourage political parties to adopt gender policies that are incorporated in their respective constitutions, and PPRC should monitor compliance of these policies with ramifications/sanctions for non-compliance.
- Strengthen PPRC’s ability to monitor and regulate party compliance with gender inclusive components of the various codes of conduct.
- This report concurs with recommendations by O’Reilly et al. that NEC introduce gender focal points at the regional and headquarter department level as a way to deepen consideration of gender issues. NEC must follow through on its commitment to collect and disseminate sex-disaggregated data at all levels as stated in its gender policy.

Customary leadership

Chieftaincy Act, 2009

Section 8 of the Chieftaincy Act, 2009, delineates the qualifications for election of a paramount chief in Sierra Leone. On the one hand, it recognizes the right of a male aspirant born in wedlock to a rightful claimant of a recognized ruling house in a chiefdom to run for paramount chief. A recognized ruling house must have been in existence since Independence Day on 27 April 1961. On the other hand, “where tradition so specifies, he or she has direct paternal or maternal lineage to a rightful claimant in a recognized ruling house, whether born outside wedlock or not”. One wonders why the double standard between a male claimant who is born in wedlock versus a tradition-bound male or female claimant who may or may not have been born out of wedlock. Moreover, regardless of whether a female candidate was born in or out of wedlock, tradition in the northern provincial chiefdoms and in some eastern provincial chiefdoms prevents female candidates from qualifying for election as paramount chief. Also, by deferring to local tradition, the Chieftaincy Act in practice results in double discrimination – on the grounds of gender/sex and marital status of the parents.

A case in point was that of Elizabeth K.S.S. Torto of Nimiyama Chiefdom in Kono District in November 2009. Although she was the daughter of a former paramount chief and thus qualified as a candidate for election as paramount chief, in the end, “customs and traditions” disqualified her as a candidate because she was not a member of the all-male Poro secret society, which acts as a gatekeeper for screening out otherwise qualified candidates for paramount chief.¹⁰²

RECOMMENDATIONS

- Male and female candidates in Sierra Leone should be afforded equal rights, including the same qualifications, for election as paramount chief.
- Parliament should consider eliminating the phrase “where tradition so specifies” because there are no uniform rules governing “tradition”, which often favors male candidates. Therefore, the outcomes of paramount chief elections may have a disparate impact on female candidates.
- Parliament should amend the Chieftaincy Act to require that 30 percent of candidates for public elections are women as the TRC recommended (imperative) in its 2004 report.

- This report supports the following CRC (2016) recommendation: “The CRC has already recommended the establishment of a National House of Chiefs. As there may be a risk that a National House of Chiefs would want to maintain the sex-discriminatory rules, steps must be taken to ensure that women will have a role in this National House of Chiefs. The CRC further recommends that the issue of the office of the Paramount Chiefs, their election, removal, entitlements and other matters should be dealt with by the proposed National House of Chiefs, keeping all the recommendations made by stakeholders.” (Recommendation 7.38)

Citizenship

The Independence Constitution, 1961, made birth in the former colony or protectorate the major criterion for Sierra Leone nationality or citizenship, regardless of ancestry.¹⁰³ However, in March 1962, Parliament introduced an amendment, made retroactive to Independence Day on 27 April 1961, to provide for “negro African descent” as the sole basis for citizenship by birth in the newly independent country. The amendment defined a “person of negro African descent” as “a person whose father and his father’s father are or were negroes of African origin”. The amended provision also barred citizens by registration from becoming members of the legislature, among other prohibitions, and imposed lengthy residential requirements (25 years) before service in other elective and appointive positions.¹⁰⁴

In 1973, Parliament enacted the Sierra Leone Citizenship Act, 1973, and reintroduced citizenship by birth in Sierra Leone along patriarchal and ancestral lines. Parliament made its application retroactive to April 1971 when Sierra Leone became a republic. Under Section 2, a person was deemed to be a citizen by birth “provided that (a) his father or his grandfather was born in Sierra Leone; and (b) he is a person of negro African descent”. The law made citizenship contingent upon marriage to a Sierra Leonean. In its 2016 report, the CRC noted that the law discriminated against women.¹⁰⁵

As in 1962, the 1973 citizenship law [Section 8(5)] barred persons who acquired citizenship by naturalization from holding enumerated political or diplomatic offices (President, member of Parliament or of a local authority, ambassador, member of the police and armed forces, permanent secretary, etc.). Even though the Sierra Leone Citizenship (Amendment) Act, 1976, repealed and replaced

Part III of the 1973 law, the provisions remained substantially the same. In fact, the prohibitions against naturalized citizens from holding public and diplomatic offices survived into the 1991 Constitution [Sections 41(d), 75(a) and 76(1)(a)].

The Sierra Leone Citizenship (Amendment) Act, 2006, enacted by Parliament to attract diaspora Sierra Leoneans to help with the country's post-war reconstruction, peacebuilding and development programs, provided for dual citizenship in Section 10. It redefined the meaning of a "person of negro African descent" to mean "a person whose mother or father and any of the grandparents of the mother or father is or was a Negro of African descent". This provision ended the discrimination against women in terms of citizenship as provided for by Articles 2 (elimination of discrimination against women), 9 (discrimination against women in nationality laws)¹⁰⁶ and 6(g) (a woman's right to her own nationality or to acquire the nationality of her husband) of the Maputo Protocol.

Nevertheless, the 2006 citizenship amendment law defined the word "mother" to mean "a natural but not an adoptive mother" (Section 2), thereby clawing back some of the progress women had made in previous years. Yet under Sections 2 and 3 of the Adoption Act, 1989, a joint or separate application for the adoption of a juvenile, that is a person under the age of 17 years, can be made by a husband and/or wife. Another amendment to the law in July 2017 granted citizenship to children born to Sierra Leonean women outside the country on or after 19 April 1971.

Moreover, there remain discriminatory clauses in the Constitution with respect to a woman conferring her citizenship to her husband; a Sierra Leonean woman cannot give her citizenship to her foreign spouse, unlike a Sierra Leonean man.¹⁰⁷ As mentioned in the 2016 CRC report, Section 7 of the Sierra Leone Citizenship Act, 1973, provides for a non-Sierra Leonean woman who is married to a Sierra Leonean citizen to apply for citizenship by naturalization: "Every woman who is not a Sierra Leonean and who is or has been married to a Sierra Leone citizen, may, on application being made by her in the manner prescribed, be granted a certificate of naturalization." However, no such provision is made for a man who is not a citizen of Sierra Leone currently or previously married to a Sierra Leonean citizen.¹⁰⁸ Similarly, Sections 5(3), 5(4) and 5(5) impose

additional constraints on men married to Sierra Leonean citizens: men cannot enjoy citizenship after annulment, unlike women, children born to men registered as citizens cannot continue to enjoy citizenship if the marriage is annulled; and men applying for registration as citizens due to marriage face more "onerous provisions", with authorities having greater discretion in the decision-making process.¹⁰⁹ This legal assessment concurs with the CRC recommendation that all references to different treatment by gender be removed to meet the principles of equality and non-discrimination to which Sierra Leone is bound through its ratification of numerous international treaties.

RECOMMENDATIONS

- This report concurs with the 2016 CRC report that Parliament should consider repealing the Citizenship Act of 1973 and replacing it with a new chapter in a revised constitution that defines citizenship and explicitly prohibits gender discrimination.
- This report also calls on Parliament to consider eliminating race as a criterion for citizenship in Sierra Leone.
- Furthermore, Parliament should consider simplifying the process of acquiring citizenship by naturalization or registration and reduce the wait time. The wait time for citizenship application can be reduced to five years after the acquisition of permanent residency status in the country.
- As recommended by the 2016 CRC report, Sections 75 and 76 of the Constitution should be repealed and replaced by provisions, in conformity with the letter and spirit of the Sierra Leone Citizenship (Amendment) Act, 2006, to enable persons with dual nationality and citizens by naturalization and registration to hold elective and appointive positions, except that of the President of Sierra Leone, which should be based on birthright citizenship. The exclusion of dual citizens from contesting parliamentary seats in the last (2018) elections was particularly problematic for female members of Parliament as several diaspora women (who could potentially have access to sources of funding internationally) were parliamentarians or planned to run.

Harmful practices

There are a range of harmful traditional practices that affect women and girls in Sierra Leone. These include female genital mutilation/cutting, child marriage, wife inheritance, and arguably, polygyny. While they are covered under customary law, there are also aspects that are regulated under formal law. These practices are fueled by customary laws, norms and practices as well as religion and socio-economic factors. Several, namely, customary marriage, wife inheritance and polygyny, have been considered in the following section as they are also issues that deal with victims' rights. In this section we review female genital mutilation/cutting and early marriage within the context of applicable laws and advance suggestions for repeal and or reform.

Female genital mutilation/cutting

There is no law against FGM/C, which constitutes a breach of the Maputo Protocol's Article 4 (rights to life, integrity and security of persons) and Article 5 (elimination of harmful practices). It defines harmful practices as "all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity". Pursuant to Article 5 of the Maputo Protocol, State Parties undertake to eliminate harmful practices "through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them". In addition to providing the "necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting, State Parties are obliged to protect women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance". The CEDAW Committee and the Committee on the Rights of the Child in their joint general comment on harmful practices emphasize the impacts of FGM/C:

"Female genital mutilation, female circumcision or female genital cutting is the practice of partially or wholly removing the external female genitalia or otherwise injuring the female genital organs for non-medical or non-health reasons ... Female genital mutilation is performed in every region and, within some cultures, is a requirement for marriage and believed to be an effective method of controlling the

sexuality of women and girls. It may have various immediate and/or long-term health consequences, including severe pain, shock, infections, and complications during childbirth (affecting both the mother and the child), long-term gynaecological problems such as fistula, psychological effects, and death. The World Health Organization and the United Nations Children's Fund estimate that between 100 million and 140 million girls and women worldwide have been subjected to a type of female genital mutilation."¹¹⁰

Yet, Sierra Leone has found it difficult to legislate against FGM/C despite its international commitments due to its entrenched support in society and hesitation on the part of politicians to address it out of fear of losing political support.¹¹¹ In lieu of an act of Parliament, the government has signed a memorandum of understanding with the Soweil Council, a group representing women who perform FGM/C, to end FGM/C for girls under the age of 18 years. Despite that, the practice continues. A study shows that FGM/C intention is more common among women with no education.¹¹² Although sensitization and education about the harmful effects of FGM/C is not part of the school curriculum, the government focuses on formal education as a contributor for women and girls to opt out of this practice leading to its eventual elimination consistent with Article 5 of the Maputo Protocol. Furthermore, the government had drafted a "National Strategy for the Reduction of FGM/C 2016-2020", which aimed to translate the country's international commitments into practical action. However, the strategy was never finalized. With all these steps, the government acknowledges that FGM/C is still being carried out in Sierra Leone.¹¹³

RECOMMENDATIONS

- There are various existing laws that could be amended to include FGM/C. For example, the Child Rights Act, 2007, has a section against harmful traditional practices, which could be expanded to specifically mention FGM/C. Given the support that FGM/C enjoys within society, a preliminary step would be to ban underage (18 years and below) cutting, with the idea that this could lead to generational shifts in behavior.

Child marriage

There are four types of marriages that can be contracted in Sierra Leone: civil marriage, Christian marriage, Mohammedan (Islamic) marriage and

customary marriage. Customary and Mohammedan marriages do not have a minimum age for marriage, which is supported by the RCMDA, which allows for marriage under the age of 18 with parental consent or that of other authorized authorities. Girls that have undergone circumcision are considered adults and mature enough for marriage. This underscores the need for the enforcement of a minimum age for circumcision if a ban is not enacted.

Section 2 of the ACRWC defines a child as “every human being below the age of 18 years”. Article 6(c) of the Maputo Protocol states that the minimum age of marriage is 18, which effectively rules out the practice of child marriage. Article 21(2) of the ACRWC prohibits harmful social and cultural practices: “Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be eighteen years and make registration of all marriages in an official registry compulsory.”

These sections serve as benchmarks for Section 34 of the Child Rights Act, 2007, which sets 18 years as the minimum age for marriage. This section, along with Section 46, also prohibits any person from forcing a child to be betrothed, subjected to dowry transaction, and to early marriage. Furthermore, the Child Rights Act prohibits a registrar or any responsible officer from issuing a license, certificate or registration if the parties are not in compliance with the age of maturity. Section 35 imposes fines and prison terms for violations of Part III on child rights and parental and State responsibilities.

The RCMDA, like the Child Rights Act, 2007, sets a minimum age of 18 years for consenting parties to enter into a customary marriage. However, where either of the consenting parties is under the statutory age, parental consent or the consent of a guardian, magistrate or local government chief administrator of the locality where the marriage is to take place is needed for the marriage to become valid. Section 2(2) of the RCMDA states: “Where, either of the prospective spouses, not being a widow or widower, is less than eighteen years, it shall be necessary for the parents to give consent to the marriage and if the parents are dead or unable for any reason to give such consent, then the consent may be given by the guardians of the prospective spouse or spouses to the marriage, as the case may be.” Section 2(3) specifies: “If the

consent of the parents or guardians cannot be obtained or is unreasonably withheld, a Magistrate or Local Government Chief Administrator of the locality in which the marriage is to take place may give his consent.”¹¹⁴ This exception to the age of marriage violates Sierra Leone’s obligations under Section 21(2) of the ACRWC. It also violates Article 6 of the Maputo Protocol, which stipulates that “no marriage shall take place without the free and full consent of both parties”.

Thus, while in principle child marriage is illegal in Sierra Leone, clawback clauses as found in the RCMDA mean that in practice it occurs, and in fact, is prevalent: the country is ranked by UNICEF as having the 17th highest rate of child marriage in the world.¹¹⁵ Other factors that contribute to its occurrence include poverty and socio-cultural norms that sanction it, and inadequate or poorly enforced as well as contradictory legislation. Early marriage has been linked to high infant and maternal mortality rates, and impinges on the quality of life for girls as it can lead to prolonged years of childbearing with adverse implications on health and socio-economic well-being.¹¹⁶ The Maputo Protocol’s General Comment 2 on Article 14.1.(a), (b) and (c) calls for State Parties to protect the reproductive rights of women and girls, including their right to exercise control over fertility, as well as decide maternity, the number of children and the spacing of births, and the choice of contraceptive methods.¹¹⁷ Therefore, there is a need for the RCMDA to incorporate a provision aligning with the country’s obligations under the Maputo Protocol.

RECOMMENDATIONS

- Parliament should codify Sections 2 and 21(2) of the ACRWC by legislating the age of 18 years as the minimum age for every marriage without exception and enforcing the prohibition against child marriage throughout Sierra Leone.
- Parliament should consider incorporating Article 6 of the Maputo Protocol on free and full consent of parties to marriage into the Child Rights Act, 2007, and RCMDA.
- Parliament should adopt General Comment 6 on Article 7(d) of the Maputo Protocol, which states in paragraph 51 that: “State Parties should ensure that their domestic legal framework is harmonized and give full effect to women’s equal rights to marital property, including via law reform, which must have a clear and egalitarian

codification of matrimonial property regimes; repeal of discriminatory laws; the elimination of the coexistence of multiple standards of marriage that cause disadvantage to women; and harmonization of family and civil codes with the Maputo Protocol, particularly around issues of marriage, divorce, separation or annulment of marriage. States should also ensure that threat of dispossession in case of divorce or separation is punishable by the law.”¹¹⁸

- Parliament should also incorporate into the RCMDA the Maputo Protocol’s General Comment 2 on Article 14.1.(a), (b) and (c).
- Domestic legislation needs to strengthen the following sections of the ACRWC: non-discrimination (Article 3), best interests of the child (Article 4), right to education (Article 11), prohibition of child labor (Article 15), protection against child abuse and torture (Article 16), and protection of the family (Article 18).
- While Section 35 of the Child Rights Act provides a fine and prison term for “any person” who violates the rights of a child,¹¹⁹ Parliament should consider offering transformative remedies to victims of child abuse, including access to free secondary and tertiary education so that they can recover their lives and autonomy after experiencing child marriage.
- Parliament should consider formulating a marriage act that covers all the various forms of marriage in Sierra Leone.

Human rights and victim’s rights (gender justice laws, children’s rights, persons with disability rights)

Sierra Leone suffered a brutal civil war between 1991 and 2002, and it was widely recognized that women and girls suffered greatly.

The war raised the profile and attention around women’s and girls’ rights to physical and mental integrity, and a priority after the war was ensuring that they would be protected and the conditions that led to their suffering addressed. To this end, the TRC made a series of recommendations. Issues such as forced marriages and the recruitment of children into sexual slavery helped to spotlight the issue of violence and abuse within domestic relationships. In the aftermath of the civil war and the publication of the TRC’s report in 2004, Parliament came under increasing pressure from domestic and international women’s non-governmental organizations, civil

society organizations and individuals to strengthen and protect the rights of women, girls and children in general.

The gender justice acts¹²⁰

In 2007, Parliament enacted the “Gender Acts” to address gender inequality in Sierra Leone. These were the Domestic Violence Act, 2007, Devolution of Estates Act, 2007, and RCMDA. Prior to these gender acts or laws, Parliament had enacted the Anti-Human Trafficking Act, 2005. It also enacted the Child Rights Act in 2007 and the Sexual Offences Act in 2012. Although these laws have domesticated several international conventions and protocols to which Sierra Leone is a party, much remains to be done to achieve gender parity in Sierra Leone. Violence against women and girls remains high, with children in particular at risk. During the war, girls as young as 10 were abducted and raped. In peacetime, at least 70 percent of the 8,500 cases of rape recorded in 2018 were minors, or children under 18, according to Rainbo Initiative.¹²¹ In 2020, 3,548 cases of SGBV were reported in the five Rainbo centers (Freetown, Makeni, Bo, Kenema and Kono) across Sierra Leone.¹²²

Some would argue that the constraints women face in Sierra Leone today are a reflection and continuation of the violence to which they were subject during the war. For example, Meintjes and True have both found that domestic and sexual violence become endemic after war.¹²³ For others, it illustrates that while laws have changed, the fundamental (and arguably more difficult) task of popularizing these laws and working with communities to change norms, values and attitudes that underpin gender inequality has a long way to go.¹²⁴ Women’s political participation is low, and they continue to be marginalized economically, socially and politically across the country. Moreover, as valuable as the TRC recommendations have been in the development of a legal framework to support women, the existence of gaps, contradictions and shortcomings in existing laws underline the importance of review exercises such as this legal assessment report. At the same time, there must be commitment to popularizing the laws and shaping norms that question the patriarchal foundations of society for gender transformative change.

In this section, we review key laws related to victims’ rights, starting with the three gender justice laws.

Registration of Customary Marriage and Divorce Act, 2007

The RCMDA, to a large extent, incorporates CEDAW's Article 16 recommendations and the provisions of Article 6 of the Maputo Protocol. The RCMDA not only validates customary marriage but also sets a minimum age of 18 years for consenting parties to enter into such a union. However, where either of the consenting parties is under the statutory age, parental consent or the consent of a guardian, magistrate or local government chief administrator of the locality where the marriage is to take place is needed for the marriage to become valid. This exception or clawback provision to the age of marriage violates Sierra Leone's obligations under Article 6 of the Maputo Protocol, which stipulates that "no marriage shall take place without the free and full consent of both parties". This clawback provision is not only contradictory in and of itself, but also contradicts the minimum age requirement for marriage (18 years) of the Child Rights Act, 2007.¹²⁵ It is in line with the exceptions created under Section 27(4)(d) of the Constitution and allows child marriage among those whose customs, beliefs and practices support the practice as long as the parents (or other sanctioned authorities) consent. Thus, although it contradicts the Child Rights Act, 2007, it is nevertheless constitutional.

Furthermore, where persons have cohabited or lived together as husband and wife for a continuous period of at least five years but are over the age of 18 years, they are deemed to be married under customary law. However, persons already married under the Christian Marriage Act (1960), Muslim Marriage Act (1960) or Civil Marriage Act (1960) cannot enter into a customary marriage, but if they did, they would have to choose which law shall apply to them. The RCMDA also makes it clear that once a person has entered a customary marriage, the only way that person can also enter into a Christian, Muslim or civil marriage is if the marriage is with the same person. When that happens, the customary marriage is deemed to have dissolved by operation of law.

The law provides for the registration of a customary marriage or divorce in the local council within six months of marriage or dissolution. In a departure from previous practices, Section 18 of the law provides that "A wife in a customary marriage shall have the capacity to personally acquire and dispose

of properties and to enter into contracts on her own behalf." The law imposes a fine of up to Le1 million (\$100) or a prison term of one year or both for those who unlawfully contract or dissolve a customary marriage or knowingly make a false entry or alter an entry in the register. The law faces serious challenges in data collection, costs and confusion over its interpretation.¹²⁶ Registration of customary marriages can be time consuming, and costly for women. The fee to register marriages can be high, and it is often done in urban areas, which can be a deterrent for women living in rural areas.¹²⁷

Matrimonial Causes Act, 1960

There is currently no right to a no cause petition for divorce, and procuring a divorce is difficult for women. First, the time period before one can initiate a divorce is lengthy. According to the Matrimonial Causes Act, Cap 102, 1960, Section 4(1), "No petition for divorce shall be presented to the court unless at the date of the presentation of the petition three years have passed since the date of the marriage: Provided that a judge of the court may, upon application being made to him in accordance with rules of Court, allow a petition to be presented before three years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent." The lengthy time that one must wait prior to initiating a divorce could serve to trap women in abusive relationships.

Further, under Section 4(2), the Act says, "In determining any application under this section for leave to present a petition before the expiration of three years from the date of the marriage, the judge shall have regard to the interests of any children of the marriage and to the question whether there is reasonable probability of a reconciliation between the parties before the expiration of the said three years." This shows that the interests of the child supersede that of the mother in the judge's consideration to grant the divorce.

Establishing grounds for divorce can also be difficult. Women who have undergone beating at the hands of their spouse can be seen as condoning such behavior if they are found to have had consensual sex with their husband after the beating took place, making it difficult for women to leave abusive situations.¹²⁸ The Matrimonial Causes Act also fails to protect women in matters related to the level of spousal and child support to which a woman is

entitled, as well as custody orders, among other concerns.¹²⁹

Currently, the Matrimonial Causes Act, 1960, is in effect, but it is outdated. The matrimonial causes bill is under review.

Muslim Marriage Act, 1960

Several informants referred specifically to the Muslim Marriage Act, 1960, as particularly concerning for women.¹³⁰ Unlike civil and Christian marriages, Mohammedan marriages are not subject to the formal justice system for divorce. Instead, adjudication of marriage and divorce is within the purview of imams.¹³¹ Moreover, there is no blanket position about the conditions under which divorce can take place.¹³² Instead, it depends on the clerics charged with the responsibility of interpreting the Koran, and often, the interpretations do not favor women.

Principles of fairness that can be found in the Koran dealing with divorce, spousal treatment, compensation on divorce etc. should be reflected in the Customary Marriage Act as currently these principles are absent in rulings around the dissolution of marriage and property allocation. While the Legal Aid Board has employed Muslim clerics, or the Council of Imams, to assist in interpretation, the development of a comprehensive marriage act that covers and regulates all the various types of customary marriages is recommended.

The tenets of divorce differ depending on which type of marriage is contracted, with women disadvantaged. For example, under a Mohammedan marriage, only men can petition for divorce from women. While men can divorce their wives orally and return them to their families, women cannot do the same. In addition, according to the Food and Agriculture Organization of the United Nations, women in customary marriages who initiate divorces could be made to pay back their dowry or lose custody rights of their children.¹³³

RECOMMENDATIONS

- The minimum age for consenting parties to enter into marriage is 18 years. Parliament should consider repealing or amending the exception under section 2 of the RCMDA that allows an underage party to obtain parental

consent or the consent of a guardian, magistrate or local government chief administrator of the locality where the marriage is to take place for the marriage to become valid. This exploitable loophole should be closed.

- Any such repeal and replacement of provisions in the RCMDA should incorporate language in Article 23 of the ICCPR, which provides for the free and full consent of intending spouses. It also ensures equality of rights and shared responsibilities of spouses during marriage, dissolution of marriage, and the protection of children, if any.
- Parliament should close the gap or eliminate the exception to the age of marriage by adhering to the mutual consent provisions of Article 6 of the Maputo Protocol.
- There should be a uniform marriage act that sets the minimum age of marriage at 18 years, as mandated in Section 34 of the Child Rights Act, 2007, and establishes the criteria for divorce regardless of one's religious or customary law affiliations. This will ensure certainty in marital relations and protect the rights of women and girls throughout the country.
- Parliament should also consider amending the law to make it less susceptible to misinterpretation occasioned by customary law.
- Domestic legislation that guarantees "that the rights of women in marriage and family, including in polygamous marital relationships, are promoted" should be enacted to align with Article 6(c) of the Maputo Protocol.
- The law should make it easier for women to register for customary marriages. Fees could be waived, and the process could be decentralized to make it easier for women, particularly those in remote villages, to access it.

Polygyny and widow inheritance

Polygyny, the practice whereby a man has more than one wife, is legal under customary law in Sierra Leone. As already mentioned, in Sierra Leone there are four types of marriage: civil, Christian, customary and Mohammedan, each governed by its own set of laws. Marriage to multiple wives is allowed under customary and Mohammedan marriages.

The type of marriage has implications on the sharing of property following the death of a spouse. Historically, Sierra Leone has largely practiced a

patrilineal inheritance system (although some ethnic groups have matrilineal systems) where inheritances would revert to the parents and brothers of the deceased, rather than to his wife and children. This encouraged the practice of “wife inheritance” or “widow inheritance”¹³⁴ where a widow had to marry into her late husband’s family if she wanted to retain access to land if she had no male child. The Devolution of Estates Act, 2007, was passed to address discrimination against women when it came to inheritance rights. While it banned the practice of widow inheritance, outside of Freetown most land is communal and controlled by (mostly male) chiefs and traditional leaders. This makes the law difficult to enforce and women face difficulties in benefitting from these reforms.¹³⁵ Moreover, as the number of spouses has implications on land inheritance, notwithstanding the law, women still suffer.

Devolution of Estates Act, 2007

Section 1(1) of the Devolution of Estates Act states that the Act applies to persons who die testate (with a will) or intestate (without a will) “irrespective of religion or ethnic origin”, but exempts family, chieftaincy or community property. Customary law operates in the provinces where land, for example, is held either as individual, family or communal property, which paramount chiefs hold in trust for the people. Therefore, by clawing back such property from consideration, the law in practice leaves little property for surviving spouses to inherit.¹³⁶

This provision is not in keeping with Article 7(d) of the Maputo Protocol. Article 7(d) states that “in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage”.¹³⁷ Under Article 21 of the Maputo Protocol, the spouse should have a right to an equitable share in the inheritance of the property of her husband.

Part II of the Devolution of Estates Act on intestate succession empowers surviving spouses or next-of-kin to apply for letters of administration to care for the property.¹³⁸ Because of its recognition of customary law wherein an intestate may have had more than one spouse, the law provides for the first spouse to apply for letters of administration. Where the first spouse refuses or is unable to apply, then the next spouse in line can apply for such letters. If an intestate is not survived by children or issue, the entire estate devolves to the surviving spouse. But where the intestate is survived by more than one

spouse but no children or issue, then the “estate shall be distributed among the surviving spouse in proportion to the duration of their respective marriages to the intestate” and their contributions to the marital estate. If an intestate is survived by a spouse, child and parent, the surviving spouse and child are each entitled to 35 percent of the estate while the surviving parent gets 15 percent, and the remainder is distributed in accordance with customary or Muslim law. Other intestate provisions deal with distributions to brothers and sisters, grandchildren, and the appointment of receivers to prevent wastage, damage or destruction of the property.¹³⁹ While on its surface the law is gender neutral, given that certain customary and Muslim laws privilege male dominance, in its application, the law could discriminate against women and girls by enshrining in law just 15 percent of the estate to women .

The testate provisions in Parts III and IV provide not only for interested parties to contest the validity of a will, but also for contestations, within six months of the grant of probate, in cases where the testator did not provide for a dependant (meaning spouse, child, parent or persons the testator used to maintain) or where such dispositions are deemed inadequate or unreasonable. The court, in equity, can order reasonable provisions to be made from the estate for the maintenance of a dependant. The law also bars the ejection of a surviving spouse (or child) from a marital home within the three-year period in which the administrator or executor must administer and distribute the estate. The law offers protections to surviving spouses in cases where the marital home is rented property for which a court order is required for ejection, a family house (one year after death), or public property (six months after death).

What makes this law even more of a welcome development are the criminal sanctions that come with unlawful intermeddling with an estate, unlawful ejection of a surviving spouse or child, and obtaining letters of administration by fraud. Within three years, nobody can eject a widow until the estate is disposed of.

In practice, one of the consequences of the law, as noted above, is to roll back the customary practice wherein a brother or male relative inherits the property of the deceased, including his wife and children, as it provides women with some measure of security by enabling them to inherit the land.

However, application of the law is problematic. First, the law's provision for the distribution of property to more than one surviving spouse amounts to a tacit recognition of polygyny under customary law and thus reinforces a key factor in the discrimination and marginalization of women and girls. This provision thus violates Articles 1 and 2 of CEDAW.

Second, although the Devolution of Estates Act allows for women to apply for letters of administration,¹⁴⁰ it does not apply to Muslim marriages based on precedence. For example, in *Ibrahim Thomas, et al. v. Allieu O. Thomas, et al.*, in a judgment delivered on 8 October 2015, Justice A. Showers ruled that: (1) Section 9(2) of the Mohammedan Act, Cap 96 (also known as the Muslim Marriage Act, 1960, Cap 96), the persons eligible for taking out letters of administration in respect of a Muslim dying intestate, takes precedence over Section 3(2) of the Devolution of Estates Act.¹⁴¹ Since according to this law, two of the three persons eligible to take out letters are male (the eldest son of the intestate, and the eldest brother of the intestate) that are of full age (according to Mohammedan law) while the third is the Official Administrator,¹⁴² this clause discriminates against women.

Third, widow inheritance continues because people's understanding of the law, if at all, is colored by cultural norms and practices. Where an estate has to be split among multiple spouses, the inheritance can be so small that women still need the support of a male relative and thus are vulnerable to widow inheritance, in violation of Article 20(c) of the Maputo Protocol, which stipulates that "a widow shall have the right to remarry, and in that event, to marry the person of her choice". In addition, community leaders, fearing loss of power, are often reluctant to explain the law or do not want women to know their rights of inheritance under the law. This obfuscation of the law is done to perpetuate male dominance. Therefore, more needs to be done not only to raise awareness of the existence of the law, but also to sensitize women about the provisions of the law that affect their rights of inheritance.¹⁴³

RECOMMENDATIONS

- Parliament should consider repealing Section 27(4) (d-e), which claws back "devolution of property on death or other interests of personal law" from the dictates of the Constitution. This should be

in conformity with Articles 7, 20 and 21 of the Maputo Protocol.

- As urged by Statistics Sierra Leone, policymakers should ensure proper awareness-raising and implementation of CEDAW's Articles 2(f) (eliminate discrimination) and 10 (equal rights in education) and the Maputo Protocol's Articles 6 (education), 7 (separation, divorce and annulment) and 8 (equality before the law).¹⁴⁴ Adult literacy programs should be expanded and strengthened, as recommended, for example, in the CEDAW Committee's concluding observations on the sixth periodic report of Sierra Leone.¹⁴⁵
- Parliament should consider amending the provision whereby an intestate's surviving spouse and child each receive 35 percent of the estate while the surviving parent gets 15 percent.
- Parliament should consider repealing Section 9(2) of the Muslim Marriage Act. Furthermore, the Devolution of Estates Act's provision for the distribution of property to more than one surviving spouse should be amended or repealed because it tacitly recognizes polygyny under customary law.
- The language that describes a spouse as a "dependant" should be reconsidered because it deprives women (especially working women) and girls of agency in their marital relationships. It also portrays women as freeloaders when in fact they shoulder most of the responsibilities of the marital home through trading/marketing, agriculture and other household chores. This is in line with Article 5 of CEDAW, which requires action against stereotyping.

Domestic Violence Act, 2007

The Domestic Violence Act, 2007, identifies domestic abuse in 10 domestic and/or intimate relationships, including those in which a complainant is or has been married to the offender, is engaged to the offender or in a courtship with the offender, and has or expects a child with the offender. Other offenses include:

- Physical abuse
- Sexual abuse
- Economic abuse
- Psychological abuse
- Harassment
- Intimidation
- Any other harmful conduct

The inclusion of “house-help” (that is, a person who shares the household of the offender) as one of the 10 relationships is important because of the large number of school-age children and even adults who cohabit with relatives and friends in cities and towns while pursuing education or other activities.

Under the Domestic Violence Act, a child, that is, a person under the age of 18 years, can file a complaint or can be assisted by a next friend, a person who intervenes to assist a child to bring a legal action, in filing a complaint alleging domestic violence. Adults can file complaints on their own, but the law also provides for persons with knowledge of domestic violence, including social welfare workers, healthcare providers and family members, to file a complaint if it is in the interest of the victim to do so.

Additionally, the Domestic Violence Act criminalizes “harmful practices”, defined in Section 1(g) of the Maputo Protocol as “all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity”. However, FGM/C is not listed among harmful practices. Moreover, for those that are listed, in practice, it is difficult to prosecute given that many of them are sanctioned by tradition and culture, such as wife inheritance. Moreover, constraints in accessing justice such as financial costs, literacy and other requirements further complicate matters as does the justice system itself. The Family Support Unit (FSU) is under-resourced and finds it difficult to even investigate cases.

The Domestic Violence Act defines violence broadly to include acts that cause “physical, sexual, psychological, and economic harm”. Domestic violence can include “the unreasonable deprivation of any economic or financial resources to which the complainant, or a family member or dependent of the complainant is entitled under any law”.¹⁴⁶ Some provisions of the Domestic Violence Act date back to the Matrimonial Causes Ordinance, Chapter 102 of the Laws of Sierra Leone, 1960, which includes cruelty as one of the three grounds for divorce. The Ordinance defined cruelty as “a behaviour by either a husband or wife serious enough to injure a spouse’s physical or mental state”.¹⁴⁷

In aggravated cases of domestic violence, that is when the victim of domestic violence suffers serious

bodily injury or the offender uses a weapon in the commission of the crime or violates a protection order, the law prohibits out-of-court settlements. In other cases of domestic violence, the court can refer the matter to alternative dispute resolution, which includes counseling and psychiatric help for the offender. Under the law, mediation or intervention by family members is not a bar to the investigation and prosecution of domestic violence offenders. The law further provides for access to a safe harbor (shelters) for victims of domestic violence and for free medical care. Those convicted of domestic violence can face a fine of up to Le5 million (\$500) or a term of imprisonment of up to two years or both. Domestic relations include those entered into by customary law, Muslim law and Christian law.

The Domestic Violence Act empowers the FSU of the Sierra Leone Police to enforce the “Gender Acts” and the Child Rights Act. The FSU’s functions, however, are impeded by a lack of financial resources, personnel, equipment and training. Its records of SGBV cases are incomplete, mostly due to a lack of storage and computer equipment. Most FSUs are based in the Western Urban and Rural Areas, where most of the SGBV offenses have occurred. A legal practitioner stated that bias and a lack of interest in how the courts treat Muslim marriages (often referred to adjudication by imams) are contributing factors in cases not being heard by judges.¹⁴⁸ As aforementioned, these marriages in practice are considered to be under the domain of imams.

In addition, it was mentioned that the description of what constitutes domestic violence is currently too vague, and there is little clarity around the list of deeds that qualify as domestic violence. National institutions, such as the Legal Aid Board, have faced challenges in prosecuting these crimes.¹⁴⁹

RECOMMENDATIONS

- Although the Domestic Violence Act provides for persons with knowledge of domestic violence, including social welfare workers, healthcare providers and family members, to file a complaint if it is in the interest of the victim to do so, Parliament should consider strengthening the law to make sure reporting is obligatory or mandatory for persons with legal obligations for the welfare of victims on pain of prosecution.
- Parliament should consider removing the distinction between aggravated and non-

aggravated domestic violence. In non-aggravated domestic violence, with the consent of the victim, the court can refer the matter for settlement out of court. If maintained, the distinction should only inform the degree of punishment and not lessen the degree of culpability for crimes committed under the Domestic Violence Act.

- As the “Guidelines on SGBV Case Management”, a reference handbook of the FSU, suggests, “All forms of domestic violence should be charged contrary to sec. 2 (1) of the Domestic Violence Act 2007.” This report endorses FSU’s suggestion.
- The FSU needs more funding and personnel to carry out its protective, investigative and prosecutorial functions. The lack of financial resources, personnel, equipment and training has hampered its ability to investigate and prosecute perpetrators of domestic violence throughout the country.
- Most FSUs in the country are based in the Western Rural and Urban Areas. This means that the majority of the population is underserved by this government agency. Parliament and the Sierra Leone Police should consider increasing the number of fully funded and staffed FSUs throughout the country to deal with the growing number of cases of domestic violence.
- Parliament should also consider strengthening the gender division of the Ministry of Gender and Children’s Affairs, which partners with the FSU and Sierra Leone Police to combat domestic violence throughout the country. This involves, among other services, coordination in the investigation, reporting and prosecution of alleged cases of domestic violence; provision of medical assistance and safe homes for victims of domestic violence; compensation for victims of domestic violence; and provision of mental health and psychological counseling for victims of domestic violence. This is in compliance with Articles 2 (elimination of discrimination against women), 3 (right to dignity), 8 (access to justice and equality of men and women before the law) and 17 (positive cultural context) of the Maputo Protocol.
- Parliament should consider amending the law to strengthen data collection and address hidden costs to monitor and enforce compliance. There is a need to enforce compliance with the law that provides for free healthcare services for victims of domestic violence. Currently, victims face a

host of costs, including court/lawyer fees, and paying police to facilitate their investigation and make arrests. Punishing perpetrators of domestic violence should not depend on the victim’s economic situation or status.

Outside of the gender justice laws, a range of other laws have been passed to strengthen the legal framework to protect women and girls. A landmark legislation that addressed offenses that were pervasive during the civil war was the Sexual Offences Act of 2012, amended in 2019.

[Sexual Offences Act, 2012, and the Sexual Offences \(Amendment\) Act, 2019](#)

The Sexual Offences Act covers a wide range of offenses to include rape, indecent assault, causing, inciting etc. a person with mental disability to engage in sexual activity, incest by a man and woman, harassment, indecent exposure, voyeurism, sexual penetration of a child, sexual touching of a child, sexual activity in the presence of a child, and causing a child to watch a sexual activity. The FSU has primary responsibility to investigate offenses related to SGBV. It describes SGBV as “an umbrella term which includes all harmful acts affecting men and women, in which the female is usually the victim. SGBV is determined by gender differences; that is, by the unequal power relationship between men and women” throughout Sierra Leone.¹⁵⁰ Consistent with the Child Rights Act, the Sexual Offences Act defines a child as a person under the age of 18 years.

For most, if not all, of the offenses, the Act prescribes a minimum sentence of five years and a maximum sentence of 15 years upon conviction. Section 5 of the Act states that subject to subsection (4) of Section 9, marriage of a defendant and victim is not a defense to an offense under the act. Subsection (1) of Section 9 states that in a relationship where a care worker causes or incites a person with a mental disability to engage in sexual activity, it is a crime punishable by a prison term of not less than five years and not more than 15 years. However, subsection (4) of Section 9 of the Sexual Offences Act, 2012, states that “Marriage between the defendant and the other person shall be a defence in proceedings under subsection (1) and the onus of proof of the existence of the marriage shall be on the defendant.” Thus, subsection (4) states that it is a defense if the defendant is married to the victim, and that the onus of proving the existence of marriage is on the defendant.

The law, however, sends a mixed message in the area of defense especially when it comes to customary marriage wherein women and girls are often subjected to disparate treatment in sexual relations. As outlined above, Section 5 of the Sexual Offences Act, 2012, states that: “Subject to subsection (4) of section 9, the marriage of a defendant and the victim shall not be a defence to an offence under this Act.” And under subsection (4) of Section 9, marriage is a defense, but the defendant has to prove it in court. Additionally, the Act does not define “marriage”, so we assume marriage as defined by other laws, including the RCMDA discussed above. The report of the TRC reminds us that “While the majority of victims [of the civil war, 1991–2002] were adult males, perpetrators singled out women and children for some of the most brutal violations of human rights recorded in any conflict. Children aged between ten and 14 years were especially targeted for forced recruitment. Girls between the ages of ten and 14 were targeted for rape and for abuse as sexual slaves. Women and girls were raped, forced into sexual slavery, tortured and suffered cruel and inhumane acts.”¹⁵¹ Even in peacetime, the numbers of girls and women being sexually abused remains high.

In December 2018, in response to the rising spate of sexual offenses (2,800 cases in 2018),¹⁵² First Lady Fatima Maada Bio launched the “Hands Off Our Girls” campaign to eradicate, inter alia, teenage pregnancy, child marriage and rape.¹⁵³

On 7 February 2019, President Julius Maada Bio declared a state of national emergency to achieve these objectives. In the declaration, the President prescribed life imprisonment for persons convicted of the rape of a child. Subsequently, Parliament amended the Sexual Offences Act. In the Sexual Offences (Amendment) Act, 2019, Parliament increased the prison term for rape and sexual penetration of a child from the previous maximum of 15 years to life imprisonment.

Parliament repealed and replaced Section 6 with a new section that defines the crime and punishment for rape. In general, Section 6 describes rape as an intentional act “of sexual penetration on another person without the consent of that other person”. The punishment for the crime of rape is a prison term of not less than 15 years to life imprisonment. The amended Sexual Offences Act also repealed

and replaced Section 19 (on sexual penetration) with a new section with implications on sentencing for juveniles. The specific sections that deal with children and its implications on juvenile justice are treated in more depth below.

It was in the midst of these changes to the law and shifting public opinion on SGBV that on 17 June 2020, a five-year-old girl named Kadijah M. Saccoh was allegedly raped and strangled to death. Subsequently, the police charged her aunt (elder sister to Kadijah’s mother) and her son with murder and conspiracy to commit murder.¹⁵⁴

The Kadijah case spurred President Bio to launch the Sexual Offences Model Court, as part of the High Court, in Freetown on 24 July 2020. The judiciary tasked the court with trying rape and gender-based violent offenses.¹⁵⁵ However, in a unanimous verdict on 19 March 2021, a Freetown jury found the defendants in the Kadijah case not guilty of the charges, which some believe constitutes an example of continuing impunity, notwithstanding the new law.¹⁵⁶

Outside the judicial system, the shift in public opinion against SGBV led to the establishment of the Survivors Solidarity Fund by Isha Sesay and Idris Elba, working with Asmaa James, after Kadijah’s death. The fund raises money for survivors of sexual assault and awareness of gender-based violence against women and girls in Sierra Leone. Purposeful, a Freetown-based feminist organization, houses and distributes the fund’s money.¹⁵⁷ To date, the fund has raised Le1,046,592,200 (\$109,020) and made distributions to the Rainbo Initiative, Aberdeen Women’s Centre, Legal Access through Women Yearning for Equality Rights and Social Justice (LAWYERS), and SMART Women’s Initiative. Rainbo Initiative, established in 2003, provides free medical, psychological and age-appropriate treatments to SGBV survivors in five centers in Sierra Leone (Freetown, Makeni, Bo, Kenema and Kono). Aberdeen Women’s Centre provides free medical, counseling, social work, police and legal liaison services to women and children who have survived SGBV. LAWYERS provides free legal advice and court representation to survivors of sexual and domestic violence, while SMART Women’s Initiative supports access to justice and counseling services.¹⁵⁸

Although these have been positive developments and the new law celebrated, a few concerns have

come to light. For example, it has been indicated that several children have been negatively impacted by the new law.¹⁵⁹ It has resulted in harsher punishments or penalties for child sex offenders, in violation of international human rights law principles of “the best interests of the child”.¹⁶⁰

There are additional concerns regarding children. Although Sierra Leone law does make allowance for juvenile offenders to be held separately from adults, with suspects in juvenile or remand homes and offenders in detention centers, these are few and mostly concentrated in the capital. There are two remand homes – one in Bo and one in Freetown. Neither police stations nor FSUs have detention facilities for juveniles.¹⁶¹ Moreover, in practice, justice is more punitive than rehabilitative, particularly given the lack of resources. The Ministry of Social Welfare and Children’s Affairs is charged with providing parole officers and addressing the welfare of juveniles who come in conflict with the law, but they lack the resources to do so effectively and are under-represented outside of the capital.¹⁶² The Children and Young Persons Act (Cap 44), 1945, provides for the creation of approved schools and remand homes but does not offer much direction on how they should be managed or operated.¹⁶³

RECOMMENDATIONS

- The 2019 amendment to the Sexual Offences Act has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act, 2007. This may erode some of the gains that children have made, especially in the area of sentencing. Parliament should investigate this matter with a view to reconciling the differences in favor of the child.
- In considering future amendments to the Sexual Offences Act, Parliament must consider and reconcile Section 5 and subsection (4) of Section 9 as it relates to the care worker defense to crimes involving persons with mental disabilities. If not rectified, it may provide a loophole for a defendant who is accused of a crime under the Act to plead the defense. Parliament should be mindful of the constitutionality of the Sexual Offences (Amendment) Act, 2019, for accused persons who raise other defenses such as physical, psychological, emotional, learning and other disabilities.

- Although the Sexual Offences (Amendment) Act, 2019, may appear to be gender-neutral, its application could be compromised by long-standing cultural, traditional and customary law practices throughout the country, such as FGM/C, which contributes to early marriage. In any future amendments to the Sexual Offences Act, Parliament must ensure that these practices do not interfere with the investigation and prosecution of offenses under the Sexual Offences Act as amended in 2019.
- Under the law, the FSU of the Sierra Leone Police, working through its partners, has the “mandate to deal with sexual offences and child abuse, in addition to domestic violence”. Therefore, it is recommended that Parliament fully funds the FSU (personnel, equipment, training, etc.) to carry out its mandate under the various laws. Also deserving of funding is the one-stop centers initiative. These centers in government hospitals provide medical, psychological and legal support to survivors of SGBV.¹⁶⁴
- Parliament, in enacting additional legislation or amending existing legislation, should consider Sierra Leone’s obligations under international conventions and protocols. In particular, Parliament, in drafting legislation, should adhere to Articles 3 (right to dignity), 4 (right to life, integrity and security of the person), 8 (access to justice and equal protection before the law) and 14 (health and reproductive rights) of the Maputo Protocol.
- There is a need for more resources to ensure that juveniles are held separately from adults at all levels – from the FSU/police station to sentencing, juvenile offenders should not be held with the adult prison population. More remand homes and schools need to be built and made available throughout the country. Guidelines should be developed for their management and operations.

Children and Young Persons Act, 1945

The revised Sexual Offences Act has several implications for young persons as described above. The Children and Young Persons Act, 1945 (Cap 44), established the framework of Sierra Leone’s juvenile justice system. In Section 2 (Part I), the Act defines a child as a person under the age of 14 years while a young person is anyone between the ages of 14 and 17 years. Part II provides special provisions and procedures for children and young persons. Among other things, these include juvenile courts (part of

magistrate courts) that separate children from the general adult population, the availability of bail for non-homicide or serious felony cases requiring a prison term of at least seven years, and explanation of charges to be made in simple language the offender can understand.¹⁶⁵

Part III deals with the treatment of young offenders in the juvenile justice system. In addition to the governor appointing probation officers (Section 20) for the districts, Section 24 bars any child from being sentenced to imprisonment. Under subsection (2), however, the court can sentence a young person to a term of imprisonment if it cannot find a suitable method of punishment. In any event, young persons sentenced to terms of imprisonment cannot be associated with the adult prison population. The Act also provides for alternative forms of punishment for juvenile offenders found guilty of non-homicide and serious offenses for which the punishment is not more than seven years in prison. Upon a finding of guilt, the court can discharge a child or young person, repatriate them to their homes or districts or places of origin or place them in the care of fit persons and institutions or in approved schools until they turn 18 (Section 26).

Part IV, which Section 61 of the Child Rights Act repealed in 2007, dealt with children and young persons in need of care and protection. Parts V and VI deal with the governor's powers to establish approved schools and remand homes and define their character and functions. Appeals against an order or sentence by a juvenile court lie with the Supreme Court.

Article 17 of the ACRWC provides for the administration of juvenile justice for Member States: "Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others." Much of what is contained in the Children and Young Persons Act, 1945, is included in the ACRWC, including the separation of juvenile from adult offenders, the presumption of innocence, explanation of charges in language a child or young person understands, alternative forms of punishment (reformation, reintegration into society and rehabilitation), and the age of criminal liability.

Like the Child Rights Act, 2007, the Sexual Offences Act, 2012, defines a child as a person under the age of 18 years. Parliament subsequently amended the Sexual Offences Act in September 2019, as discussed above. In the Sexual Offences (Amendment) Act, 2019, Parliament repealed and replaced Section 6 with a new section that defines the crime and punishment for rape. In general, Section 6 sets up a new range of punishments for sexual offenses that roll back some of the rights and protections afforded children under the Child Rights Act, 2007. It describes rape as an intentional act "of sexual penetration on another person without the consent of that other person". The punishment for the crime of rape is a prison term of not less than 15 years to life imprisonment. For a child who commits the crime of sexual penetration or rape on another child, the prison term is a minimum of five and a maximum of 15 years, notwithstanding Section 24(1) of the Children and Young Persons Act, 1945 (Cap 44),¹⁶⁶ and Section 70 of the Child Rights Act, 2007, which establishes 14 years as the age of criminal liability. For a young person (which the amended Sexual Offences Act, 2019, does not define; the Children and Young Persons Act defines a young person as someone between the ages of 14 and 17 years) who commits an act of sexual penetration or rape, the prison term is a minimum of 10 years to life imprisonment. For a person above the age of youth (again, the law does not define this category of persons), the punishment is 15 years to life in prison.¹⁶⁷ Under subsection (iv) of the Children and Young Persons Act, a child who receives a deferred sentence to an approved school will serve the remaining sentence in prison when they come of age.

RECOMMENDATIONS

- The 2019 amendment to the Sexual Offences Act has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act. This may erode some of the gains that children have made, especially in the area of sentencing. Parliament should investigate this matter with a view to reconciling the differences in favor of the child.
- Under the law, the FSU of the Sierra Leone Police, working through its partners, has the "mandate to deal with sexual offences and child abuse, in addition to domestic violence".¹⁶⁸ The FSU has primary responsibility to investigate

offenses related to SGBV. It describes SGBV as “an umbrella term which includes all harmful acts affecting men and women, in which the female is usually the victim. SGBV is determined by gender differences; that is, by the unequal power relationship between men and women” throughout Sierra Leone.¹⁶⁹ It is recommended that the Parliament fully fund the FSU (personnel, equipment, training, etc.) to carry out its mandate under the various laws. Also deserving of funding are the one-stop centers initiative. These centers in government hospitals provide medical, psychological and legal support to survivors of SGBV.¹⁷⁰

- There is a need for more resources to ensure that juveniles are held separate from adults at all levels – from the FSU/police station to sentencing, juvenile offenders should not be held with the adult prison population. More remand homes and schools need to be built and made available throughout the country. Guidelines should be developed for their management and operations.

Child Rights Act, 2007

The Child Rights Act, 2007, domesticated the United Nations Convention on the Rights of the Child (1989, ratified by the Sierra Leone Parliament in June 1990) and its Optional Protocols (2000), as well as the ACRWC. The guiding principle of the Child Rights Act, 2007, is the “best interests” of the child as defined also in the Sexual Offences Act, 2012, discussed below.

Like the RCMDA, Section 34 of the Child Rights Act, 2007, sets 18 years as the minimum age for marriage. This section also bars any person from forcing a child to be betrothed, subjected to dowry transaction or to be married. Furthermore, the Child Rights Act prohibits the registrar or any responsible officer from issuing a license, certificate or registration if the parties are not in compliance with the age of maturity. Section 35 of the Act imposes fines and prison terms [a maximum of Le30 million (\$3,000) or two years in prison or both] for contravention of Part III on child rights, and parental and state responsibilities.

Section 38(6) of the Child Rights Act rejects domestic violence and child abuse as a “family affair” and requires service providers, parents and community members to report any form of abuse to the FSU. Section 70 sets the minimum age of

criminal responsibility at 14 years. Family courts, presided over by magistrates, have jurisdiction to hear child rights cases. Cultural and societal practices hamper the execution of the law as do corruption, rising legal costs, underreporting of cases by family members and friends, and family pressures to settle cases out of court.¹⁷¹

Although Section 33(3) of the Child Rights Act repealed the Corporal Punishment Act, it does not repeal Article 3 of the Prevention of Cruelty to Children Act, 1926, which states: “Nothing in this Ordinance shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.”¹⁷² Moreover, while Article 33(2) of the Child Rights Act states: “No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child,” “unreasonable” is undefined and thus open to interpretation. Moreover, the Prevention of Cruelty to Children Against Children Act, 1926, affirms that it is “the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child”. However, it appears that there is some appetite for change. On 15 September 2021, the Sierra Leone President’s Cabinet approved an “Anti-Corporal Punishment Initiative” in schools (government-owned, government-assisted and community and private schools) of the Ministry of Basic and Senior Secondary Education. The Ministry promises to write a training manual on “Positive Discipline: Alternatives to Corporal Punishment”. In a press release announcing the initiative, the Ministry quoted a report by Strengthening Accountability Building Inclusion, which stated that 89 percent of students report being flogged in schools.¹⁷³ Among this group of students, “the most likely to report being flogged more than once a week were pregnant girls or women (83%)”.¹⁷⁴ The fear of being bullied is another factor that pushes students into staying at home instead of attending school. Bullying currently occurs in schools, but is under-reported, while there is a “culture of silence” around it.¹⁷⁵ There is, thus, a need to protect women and girls from violence in the nation’s schools.

The Child Rights Act, 2007, while not exactly duplicative of the Children and Young Persons Act, 1945, provides a raft of rights, responsibilities and protections for children from the village to

the state levels. Unlike the juvenile courts in the Children and Young Persons Act, 1945, the child welfare committees of the Child Rights Act have no jurisdiction over criminal matters (Section 52). Section 57 mandates the FSUs of the Sierra Leone Police to deal with juvenile offenders. Since Section 60 defines the meaning of care and protection (orphaned, deserted, destitute children, etc.), Section 61, therefore, repeals Part IV of the Children and Young Persons Act, 1945, on the same subject. Section 63 mandates family courts to issue care orders while Section 70 stipulates that criminal liability begins at the age of 14 years.

Furthermore, Part V of the Child Rights Act delineates spaces for quasi-judicial and judicial adjudication of juvenile matters. The district child panels exercise non-judicial powers of mediation and reconciliation in criminal and civil matters involving children, their parents and persons offended by children’s actions (Sections 71-75). Section 76 of the Child Rights Act, 2007, establishes the family courts, chaired by a magistrate and not less than four other members, including a social welfare officer appointed by the chief justice. Section 78 defines the jurisdiction of the family court to include matters pertaining to parentage, custody and child maintenance. The Child Rights Act and the Adoption Act, 1989, are both currently under review by the Ministry of Gender and Children’s Affairs to address some of the contradictory provisions in child protection-related laws as well as to update the laws more generally.¹⁷⁶ A draft has been submitted to the Ministry for review.¹⁷⁷ The report tries to address issues around the inconsistencies and contradictions in the various laws that regulate children’s issues as well as the limitations of the laws on adoption, including the non-ratification of the 1993 Hague Convention on Inter-Country Adoption by Sierra Leone. It is hoped that the review will lead to harmonization of existing laws as well as greater protection of children under the law.

RECOMMENDATIONS

- Given the gravity of offenses against children, Parliament should consider expanding the jurisdiction (concurrent jurisdiction in cases of juvenile delinquency, for example) of the High Court to include cases under the Child Rights Act, 2007. As a court of record, the High Court is better equipped to adjudicate cases of child labor and exploitation through abduction, sale and trafficking at home and abroad.

- For juvenile offenders, a diversion program that includes school and/or career counseling and drug intervention for non-violent offenders can be considered as an alternative to the adversarial family court system.
- Parliament should consider amending the Child Rights Act, 2007, to incorporate all the provisions of the United Nations Convention on the Rights of a Child and the ACRWC, especially those dealing with the responsibilities of the child (Article 31 of the ACRWC). There is also a need to strengthen and support the Child Welfare Committees (village and chiefdom welfare committees) provided for in the Child Rights Act, 2007.
- Since Sierra Leone law does not automatically overturn conflicting customary law, raising the minimum age of marriage to 18 years throughout the country, regardless of customary law, religious practices and other traditional considerations, obviates the need for forced child betrothal and marriage and child dowry transactions.
- Provisions should be made to compensate children who suffer human rights violations, including SGBV, for shelters for victims of child abuse, and for the rehabilitation of victims who suffer psychological, emotional and other harm caused by abuse and bullying at school.¹⁷⁸
- Parliament should consider amending the Child Rights Act, 2007, to increase the minimum prison sentence for offenses under the law to five years, consistent with the Sexual Offences Act, 2012, as amended in 2019, discussed above.
- Parliament should also consider amending the Child Rights Act to eradicate corporal punishment in schools and homes. Parliament should adopt the Ministry of Basic and Senior Secondary Education’s “Anti-Corporal Punishment Initiative”, which Cabinet approved on 15 September 2021. This initiative should form the basis of a new section in the Child Rights Act on corporal punishment. Article 3 of the Prevention of Cruelty to Children Act, 1926, which sanctions corporal punishment by parents, teachers and other persons who have lawful control or charge of children, should be repealed.
- Parliament should also consider imposing legal requirements for reporting violations under the Child Rights Act, 2007, and fines and prison terms for failure to comply with the law.

Other human rights laws

Anti-Human Trafficking Act, 2005

The Anti-Human Trafficking Act, 2005, was enacted in response to the TRC report, which catalogued the numerous violations and abuses women and children endured during the civil war. The report concluded that all warring factions perpetrated unspeakable crimes against women and children. Although Sierra Leone was upgraded to Tier 2 in the US Department of State report on trafficking for some efforts made to tackle trafficking in persons, in peacetime, trafficking of children and exploitative labor continues. Among the improvements noted, the trafficking in persons report noted that Sierra Leone convicted traffickers for the first time in 15 years, and that there has been a rise in both investigations as well as prosecutions. Moreover, the government has been training officials on trafficking, has established district-level task forces and has worked with a non-governmental organization to establish a victim shelter.¹⁷⁹

The Anti-Human Trafficking Act (Section 3) provides for an Inter-Ministerial Committee on Human Trafficking to oversee, advise and provide policy guidance to a National Task Force on Human Trafficking. Jointly chaired by the Minister of Social Welfare, Gender and Children's Affairs (now Minister of Social Welfare; Minister of Gender and Children's Affairs) and the Attorney-General and Minister of Justice, the Inter-Ministerial Committee coordinates implementation of the Act to include prosecution of corrupt public officials who facilitate human trafficking, rendering assistance to victims, preventing human trafficking through adoption, improving the economic well-being and providing opportunities for potential victims, and increasing public awareness of human trafficking (Section 4). Located in the Ministry of Social Welfare (or Gender and Children's Affairs), a secretariat, headed by a coordinator appointed by the Public Service Commission, carries out the work of the Task Force (Section 8).

Nevertheless, problems remain. The minimum age of employment in Sierra Leone is 18, but it is not enforced, and a 2000 report by UNICEF indicates that over 70 percent of children (aged 5 to 14 years) are engaged in some form of child labor.¹⁸⁰ This includes mining, agriculture and petty trade. The 2020 trafficking in persons report noted incidences of trafficking of children for forced labor in trades such as fishing and agriculture, and commercial sex. According to the report, traffickers focused

on recruiting victims from rural areas. Traffickers leveraged “traditional foster care practices called ‘*menpikin*’ to convince parents to hand over their children and promising to provide an education or better life, but instead exploit the children in various forms of forced labor including domestic servitude, street vending, mining, agriculture, scavenging for scrap metal, and *okada* (motorbike taxi) driving”.¹⁸¹ The practice of *menpikin* itself is subject to abuse, with parents sending their children to relatives believing that they will receive a better education, but instead relatives subject the children to forced labor.¹⁸²

Therefore, Parliament should do more to protect children against exploitation and trafficking by adoptive parents, consistent with the Adoption Act of 1989.

The Anti-Human Trafficking Act is consistent with Article 6 of CEDAW which states that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. The Anti-Human Trafficking Act prohibits “sexual servitude”, the “exploitation of the prostitution of another” and other forms of “commercial sexual exploitation” including pimping, pandering and maintaining a brothel. The law provides for both criminal sanctions [a maximum fine of Le50 million (\$500) and 10 years in prison] and restitution to victims. There is concern that allowing for a fine in lieu of imprisonment for sex trafficking does not match the severity of the crime, and there are discussions underway to make it commensurate with the 15-year imprisonment in the Sexual Offences Act under its “forced prostitution” and “child prostitution” provisions for sex trafficking. According to the 2020 trafficking in persons report, the 2005 anti-trafficking law is being revised to remove the possibility of a fine in lieu of imprisonment for convicted traffickers, increase penalties, and improve victim protection measures.¹⁸³

RECOMMENDATIONS

- The draft legislation updating the Anti-Human Trafficking Act should be reviewed and passed.
- The Act defines a juvenile as a person under the age of 17 years, whereas the Child Rights Act of 2007 defines a child as a person under the age of 18 years. These contrasting definitions should be reconciled in favor of the minimum age of 18 years.

- Furthermore, Parliament should ratify the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption to protect adopted children, especially girls, from abduction, sale and traffic in countries outside Sierra Leone. The Convention also protects the best interests of the child and the child's fundamental rights. The Convention may complement the provisions of the Adoption Act, 1989, (though it does provide for domestic adoptions only) in cases of evasion of the latter law by adopters.
- Traditional practices that are used to exploit women and children, such as *menpikin*, should be recognized as a form of trafficking under the Anti-Human Trafficking Act.
- The practice of fosterage, whereby families and friends take in young girls to attend school especially in cities and towns far removed from their parental homes, should be monitored by the FSU of the Sierra Leone Police as well as school counselors so as to prevent abduction, sale and trafficking.
- Anti-trafficking efforts should also include the education authorities as defined under the Education Act, 2004 monitoring the trafficking of school-age children. Education authorities include the minister responsible for education, boards of education, local authorities, advisory boards and committees, boards of governors and management committees, and of course, teachers.

Persons with Disability Act, 2011

The Persons with Disability Act establishes a National Commission for Persons with Disability whose objective is to ensure the well-being of persons with disabilities in Sierra Leone. In collaboration with the Ministry of Labour, the Commission formulates and develops measures for persons with disabilities to achieve equal opportunities in education and employment, participate in sporting, recreational and cultural activities, as well as enjoy equal access to community and social services [Section 6(1-2a)].

The Human Rights Commission on Sierra Leone and the National Commission for Persons with Disability have developed a Complaints Handling Manual to enforce Section 6(2)(e) of the Persons with Disability Act to "investigate or inquire into on its own or, on complaint by any person, any allegation of discrimination against a person with disability

and issue a report on it". The manual standardizes complaint handling procedures with a view to enhancing the Commission's capacity to address human rights violations more efficiently. It is educative as it explains the human rights standards and the provisions of rights and privileges for persons with disabilities in the Disability Act, 2011.¹⁸⁴ The civil war (1991-2002) produced horrendous instances of "intentional amputation; that is, amputation not conducted by medical experts as a result of bullet wounds, but, rather, the intentional removal of a limb by perpetrators for the express purpose of removing that limb".¹⁸⁵ Furthermore, the TRC reports of intentional amputations, and thus disability, range from a low of 1,600 to a high of 10,000 persons who suffered one form of amputation or the other (legs, arms, noses, etc.).¹⁸⁶

On its face, the law is gender-neutral and marks a milestone in the growth of disability law in Sierra Leone. The legislation also prohibits discrimination in all its forms based on disability and establishes the National Commission for Persons with Disability to develop measures to ensure that people with disabilities obtain education and employment, equal access to community and social services. The legislation also offers tax incentives for private employers to hire persons with disability, modify physical facilities and provide reasonable accommodation for disabled employees. It provides fines and prison terms for non-compliance with its provisions as well as compensation to victims of disability discrimination. However, a loophole is provided by Section 20(2) of the Persons with Disability Act, which states that an employer cannot be held liable for disability discrimination if the employer "cannot reasonably be expected to provide special facilities or modifications, whether physical, administrative or otherwise, [that] are required at the workplace to accommodate the person with disability". Also, the Act defines a child as a person below the age of 16. This contradicts the definition under the Child Rights Act and the Convention on the Rights of the Child, which considers a child a person below the age of 18 years.

The Persons with Disability Act, in its implementation, or lack thereof, may disparately impact women and girls who are caregivers, market women, merchants, vendors and students at primary, secondary, technical, vocational and tertiary educational institutions. An intersectional lens suggests that as girls are generally more

marginalized than boys, the same would hold true for women and girls with disabilities. However, more research needs to be done, with programs designed with a gender perspective to uncover these differences, since, as a recent report pointed out, “there is still very little in the way of documentation and robust evidence on research and programmes that address the intersectional marginalisation of girls with disabilities in education”.¹⁸⁷

RECOMMENDATIONS

- Gaps in the implementation of the law hinder the mandate for proprietors to provide a barrier-free environment for persons with disability to access buildings, roads and other social amenities. Parliament should step up the use of the carrot-and-stick approach (tax incentives and fines) to incentivize proprietors to make buildings, roads and social amenities accessible to persons with disability. Currently, most, if not all, public and private buildings, roads and social amenities are not accessible to disabled people.
- The contempt citation [Section 7(2)] for non-compliance with the National Commission for Persons with Disability’s order, decision or directive “within a specified time”, without more, can thwart the Commission’s work. Parliament should consider imposing more sanctions (over and above the Le5 million fine and two-year term of imprisonment) for non-compliance with the Commission’s work and the law.
- Parliament should review Section 20(2) and other exceptions with a view to strengthening the law and minimizing non-compliance with its provisions.
- The definition of a child in the Persons with Disability Act should align with the definition under the Child Rights Act, 2007, for the sake of consistency and uniformity in the domestic and international laws governing children.
- In future amendments to the Persons with Disability Act, Parliament must consider Article 23 of the Maputo Protocol. It urges State Parties to ensure special protection of women with disabilities, including access to employment, and professional and vocational training.
- Sierra Leone should ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- To ensure that children with disabilities are not excluded from enrolling in schools, the

government should ensure barrier-free access to school facilities.

- The National Commission for Persons with Disability needs to be supported and capacitated to carry out its mandate effectively.

Offences Against the Person Act, 1861

One example of a statute that is long overdue for reconsideration by Parliament is the Offences Against the Person Act. This law, under Section 61, provides for criminal sanctions (a minimum of 10 years and a maximum of life imprisonment) for the “abominable crime of buggery, committed either with mankind or with any animal”. Section 62 makes it a misdemeanor offense to attempt to commit buggery, assault or indecent assault upon a male person. The punishment ranges from a minimum of three to a maximum of 10 years, or up to two years with or without hard labor for cases on the lower end of the spectrum.

Transwomen, lesbians and bisexual women can all be prosecuted under this act. Since this law affects the lesbian, gay, bisexual, transgender and queer (LGBTQ) community, several countries have called on Parliament and the government of Sierra Leone to repeal these sections. This occurred during the second and third cycles of Sierra Leone’s UPR process in the UN Human Rights Council. The Human Rights Committee, in its concluding observations to Sierra Leone in 2014, noted that the criminalization of LGBTQ people violated Articles 2 and 26 of the ICCPR, and recommended that legislation be adopted “to ensure that discrimination on the grounds of sexual orientation and gender identity is prohibited, including by decriminalizing sexual relations between consenting adults of the same sex”.¹⁸⁸

RECOMMENDATIONS

- Parliament should consider repealing Sections 61 and 62 of the Act, which are aimed at LGBTQ persons.
- Parliament should enact legislation prohibiting discrimination based on sexual orientation or gender identity.
- Parliament should ensure that Sierra Leone adheres to its obligations under international human rights conventions, treaties and other agreements to which it is a signatory.

Women in conflict with the law

Draft Criminal Procedures Bill, 2013

Sierra Leone suffers from overcrowded prisons, and women's prisons are no exception. With only two women-only prisons in the country, conditions are poor. Reasons for overcrowding include stringent bail conditions, as well as difficulties in accessing justice, with frequent adjournments contributing to court backlogs. In June 2021 a Technical Review Committee was convened to review the Criminal Procedure Act, 1965. One of the tasks was to review the powers of arrest and detention, and to make provision for alternative sentencing. A new draft criminal procedure bill (2021) was recently finalized and submitted to Cabinet for approval on 17 September 2021. It addresses provisions in the Criminal Procedure Act, 1965, that have contributed to lengthy pre-trial detention and delays in accessing justice, including through frequent adjournments of cases.

AdvocAid and Centre for Accountability and Rule of Law identified the criminalization of petty offenses as one of the major factors contributing to overcrowded prisons. In addition to addressing pre-trial detention, State Parties to the African Charter are also supposed to decriminalize and declassify petty offenses¹⁸⁹ as part of the Decriminalizing and Reclassifying Petty Offences Campaign,¹⁹⁰ which would comply with Article 6 of the African Charter that is concerned with preventing arbitrary arrest and detention as well as ensuring citizens' rights to liberty and security. In Sierra Leone, three petty offenses were identified as primary contributors to imprisonment: loitering [Public Order Act, 1965, Section 7; Criminal Procedure Act, 1965, Section 13(1)(e)]; non-payment of debt [Larceny Act, 1916, Section 20(1)(iv)(b), Section 32]; and minor traffic offenses (subsections of the Road Traffic Act, 2007).¹⁹¹

While on the face these laws appear neutral, in practice, they disproportionately affect the poor and the marginalized, of which women represent a greater share.¹⁹² For example, Section 7 of the Public Order Act, 1965, allows for anyone accused of loitering to be imprisoned for no longer than one month. In practice, loitering disproportionately affects poor people, especially women, as more than 70 percent of those living below the poverty line are female.¹⁹³

RECOMMENDATIONS

- Domesticate the African Charter and provide training on the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, 2017 (known as the Luanda Guidelines)¹⁹⁴ and on the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003, to officers within the formal and customary courts.
- Repeal or amend Section 7 of the Public Order Act and Section 13(1)(e) of the Criminal Procedure Act, 1965.
- Make loitering a non-arrestable offense.
- Provide clear sentencing guidelines for debt and traffic offenses, to minimize discretion.
- Use alternative dispute resolution processes for debt-related offenses.¹⁹⁵

Human Rights Commission of Sierra Leone Act, 2004

The Human Rights Commission of Sierra Leone Act, 2004, defines "human rights" to include the right to "life, liberty, equality and dignity of the individual protected or guaranteed by the Constitution or embodied in the international conventions, treaties and other agreements to which Sierra Leone is a party". The Human Rights Commission, established by Section 2, is mandated to investigate, or inquire, monitor, document and publish annual reports on human rights violations [Section 7(2)]. Furthermore, it has the powers of the High Court, including the power to protect the life and safety of an individual and to provide free medical treatment (Section 8). The Commission can also recommend payment of costs and compensation to victims of human rights violations, their families, or legal representatives (Section 11). As mentioned in the section on the draft criminal procedures bill, women face overcrowding in prisons, and there are insufficient separate facilities. General prison conditions are poor, and the death penalty remains in place. However, as mentioned earlier in the report, on 23 July 2021, Parliament voted to repeal the death penalty and replace it with life imprisonment for murder, aggravated robbery, mutiny and treason.

RECOMMENDATIONS

- Parliament should consider changes to the Human Rights Commission of Sierra Leone Act, 2004, to empower the Human Rights Commission to

robustly enforce the right to life and equality before the law, including monitoring prison conditions to ensure the separation of male and female prisoners, the juvenile from the adult prison population, and to enforce the ban on cruel and degrading treatment of prisoners.

- Parliament should also consider specifying the amount of compensation the Human Rights Commission can recommend for victims of human rights violations.

Sexual and reproductive rights

Notwithstanding the free healthcare policy that provides access to free healthcare for lactating and pregnant mothers and children under five, Sierra Leone continues to suffer from high maternal and child mortality. Part of this is attributable to high rates of teenage pregnancy, and early child marriage. At the same time, Sierra Leone has failed to pass the abortion bill, and access to information on sexual and reproductive health rights as well as contraceptives is limited.¹⁹⁶

Article 14(2)(c) of the Maputo Protocol calls on States to allow medical abortion under certain prescribed conditions; however, the implement of the Protocol's provision has faced stiff resistance in Sierra Leone. Although the safe abortion bill passed in Parliament in February 2016, protests by certain segments of the population, including religious leaders and women's religious groups, contributed to the then President's refusal to sign.¹⁹⁷ Abortion remains illegal under provisions of the Offences Against the Person Act, 1861: Sections 58 and 59 punish the person who is carrying the fetus as well as whoever supplies or procures poison with a view to terminating a pregnancy, which run counter to Article 14(2)(c) of the Maputo Protocol. These sections should be repealed. Moreover, Sections 35(1)(b) and (c) of the Pharmacy and Drugs Act, 2001, also criminalize the advertisement, publication or cause of any drug that may lead to the use of that drug or service for the purpose of pregnancy termination, which is overly broad and vague.¹⁹⁸ This has driven the practice underground with many women and girls relying on unsafe practices and the services of unqualified persons with no medical knowledge or skills, contributing to Sierra Leone's high maternal mortality.¹⁹⁹ These sections should also be repealed.

Following the failure of the passage of the bill, stakeholders reconvened under the People's Alliance for Reproductive Health Advocacy. The Alliance was set up by Ipas, an international non-governmental organization working on sexual and reproductive rights in collaboration with Planned Parenthood Association and Marie Stopes International. In line with its vision, it has evolved into a broad-based and inclusive advocacy group, actively involved in advocacy for reform of sexual and reproductive health rights laws including decriminalizing abortion laws. Learning from past mistakes, the People's Alliance for Reproductive Health Advocacy has actively worked to engage major stakeholders including the Inter Religious Council with which they have signed a memorandum of understanding. A revised concept paper is currently under review by the Ministry of Health, which will lead the process of tabling the paper before Parliament so that a bill can be developed. Again, as part of learning, this process will now be a government-led rather than a private members bill, and it is envisioned that this will inform the development of a broader law, the maternal health and safe motherhood bill, which will focus more widely on the sexual and reproductive rights of women and girls, including curriculum review and the provision of comprehensive sexual health education within secondary schools, among other issues.²⁰⁰ Currently, there is no law proscribing access to contraceptives, and access to both information as well as the contraceptives is mainly unavailable. In a cultural context where sexuality is a taboo topic and parents are reluctant to discuss such issues with children, the need for comprehensive sexual and reproductive health education within schools is paramount.²⁰¹

RECOMMENDATIONS

- Sections 58 and 59 of the Offences Against the Person Act, 1861, which punish the person carrying the fetus and those who would supply poison to terminate the pregnancy, should be repealed. Sections 35(1)(b) and (c) of the Pharmacy and Drugs Act, 2001, which also criminalize the advertisement, publication or cause of any drug that may be used to terminate a pregnancy should also be repealed.
- In terms of law, priority should be placed on passing the safe motherhood bill.
- The government should have and implement a policy of providing comprehensive sexual and reproductive health education in schools.

- Ensure ready access to family planning services, minimize stock-outs of contraceptives, and provide education to help minimize the need to resort to unsafe practices.

Women’s economic empowerment: education, labor and land laws

Education Act, 2004

Social services, and in particular education provision, is a key policy area for this current government: the Free Quality Education is a flagship policy. Section 3(1) of the Education Act defines formal basic education as consisting of six years of primary and three years of junior secondary education as provided for in Section 2(a)(b). This is important because education is not only compulsory but also free in government-assisted schools and private schools as long as the latter do not “frustrate” the right to basic education by charging fees that, in the minister’s “opinion”, are “unreasonable”. The law offers no guidance as to what constitutes an “unreasonable” fee. The Education Act also prescribes punishment (a fine of Le500,000 and imprisonment for up to one year or both fine and imprisonment) for failure to send a child to school for basic education.

Section 4 of the Education Act prohibits discrimination in the admission and treatment of students in any educational institution in the country.²⁰² The Act, however, makes exceptions for separate schools for boys and girls, religious schools and private schools, provided they do not discriminate against or exclude any group of students or pupils on the grounds of sex, among other characteristics.

A child or young person (14 to 17 years of age) who fails to attend school for basic education is treated as a juvenile in need of care under Section 27 (1)(b) of the Children and Young Persons Act, Cap 44, 1945. Under the provisions of this law, an administrative officer, police officer above the rank of sub-inspector, or any authorized person may institute action in the juvenile division of the magistrate court to adjudicate the matter. If found wanting, the child may be placed for care and protection in an approved school, with a fit person or relative, or in an institution until the age of 18 years. For a female child, the age is 21 years with the child’s consent. The law also empowers the government to establish remand homes for children in need of care and protection. In theory then, the government

places a premium on ensuring that children have access to education, including taking them out of unconducive environments if and when necessary.

Steps have also been taken to increase girls’ access to education, which appear to be bearing fruit. Statistics Sierra Leone has reported on higher female enrolment at the primary entry level compared to their male counterparts. However, female enrolment begins to drop off toward junior secondary school due mainly to early marriage, teenage pregnancy and parents not ready to invest in girls’ further educational pursuits.²⁰³ Pregnancy among young girls is high across Sierra Leone, with 31 percent of women aged 20 to 24 years having a live birth before the age of 18 years.²⁰⁴ Although teenage pregnancy remains high, very little is done to address this, despite Section 27(1)(b) of the Children and Young Persons Act.

In 2015, after the Ebola outbreak, the government had put in place a ban on pregnant girls attending school.²⁰⁵ On 12 December 2019, the Community Court of Justice of ECOWAS ruled that the government’s ban violated Articles 2 (elimination of discrimination against women) and 12 (right to education and training) of the Maputo Protocol.²⁰⁶ On 30 March 2020, the government lifted the ban on pregnant girls attending school.²⁰⁷ A statement from the Ministry of Basic and Senior Secondary Education stated that “Overturning the ban is the first step in building a radically inclusive Sierra Leone where all children – regardless of class, ethnicity, tribe, disability, location, gender, reproductive or parenting status – are able to live and learn in safety and dignity,” consistent with Sierra Leone’s obligations under Article 2 (universal education for all children without any discrimination) of the ICESCR.²⁰⁸ Even if pregnant girls can attend school, high teenage pregnancy remains a concern: not only does it disrupt learning outcomes, but it can also lead to health complications, including high infant and maternal mortality, among other adverse effects.

The Education Act is silent on the issue of punishment of children in schools, although one of the recommendations of the TRC was the prohibition of corporal punishment at home and at school. Such punishment is widespread in Sierra Leone. According to UNICEF’s Multiple Indicator Cluster Survey program, 81.7 percent of children aged 2 to 14 experienced violent “discipline”

(physical punishment and/or psychological aggression) at home during the month prior to the survey. Sixty-five percent experienced physical punishment, 18.8 percent experienced severe physical punishment (being hit or slapped on the face, head or ears, or being repeatedly hit with an instrument) and 74.4 percent experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).²⁰⁹ Sierra Leone should address corporal punishment in schools directly with legislation that should be applicable to a range of institutions including schools, alternative care settings (foster care, institutions, juvenile homes etc.) and day care services for nurseries, preschools and also for older children — after school and child minding.²¹⁰ One recommendation is for these provisions to be incorporated within the amendment of the Child Rights Act, 2007, as discussed under the Child Rights Act section above.

RECOMMENDATIONS

- The Education Act offers no guidance as to what constitutes “unreasonable” fees for basic education, not to mention the other stages of the educational system. It is recommended that Parliament, in consultation with the ministries responsible for education and finance, establish benchmarks to guide schools in this area of the law. This will ensure that the minister responsible for education does not act in capricious and arbitrary ways that negatively affect private schools.
- Although the Education Act bars sex-based and other forms of discrimination, efforts should be made to address pregnancy rates among students. Other factors that militate against higher levels of girls’ attendance in schools should also be addressed including early drop-out due to family pressures (household chores, trading, early marriage, lack of financial support, etc.), violence and bullying. Parliament and the Ministry of Education should also consider providing guidance and career counselors as well as access to nurses in schools especially for female students.
- Parliament should consider ending restrictive state principles that hinder the education of pregnant, school-age girls whose return to school is often hamstrung by administrative policies and societal norms. It must be the aim of the law and government policy to facilitate, and not hinder, the return of women and girls to school. This includes ensuring access to comprehensive

sexuality education in schools and access to contraception, among other measures.

- More needs to be done by parents in particular to address the challenge of teenage pregnancy and early marriage, which drives up the drop-out rate for female students.
- Parliament should consider incorporating the decision of the ECOWAS Court of Justice into any future amendments to the Education Act.
- The right to education and vocational training is enshrined in Article 12 of the Maputo Protocol. Parliament should incorporate this article in future legislation.
- Education authorities should prohibit corporal punishment in all schools in Sierra Leone.
- Parliament, in a revised Education Act, should prohibit child labor (especially street trading by children) to maximize school attendance and learning.

National Youth Service Act, 2016

The National Youth Service Act establishes the National Youth Service as an independent entity with a governing board. The law defines “graduates” as “Sierra Leonean college or university graduates who obtain their degrees at the end of each academic year and are below the age of thirty-five years”. Section 12 lays out the object and functions of the National Youth Service. The object is to train graduates of colleges and universities to serve the nation. Among the functions are the development of a national consciousness and discipline in the National Youth Service corps members through the inculcation of a tradition of patriotism, loyalty, integrity, duty and service to the nation.

Furthermore, the law mandates the National Youth Service to provide corps members with skills training, personal development, youth volunteerism and the moral competence for leadership in the post-civil war era. Section 26 requires the enlistment of all graduates of colleges and universities in Sierra Leone in the National Youth Service for a period of one year. However, Sections 26 and 28 provide exemptions from the requirement of service. Members of the armed and police forces are exempt from service, as well as graduates with medical reasons and/or with disciplines that are deemed not germane to national development; the law does not define these disciplines. National Youth Service members can be deployed in the public and private sectors of the economy.

RECOMMENDATIONS

- Parliament should consider amending Section 28 to extend the exemption from service to pregnant women. Instead, provision for a 12-week maternity leave, in lieu of a special allowance, for pregnant service members is relegated to paragraph (9) of the National Youth Service Code of Conduct. The law must comply with Articles 2 (elimination of discrimination against women), 12 (right to education and training) and 14 (health and reproductive rights) of the Maputo Protocol, and CEDAW Articles 2 (condemnation of discrimination against women in all its forms), 10 (education), 11 (employment), 12 (healthcare) and 16 (marriage and family).
- The National Youth Service Act could consider postponing the service of new mothers. Paternity leave could also be considered.
- In terms of a gender gap in enlistment and selection processes, a report has suggested due diligence on the part of the National Youth Service to ensure equal distribution of those enlisted on the basis of gender and geographic location in Sierra Leone.²¹¹

Labor rights

Women face challenges in the economic sector, where their work is undervalued and undercounted. They are overwhelmingly represented in low productivity subsistence agriculture or retail trade concentrated in the informal sector. They experience constraints in the formal sector as well, where gender-biased recruitment, sexual harassment and gender-insensitive labor policies make it difficult for women to succeed.

Sierra Leone has yet to pass a comprehensive employment bill. In addition, the country has yet to ratify key ILO conventions that deal with women's rights in labor. These include those that cover maternity protection, and employment policy around equal pay and allowance, childcare and harassment protection. Currently, policies on this are ad hoc and sectoral-specific, enshrined in gazettes specific to that sector.²¹² However, while concluding observations for CEDAW in 2016 had identified the absence of an employment bill, the government's national report to the UPR the same year noted that it has recently ratified several ILO treaties. These include: Protocol 029 of 2014 to the Forced Labour Convention, 1930; Social Security (Minimum Standards) Convention,

1952; Labour Administration Convention, 1978; and Labour Statistics Convention, 1985,²¹³ with the process for domestication of these underway. In Sierra Leone, following ratification, laws must be domesticated and passed by Parliament before they can take effect. Nevertheless, the ratification of the Migration for Employment Convention (Revised), 1949 (No. 97), Social Security (Minimum Standards) Convention, 1952 (No. 102), and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), as well as of the Domestic Workers Convention, 2011, all provide a framework for much needed protection for domestic workers at home and abroad. On 21 April 2021, the government lifted the 2019 moratorium on overseas recruitment, which had been implemented partly considering concerns around illegal overseas recruitment and trafficking, particularly of women and girls, as well as reports of SGBV, physical abuse and abandonment of Sierra Leoneans, again, primarily women.²¹⁴

While several local actors have welcomed this move,²¹⁵ it was highlighted that these conventions still need to be domesticated. Local actors suggested that, with respect to Articles 5,6 and 16 of the Domestic Workers Convention, which cover protection against abuse and violence, the State could ensure decent working, and where applicable, living conditions, and workers could be made aware of the terms and conditions of their service.²¹⁶ Furthermore, they called for the government to ensure that policies and structures are in place to monitor compliance; including for the government to oversee recruitment agencies, implement bilateral relationships between Sierra Leone and destination countries, facilitate regular reviews and monitoring of their conditions, as well as set up complaint mechanisms for domestic workers, among other measures to protect Sierra Leoneans working abroad. However, while the government acknowledges that the unique concerns of migrant workers were not fully captured in the Nassit Act No. 5 (2001), it is currently reviewing the Act with plans to include aspects of the recently developed National Migration Policy.²¹⁷

RECOMMENDATIONS

- It is recommended that Sierra Leone ratifies key ILO conventions that can address the discrimination that women face in the economic sector. These include the Employment Policy Convention, 1964 (No. 122); Workers with Family Responsibilities Convention, 1981 (No. 156);

Maternity Protection Convention, 2000 (No. 183); and the Violence and Harassment Convention, 2019 (No. 190).

- Sierra Leone must pass a comprehensive employment bill that incorporates sections on key issues that cover women's labor rights including maternity protection, employment policy around equal pay and allowance, childcare and harassment protection.
- Sierra Leone must domesticate conventions that provide needed protection for domestic workers at home and abroad, addressing the specific vulnerabilities that these women face.
- The government must ensure policies and institutions are in place to monitor compliance and enforce sanctions for non-compliance, including setting up complaint mechanisms within embassies or other similar structures where workers abroad can be assured of receiving assistance.

Land rights

Access to financial services is another barrier for women; loans are often conditional on discriminatory clauses that include male co-signing, or access to collateral such as land, which unfairly excludes women who are often unable to own land due to customary laws that prohibit women's access to land. Property rights, including women's interests in land, are constrained by Section 27(4)(d-e) of the Constitution of Sierra Leone, 1991, which exempts "devolution of property on death or other interests of personal law" from the non-discrimination provisions of subsections (1-3). In the provinces, land is governed by customary laws that vary from one province to another and from one ethnic group to another, and even within ethnic groups. Land legislation, especially related to land in the rural/provincial areas, includes the Provinces Land Act, Cap 122 as amended by Act No. 20 of 1972, which governs the bulk of rural areas in Sierra Leone; the Unoccupied Lands (Ascertainment of Title) Act, Cap 117 of 1960, which sets a presumption (that can be rebutted) of state ownership over unoccupied land; and the Protectorate Land Ordinance of 1927, which states that land is vested in the tribal authorities who hold such land for and on behalf of the native communities concerned. There are other policies and institutional mechanisms that promote or could limit women's land rights. For example, the National Sustainable Agricultural Development Plan (2010-2030) calls for appropriate and sustained sectoral policies, strategies and programmes that ensure

that women's practical needs are met and their strategic needs are mainstreamed into agriculture.²¹⁸

Clearly, land is a source of income, wealth and empowerment for women, a fixed asset that also carries cultural, political and social standing in a society like Sierra Leone. Yet, women, whose population exceeds that of men (51.1 percent of Sierra Leone's population is female, while 48.9 percent is male), are burdened with unequal access to land. Although women make up 70 percent of the labor force in agriculture and in the livestock industry, they own only 1 percent of the land in their names while between 5 and 6 percent do so jointly with their spouses. Widows and women with debilitating medical issues such as HIV/AIDS are more vulnerable to the vagaries of land ownership, in addition to the challenges of accessing the justice system to vindicate whatever rights to land remain under customary laws.²¹⁹

Since 2015, the government has had a national land reform policy, but its implementation is in abeyance due to a lack of political will and overall national strategy. Regarding the land issue, the government had this to say: "On 23 March 2017, the Government launched its new National Land Policy to address land-based discrimination, especially against women. The National Land Policy 2017 guarantees equal rights for both women and men, and the elimination of all forms of discriminations against women regarding equitable access and control over land resources. The policy calls for the amendment of the Sierra Leone Constitution to include provisions that ensure that women have the right to full and equal protection by the law and have the right not to be discriminated against based on their gender or marital status."²²⁰ But when the government plans to enact legislation to codify its land policy remains an open question.

In the meantime, the Sierra Leone Land Alliance, for example, has called for the implementation of measures to ensure the equal rights of women to land, including affirmative action to address gender imbalances in land tenure, administration and management, and a 30 percent membership for women in land administration agencies in Sierra Leone.²²¹

RECOMMENDATIONS

- The government should enact legislation incorporating its 2017 land policy, which ensures equal land access rights for women.

- All harmful social and cultural practices that inhibit women’s equal rights to land ownership should be eliminated, consistent with Sierra Leone’s international obligations under the Maputo Protocol (Articles 2, 7 and 8 in particular) and CEDAW (Articles 2, 3, 4 and 14 in particular).
- Affirmative action programs and policies consistent with Article 4 of CEDAW should be implemented to accelerate the de facto equality between men and women in land rights.
- Section 27(4)(d-e) of the Constitution of Sierra Leone, 1991, should be repealed.
- Awareness of women’s rights to land should be promoted.

Sierra Leone Small and Medium Enterprises Development Agency Act, 2016

The Sierra Leone Small and Medium Enterprises Development Agency Act describes an enterprise as, among others, any form of trade or manufacture; craft by hand or foot; the cultivation of fruits, vegetables or flowers; and a cooperative. It describes a small enterprise one whose annual turnover is not more than Le100 million, while a medium enterprise has an annual turnover of between Le100 million and Le500 million.

Section 12 of the Act establishes an agency whose functions, inter alia, are to promote a business environment conducive to enterprises defined by the law, promote market access to small and medium enterprises and access to finance, and provide core support services such as entrepreneurship, business facilitation, counseling and mentoring.

One of the drawbacks, especially for female-run enterprises, which are often under-capitalized, is that small and medium businesses must register and obtain a certification of registration under this Act or under the Business Registration Act, 2007. These female-run businesses may not have the fees and capital required under the Act.

According to data published by Statistics Sierra Leone, more women are engaged in cash-earning employment, especially agriculture, market sales, street trading and elementary occupations, than their male counterparts (73 percent), who are in paid employment in the formal sector of the economy.²²² The percentage of women in agriculture, forestry and fishing is 31 percent compared to 27 percent for their male counterparts.²²³

RECOMMENDATIONS

- This report recommends a review of the law by Parliament to ensure that the fee and capital requirements for the registration of small and medium enterprises do not inhibit women’s entry into these enterprises.
- Parliament should also investigate and close another potential gap in the law that denies benefits from any assistance offered by the agency to small and medium enterprises for failure to register under the Sierra Leone Small and Medium Enterprises Development Agency Act or under the Business Registration Act, 2007. The denial of assistance could have a disparate impact on female-owned enterprises that are under-capitalized and lack access to other funding sources.
- Policymakers are duty-bound to make every effort, consistent with Sierra Leone’s obligations under international legal instruments to which it is a signatory, to eliminate the gender stereotype Statistics Sierra Leone lamented in its census reports.²²⁴

In addition to the laws mentioned above, other sectors that are working on mainstreaming issues of gender should be supported to advance women’s economic empowerment. For example, the Ministry of Defense has been undertaking valuable work on gender sensitization and mainstreaming. The Ministry of Defence and the Republic of Sierra Leone Armed Forces launched a gender training manual for the Republic of Sierra Leone Armed Forces and two brochures, namely, ‘Gender (Equal Opportunity) Policy’, and ‘Gender Equality in the Republic of Sierra Leone Armed Forces: Support for Gender Mainstreaming in the Armed Forces’. These publications can be used to promote awareness of gender equality in the armed forces. The Ministry of Defense could be strengthened to advance equal opportunities for women in the armed forces. This can be extended to all government roles, not just the armed forces.

RECOMMENDATIONS

- Parliament should consider funding and strengthening the Gender and Equal Opportunities Office or similar offices of all government institutions, including the Ministry of Defense, to help them carry out their work of gender sensitization and mainstreaming.



3

PART 3.
**SUMMATION OF
RECOMMENDED
REFORMS**

PART III:

SUMMATION OF RECOMMENDED REFORMS

This section provides a summarized reference of recommendations for all the laws analyzed in Section 2. It focuses on providing the recommendations for each targeted section identified from the laws and sets out a summary of the recommended constitutional, legislative and policy changes that will bring about gender equality in Sierra Leone.

Provisions and laws to be repealed

Constitutional provisions

Recommendations: Constitution, 1991, Chapter III: The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual

- Parliament should follow the constitutional process described in Section 108 to repeal Section 27(4)(d-e), which exempts adoption, marriage and divorce from protection against discrimination.
- To eliminate uncertainty in the application of customary law, Parliament should consider codifying it in line with CEDAW and the Convention on the Rights of the Child.
- The fundamental human rights provisions of the Constitution should be consistent with Sierra Leone's international human rights obligations and should be made justiciable.
- Section 27(d-e) should be repealed and replaced with a new section that prohibits gender discrimination.

Laws/statutes

Recommendations: Devolution of Estates Act, 2007

- Parliament should repeal Section 27(4)(d-e), which claws back “devolution of property on death or other interests of personal law” from the dictates of the Constitution. The new section should conform with the Maputo Protocol (Articles 7, 20 and 21) and CEDAW (Articles 2 and 5).
- The language that describes a spouse as a “dependant” should be reconsidered because it

deprives women and girls of agency in marital relationships.

- Section 9(2) of the Muslim Marriage Act should be repealed.

Recommendations: Offences Against the Person Act, 1861

- Parliament should consider repealing Sections 61 and 62 of the Act, which are aimed at LGBTQ persons.
- Sections 58 and 59 of the Offences Against the Person Act, 1861, which punish the person carrying the fetus and those who would supply poison to terminate the pregnancy, should be repealed.

Provisions and laws to be revised/ amended

Constitutional provisions

Recommendation: Constitution, 1991, Chapter XIII: Miscellaneous

- This legal assessment recommends that any future amendments to the Constitution must ensure the repositioning of the “supremacy clause” in Section 171 in a chapter other than “Miscellaneous”. It gives the impression to the legal practitioner and lay person alike that the Constitution is just another document that people often ignore or do not take seriously. This “otherness” in Sierra Leone's constitutional jurisprudence must end.

Recommendations: Constitution, 1991, Chapter II: Fundamental Principles of State Policy

- Under Section 14 an aggrieved individual cannot bring an action for damages against any government employees exercising legislative, executive and judicial powers for deprivation of the principles of state policy. Parliament should consider legislation to make these provisions justiciable. This gap in the Constitution is not conducive to the realization of women's and girls' rights and empowerment.

- In light of women’s low participation in political decision-making prior to and since the end of the civil war, Parliament should consider adopting affirmative action policies, drawing from the analysis of temporary special measures elaborated in CEDAW General Recommendation 25.
- Parliament should consider ending restrictive state policies that hinder the education of pregnant school-age girls whose return to school is often hamstrung by administrative policies and societal norms. It must be the aim of the law and government policy to facilitate, and not to hinder, the return of women and girls to complete their primary, secondary or tertiary education.
- This legal assessment concurs with the recommendation of the CRC report of 2016 that the fundamental state principles enshrined in Chapter II should be made justiciable.
- The government of Sierra Leone should ensure that its Constitution and laws reflect its obligations under international conventions, treaties and other instruments to which it is a signatory member.
- Furthermore, Parliament should consider simplifying the process of acquiring citizenship by naturalization or registration and reduce the wait time.
- As recommended by the 2016 CRC, Sections 75 and 76 of the Constitution should be repealed and replaced by provisions, in conformity with the letter and spirit of the Sierra Leone Citizenship (Amendment) Act, 2006, to enable persons with dual nationality and citizens by naturalization and registration to hold elective and appointive positions, except that of the President of Sierra Leone, which should be based on birthright citizenship.

Recommendations: Human Rights Commission of Sierra Leone Act, 2004

- Parliament should consider changes to the Human Rights Commission of Sierra Leone Act, 2004, to empower the Human Rights Commission to robustly enforce the right to life and equality before the law, including Sierra Leone’s obligations under international conventions, treaties and other agreements.
- Parliament should consider increasing the amount of compensation the Human Rights Commission can recommend for victims of human rights violations.

Recommendations: Chieftaincy Act, 2009

- Male and female candidates in Sierra Leone should be afforded equal rights, including the same qualifications, for election as paramount chief.
- Parliament should consider eliminating the phrase “where tradition so specifies” because there are no uniform rules governing “tradition”, which often favors male candidates. Therefore, the outcomes of paramount chief elections may have a disparate impact on female candidates.
- Parliament should amend the Chieftaincy Act to require that 30 percent of candidates for public elections are women as the TRC recommended in its 2004 report.

Recommendations: Child Rights Act, 2007

- Given the gravity of offenses against children, Parliament should consider expanding the jurisdiction (concurrent jurisdiction in cases of juvenile delinquency, for example) of the High Court to include cases under the Child Rights

Recommendations: Implementation of the CRC recommendations

- Both reports of the Tucker Constitutional Review Committee (2018) and Cowan Constitutional Review Committee (2016) recommended sweeping changes to the Constitution. The government has not implemented any of the recommendations. Therefore, the provisions that undergird discrimination against women and girls are still in force. However, the government in its most recent UPR has indicated that it is currently considering a white paper on the CRC recommendations, which suggests that positive changes are forthcoming.

Laws/statutes

Recommendations: Citizenship Act, 1973

- This report concurs with the 2016 CRC report that Parliament should consider repealing the Sierra Leone Citizenship Act, 1973, and replacing it with a new chapter in a revised constitution that defines citizenship and explicitly prohibits gender discrimination.
- This report also calls on Parliament to consider eliminating race as a criterion for citizenship in Sierra Leone.

Act, 2007. As a court of record, the High Court is better equipped to adjudicate cases of child labor and exploitation through abduction, sale and trafficking at home and abroad.

- For juvenile offenders, a diversion program that includes school and/or career counseling and drug intervention for non-violent offenders can be considered as an alternative to the adversarial family court system.
- Parliament should consider amending the Child Rights Act, 2007, to incorporate all the provisions of the Convention on the Rights of the Child and the ACRWC, especially those dealing with the responsibilities of the child (Article 31 of the ACRWC).
- Raising the minimum age of marriage to 18 years throughout the country, regardless of customary law, religious practices and other traditional considerations, obviates the need for forced child betrothal, marriage and child dowry transactions.
- Provisions should be made to compensate children who suffer human rights violations, including SGBV, for shelters for victims of child abuse, and for the rehabilitation of victims who suffer psychological, emotional and other harms caused by abuse and bullying at school.
- Parliament should consider amending the Child Rights Act to increase the minimum prison sentence for offenses under the law to five years, consistent with the Sexual Offences Act, 2012, as amended in 2019.
- Parliament should also consider imposing legal requirements for reporting violations under the Child Rights Act and fines and prison terms for failure to comply with the law.
- Parliament should also consider amending the Child Rights Act to eradicate the exemption of corporal punishment in schools and homes. It is also recommended that Parliament adopt the Ministry of Basic and Senior Secondary Education's "Anti-Corporal Punishment Initiative", which Cabinet approved on 15 September 2021. This initiative should form the basis of a new section in the Child Rights Act on corporal punishment. There is also a need to repeal Article 3 of the Prevention of Cruelty to Children Act, 1926, which sanctions corporal punishment by parents, teachers and other persons who have lawful control or charge of children.

Recommendations: Registration of Customary Marriage and Divorce Act, 2007

- The minimum age for consenting parties to enter into marriage is 18 years. Parliament should consider repealing or amending the provision that allows an underage party to obtain parental consent or the consent of a guardian, magistrate or local government chief administrator of the locality where the marriage is to take place for the marriage to become valid. This exploitable loophole should be closed.
- Any such repeal and replacement of provisions in the RCMDA should incorporate language in Article 23 of the ICCPR, which provides for the free and full consent of intending spouses. It also ensures equality of rights and shared responsibilities of spouses during marriage, dissolution of marriage, and the protection of children, if any.
- Parliament should close the gap or eliminate the exception to the age of marriage by adhering to the mutual consent provisions of Article 6 of the Maputo Protocol.
- Parliament should also consider amending the law to make it less susceptible to misinterpretation occasioned by customary law. The law should make it easier for women to register for customary marriages. Fees could be waived, and the process could be decentralized to make it easier for women, particularly those in remote villages, to access it.
- Domestic legislation that guarantees "that the rights of women in marriage and family, including in polygamous marital relationships are promoted" should be enacted to align with Article 6 (c) of the Maputo Protocol.

Recommendations: Devolution of Estates Act, 2007

- Section 9(2) of the Muslim Marriage Act should be repealed.
- Parliament should consider amending the provision whereby an intestate's surviving spouse and child each receive 35 percent of the estate while the surviving parent gets 15 percent.

Furthermore, the Devolution of Estates Act's provision for the distribution of property to more than one surviving spouse should be amended or repealed because it tacitly recognizes polygyny under customary law, contrary to Articles 1 and 2 of CEDAW. The provision should also be amended

as it sanctions widow inheritance because people's understanding of the law, if at all, is still colored by cultural norms and practices that are discriminatory toward women and girls.

Recommendations: Education Act, 2004

- The Education Act offers no guidance as to what constitutes “unreasonable” fees for basic education, not to mention the other stages of the educational system. It is recommended that Parliament, in consultation with the ministries responsible for education and finance, establish benchmarks to guide schools in this area of the law. This will ensure that the minister responsible for education does not act in capricious and arbitrary ways that negatively affect private schools.
- Although the Education Act bars sex-based and other forms of discrimination, efforts should be made to address pregnancy rates among students, school drop-out due to family pressures (household chores, trading, early marriage, lack of financial support, etc.), violence and bullying. Parliament and the Ministry of Education should also consider providing guidance and career counselors as well as access to nurses in schools, especially for female students.
- Parliament should consider incorporating the decision of the ECOWAS Court of Justice into any future amendments to the Education Act.
- Parliament should incorporate Article 12 of the Maputo Protocol on the right to education and vocational training in future legislation.
- Parliament, in a revised Education Act, should prohibit child labor (especially street trading by children) to maximize school attendance and learning.

Recommendations: Persons with Disability Act, 2011

- Gaps in the implementation of the law hinder the mandate for proprietors to provide a barrier-free environment for persons with disability to access buildings, roads and other social amenities. Therefore, Parliament should step up the use of the carrot-and-stick approach (tax incentives and fines) to incentivize proprietors to make buildings, roads and social amenities accessible to persons with disability.

- The National Commission for Persons with Disability needs to be supported and capacitated to carry out its mandate effectively.
- The contempt citation [Section 7(2)] for non-compliance with the National Commission for Persons with Disability's order, decision or directive “within a specified time” can thwart the Commission's work. Parliament should consider imposing more sanctions (over and above the Le5 million fine and two-year term of imprisonment) for non-compliance with the Commission's work and the law.
- Parliament should review Section 20(2) and other exceptions under the Persons with Disability Act with a view to strengthening the law and minimizing non-compliance with its provisions.
- The definition of a child in the Act should align with the definition under the Child Rights Act for the sake of consistency and uniformity in the domestic and international laws governing children.
- In future amendments to the Act, Parliament must consider Article 23 of the Maputo Protocol, which urges State Parties to ensure special protection of women with disabilities, including access to employment, and professional and vocational training.
- Sierra Leone should ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- To ensure that children with disabilities are not excluded from enrolling in schools, the government should ensure barrier-free access to school facilities.

Recommendations: National Youth Service Act, 2016

- Parliament should consider amending Section 28 to extend the exemption from service to pregnant women. Instead, provision for a 12-week maternity leave, in lieu of a special allowance, for pregnant service members is relegated to paragraph (9) of the National Youth Service Code of Conduct. The law must comply with Articles 2, 12 and 14 of the Maputo Protocol, and Articles 2, 10, 11, 12 and 16 of CEDAW.
- The National Youth Service Act could consider postponing the service of new mothers. Paternity leave could also be considered.

- In terms of a gender gap in enlistment and selection processes, a report has suggested due diligence on the part of the National Youth Service to ensure equal distribution of those enlisted on the basis of gender and geographic location in Sierra Leone.

Recommendations: Sierra Leone Small and Medium Enterprises Development Agency Act, 2016

- This report recommends that Parliament review the law to ensure that the fee and capital requirements for the registration of small and medium enterprises do not inhibit women's entry into these enterprises. Moreover, there needs to be greater recognition of their role and contribution to the sector.
- Parliament should also look into and close another potential gap in the law that denies benefits from any assistance offered by the agency to small and medium enterprises for failure to register under the Small and Medium Enterprises Development Agency Act or under the Registration of Business Act, 2007.
- Policymakers are duty-bound, consistent with Sierra Leone's obligations under international legal instruments to which it is a signatory, to eliminate the gender stereotype Statistics Sierra Leone lamented in its census reports.

Recommendation: Domestic Violence Act, 2007

- Parliament should consider amending the law to strengthen data collection and make costs affordable to victims of domestic violence.

Recommendations: Offences Against the Person Act, 1861

- This report calls on Parliament to consider repealing Sections 61 and 62 of the Act, which are aimed at LGBTQ persons.
- Parliament should enact legislation that prohibits discrimination on the basis of sexual orientation or gender identity.
- Sections 58 and 59 of the Offences Against the Person Act, 1861, which punish the person carrying the fetus and those who would supply poison to terminate the pregnancy, should be repealed.
- Parliament should ensure that Sierra Leone adheres to its obligations under international human rights conventions and protocols.

Recommendations: Sexual Offences Act, 2012, and the Sexual Offences (Amendment) Act, 2019

- In considering future amendments to the Sexual Offences Act, Parliament must consider and reconcile Section 5 and subsection (4) of Section 9 as it relates to the care worker defense to crimes involving persons with mental disabilities. Parliament should be mindful of the Sexual Offences Act's constitutionality for accused persons who raise other defenses such as physical, psychological, emotional, learning and other disabilities.
- The 2019 amendment to the Sexual Offences Act has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act, 2007. This may erode some of the gains that children have made, especially in the area of sentencing. Parliament should investigate this matter with a view to reconciling the differences in favor of the child.

Recommendations: Pharmacy and Drugs Act, 2001

- Parliament should consider repealing Sections 35(1)(b) and (c) of the Pharmacy and Drugs Act, 2001, which criminalize the advertisement, publication or cause of any drug that may be used to terminate a pregnancy.

Recommendation: Public Elections Act, 2012

- The fee structure in Section 46 of the Public Elections Act is of concern to women candidates who often complain about the exorbitant nomination fees that candidates have to pay to run for President and Parliament. Parliament should reconsider the fee structure under Section 46.

Proposals for new provisions and laws

Constitutional provisions

Recommendations: Constitution, 1991

- Parliament should consider legislation on affirmative action (laws, policies, guidelines and administrative practices) to eliminate unlawful discrimination, correct past discrimination against women and minority groups, and prevent discrimination going forward. This will also enable Sierra Leone to implement Article 9 of the Maputo Protocol on the right of women to participate in the political life of their countries.
- Parliament should also fully implement Articles 1 and 2(f) of CEDAW. Article 1 defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.
- Article (2)(f) calls on signatory states, including Sierra Leone, “To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.” This can be done by repealing Section 27 of the Constitution and replacing it with the new section that the CRC 2016 report has recommended.
- Parliament, in its composition, should adhere to Article 9 of the Maputo Protocol which, inter alia, states that “State Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action.”
- Similarly, Article 7 of CEDAW commits States to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country”. Affirmative action legislation, in compliance with Article 9 of the Maputo Protocol, should guarantee a minimum 30 percent of the appointive and elective positions in the public and private sectors to be reserved for women. Precedent for this recommendation can be found in Section 95(2c) of the Local Government Act, 2004, which mandates five members of an elected ward committee should be women.

- Parliament and political parties can also take action to ensure the removal of barriers to women’s participation in the country’s electoral process by providing an electoral legal framework that eliminates gender-based discrimination.
- In implementing the provisions of the Education Act, 2004, consistent with the relevant provisions of CEDAW and the Maputo Protocol, the government of Sierra Leone must adequately fund education including the provision of trained and experienced teachers in classrooms throughout the country.

Laws/statutes

Recommendations: Registration of Customary Marriage and Divorce Act, 2007

There should be a uniform marriage act that sets the minimum age of marriage at 18 years, as mandated in Section 34 of the Child Rights Act, 2007, and the criteria for divorce regardless of one’s religious or customary law affiliations. This ensures certainty in marital relations and protects the rights of women and girls throughout the country.

Recommendations: Anti-Human Trafficking Act, 2005

- Under the Anti-Human Trafficking Act, Parliament should do more to protect children against exploitation and trafficking by adoptive parents in Sierra Leone, consistent with the Adoption Act of 1989. The contrasting definitions of a juvenile in the Adoption Act (17 years) and a child in the Child Rights Act (18 years) should be reconciled in favor of the latter’s minimum age.
- Parliament should ratify the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Convention may complement the provisions of the Adoption Act, 1989, in cases where adopting parents evade the law.
- Traditional practices that are used to exploit women and children, such as *menpikin*, should be recognized as a form of trafficking under the Anti-Human Trafficking Act.
- Anti-trafficking efforts should also include the education authorities as defined under the Education Act, 2004 monitoring the trafficking of school-age children. Education authorities include the minister responsible for education, boards of education, local authorities, advisory boards and committees, boards of governors and management committees, and of course, teachers.

Recommendations: Domestic Violence Act, 2007

- Although the Domestic Violence Act provides for persons with knowledge of domestic violence to file a complaint if it is in the interest of the victim to do so, Parliament should consider strengthening the law to make sure reporting is obligatory or mandatory for persons with legal obligations for the welfare of victims on pain of prosecution.
- Parliament should consider removing the distinction between aggravated and non-aggravated domestic violence. If maintained, the distinction should only inform the degree of punishment and not lessen the degree of culpability for covered crimes.

Recommendations: Sexual Offences Act, 2012

- Although the Sexual Offences (Amendment) Act, 2019, may appear to be gender-neutral, its application could be compromised by long-standing cultural, traditional and customary law practices throughout the country. Parliament must ensure that these practices do not interfere with the investigation and prosecution of offenses.
- Under the law, the FSU has primary responsibility to investigate offenses related to SGBV. Therefore, Parliament should fully fund the FSU.
- Parliament, in enacting additional legislation amending existing legislation, should consider Sierra Leone's obligations under Articles 3, 8 and 14 of the Maputo Protocol.

Recommendations: Draft Criminal Procedures Bill, 2013

- Repeal or amend Section 7 of the Public Order Act and Section 13(1)(e) of the Criminal Procedure Act, 1965, and make loitering a non-arrestable offense.
- Provide clear sentencing guidelines for debt offenses as well as traffic offenses, to minimize discretion.
- Use alternative dispute resolution processes for debt-related offenses.
- Domesticate the African Charter and provide training on the Guidelines on the Conditions of Arrest, Police Custody and Pretrial Detention in Africa, 2017 (known as the Luanda Guidelines) and on the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003, to officers within the formal and customary courts.

Social policies and related actions

Recommendations: Domestic Violence Act, 2007

- As the “Guidelines on SGBV Case Management”, a reference handbook of the FSU, suggests, “All forms of domestic violence should be charged contrary to sec. 2(1) of the Domestic Violence Act 2007.” This report endorses FSU's suggestion.
- Parliament and the Sierra Leone Police should consider increasing the number of fully funded and staffed FSUs throughout the country to deal with the growing number of cases of domestic violence.
- Parliament should also consider strengthening the gender division of the Ministry of Gender and Children's Affairs, which partners with the FSU and Sierra Leone Police to combat domestic violence throughout Sierra Leone. This is in compliance with Articles 2, 3, 8 and 17 of the Maputo Protocol.
- Parliament should consider funding and strengthening the Gender and Equal Opportunities Office of the Ministry of Defense to carry out its work of gender sensitization and mainstreaming. Its publications can be used to promote awareness of gender equality in the armed forces.

Recommendations: Sexual Offences Act, 2012

- Parliament should consider segregating juvenile offenders from the adult prison population. In addition to prison terms for which judges should be given more discretion in sentencing, counseling and community service should be provided for those convicted of crimes under the law.

Recommendations: Legislation to be enacted on women's and girls' empowerment

Sierra Leone needs a comprehensive law that protects the rights of women. The government and Parliament have yet to implement the recommendations of two constitutional review committees/commissions. The following bills could, when passed into law, empower women and girls:

- Matrimonial causes bill, 2005: An updated bill should include increased levels of spousal and child support and fair custody orders. It should also include a no-cause petition for divorce. Establishing grounds for divorce can be difficult. Women who experience domestic violence at the

hands of their spouses can often face accusations of condonation after consensual sex with their husbands, making it difficult for them to abandon abusive relationships.

- Female genital mutilation bill: There is no law against FGM/C, in breach of Articles 4 (rights to life, integrity and security of persons) and 5 (elimination of harmful practices by legislative measures and sanctions) of the Maputo Protocol.
- Gender and equality bill, 2011: The bill seeks to address gender imbalances in elective and appointive decision-making positions in both the public and private sectors. To that end, it seeks a minimum 30 percent gender representation in those positions, including “equal pay for the same work or work of equal value”.
- Parliament has taken no action on the following bills: termination of pregnancy bill; the prevention and control of HIV and AIDS bill, and the national land policy bill. Regarding the land issue, the government had this to say: “On 23 March 2017, the Government launched its new National Land Policy to address land-based discrimination, especially against women. The National Land Policy 2017 guarantees equal rights for both women and men, and the elimination of all forms of discriminations against women regarding equitable access and control over land resources. The policy calls for the amendment of the Sierra Leone Constitution to include provisions that ensure that women have the right to full and equal protection by the law and have the right not to be discriminated against based on their gender or marital status.”²²⁵



4

PART 4.
ROADMAP FOR
THE EXECUTION OF
REFORMS

PART IV:

ROADMAP FOR THE EXECUTION OF REFORMS

This roadmap outlines the process envisioned to undertake the suggested reforms identified in the report and ensure that laws in the country promote de jure and de facto equality for women and girls. At the time of writing, discussions for the realization of these reforms between IDLO, UN Women and the Sierra Leone Office of the Attorney General and Ministry of Justice are ongoing.

Table of consolidated recommendations

The table is organized thematically and by chronological order as was initially outlined in Section 2.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
1.	Constitution of Sierra Leone, 1991	Chapter II: Section 14 Chapter III: Section 27(4)(d-e) Chapter XIII, Section 171: Miscellaneous	Section 14 ousts the judiciary in implementation of fundamental principles of state policy. Section 27(4)(d-e) fails to provide due process and equal protection of the law; non-compliance with international obligations.	Section 14: The fundamental principles of state policy should be made justiciable. Section 27 (4) (d-e), which exempts adoption, marriage and divorce from protection against discrimination, should be repealed in order to: <ul style="list-style-type: none"> Codify customary law in line with CEDAW (Articles 2 and 5), the Maputo Protocol (Articles 7, 20 and 21), and the Convention on the Rights of the Child. Replace it with a new section that guarantees due process and equal protection of the law. Section 171: Any future amendments to the Constitution must ensure the repositioning of the “supremacy clause” in a chapter other than “Miscellaneous”.
2.	Sierra Leone Citizenship Act, 1973	Sections 8(5), 10, 11, 75 and 76	There is no citizenship provision in the 1991 Constitution.	Sections 8(5), 10 and 11: Although the 2006 amendment lifted the ban on dual citizenship (Sections 10 and 11), the ban on holding public offices remains in the Constitution 1991. Repeal the Citizenship Act, 1973, and replace it with a new section on citizenship in the Constitution of 1991. Sections 75, 76: Repeal and/or amend these sections of the Constitution of 1991 to allow dual and naturalized citizens to run for and hold enumerated public offices.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
3.	Sierra Leone Citizenship (Amendment) Act, 1976	Section 8(5)	There is no allowance for naturalized citizens to hold certain public positions.	Section 8(5): Repeal this section to allow naturalized citizens to hold enumerated public offices.
4.	Sierra Leone Citizenship (Amendment) Act, 2006	Section 2	There is no provision for citizens' full participation in the political process. The definition of "mother" is not inclusive.	Further amend the law to: <ul style="list-style-type: none"> • Enable persons with dual nationality and citizens by naturalization and registration to hold elective and appointive positions, except that of the President of Sierra Leone, which should be based on birthright citizenship. Section 2: Definition of "mother" to mean "a natural but not an adoptive mother" should be amended to include adoptive mother in line with the Adoption Act, 1989.
5.	Chieftaincy Act, 2009	Section 8(b)	There is no uniform criteria for election of women as paramount chiefs.	Section 8(b): Parliament should eliminate the phrase "where tradition so specifies" as it harkens back to Section 27(4)(d-e), which exempts customary law from the Constitution's non-discrimination provisions.
6.	Human Rights Commission of Sierra Leone Act, 2004	Sections 7, 8, 9 and 10	The Human Rights Commission lacks sufficient quasi-judicial enforcement powers to ensure compliance with Sierra Leone's international obligations.	Sections 7, 8, 9 and 10: Amend the Act to empower and fund the Human Rights Commission to enforce the right to life and equality before the law, and Sierra Leone's international obligations.
7.	Political Parties Act, 2002	Sections 6, 13 and 14	The Political Parties Registration Commission lacks the power to take affirmative action on the inclusion of women candidates.	Sections 6, 13 and 14: Although these sections are not explicitly or implicitly discriminatory, the Political Parties Registration Commission should make every effort to encourage parties to include women candidates.
8.	Public Elections Act, 2012	Section 46	The existing fee structure is unreasonable.	Section 46: Parliament should reconsider the fee structure to preclude exorbitant nomination fees, which inhibit women candidates from contesting presidential and parliamentary elections.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
9.	Adoption Act, 1989	Sections 1 and 3(3)	The Act does not provide for foreign adoptions.	<p>Section 1: A juvenile is a person under the age of 17 years, whereas in the Child Rights Act, a child is a person below the age of 18 years. The laws should be harmonized in favor of the latter's minimum age for a child.</p> <p>Section 3(3): The law should be amended to provide for domestic and foreign adoptions by women with the right to pass their citizenship status to adopted children.</p>
10.	Child Rights Act, 2007	Sections 35, 46 and 76	Fines and prison terms are inconsistent with those of the Sexual Offences Act as amended; non-compliance with international obligations.	<p>Section 35: Parliament should consider increasing the maximum prison sentence for offenses under Part III from two to five years, consistent with the Sexual Offences Act, 2012, as amended in 2019.</p> <p>Section 46: The prison sentence for customary practices of early marriage and child betrothal should be increased from the maximum of one to five years, and the fine increased from Le500,000 to Le30 million, as in Section 35.</p> <p>Section 76: Due to the gravity of offenses against children, Parliament should consider expanding the jurisdiction of the High Court to include Child Rights Act, 2007, cases.</p> <p>Parliament should consider amending the CRC to incorporate all of the provisions of the Convention on the Rights of the Child and the ACRWC.</p> <p>Parliament should also consider amending the Child Rights Act to eradicate the exemption of corporal punishment in schools and homes.</p>
11.	Prevention of Cruelty to Children Act, 1926	Article 3	The law allows corporal punishment which is a form of violence against children, and violates Sierra Leone's international obligations.	Article 3: This Article should be repealed as it sanctions corporal punishment by parents, teachers and other persons who have lawful control or charge of children.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
12.	Registration of Customary Marriage and Divorce Act, 2007	Sections 2(1), (2) and (3)	Inconsistent provisions for the age of consent; non-compliance with international obligations.	<p>Section 2(1): The minimum age of marriage consenting parties to enter into marriage should be 18 years old regardless of one's religious or customary law affiliations.</p> <p>Sections 2(2-3): Repeal or amend the provision that allows for an underage party to obtain consent of a parent, guardian, magistrate or local government chief administrator of the locality where the marriage is to take place for the marriage to become valid.</p> <p>Amendments should incorporate Article 23 of the ICCPR and Article 6 of the Maputo Protocol.</p>
13.	Devolution of Estates Act, 2007	Sections 2, 6(2), 8 and 9(2)	Language attributes lack of agency for women; non-compliance with international obligations.	<p>Section 2: Amend this section to:</p> <ul style="list-style-type: none"> • Reconsider language that describes a spouse as a "dependant" because it deprives women of agency in marital relationships. • Remove exception to family, chieftaincy or community from consideration from distribution to give more real property to surviving spouses to inherit. <p>Sections 6(2), 8 and 9(2): Repeal or amend these sections to:</p> <ul style="list-style-type: none"> • Give more of the intestate's estate to surviving spouse and child than the current 35 percent. • Comply with CEDAW Articles 1 and 2.
14.	Muslim Marriage Act, 1905 (Cap 96)	Section 9(2)	The Act recognizes only male family members as eligible to take out letters of administration.	Section 9(2): This section should be repealed.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
15.	Persons With Disability Act, 2011	Sections 7(2) and 20(2)	Key phrases and time frames are ambiguous; definition of a child is inconsistent with the Child Rights Act; non-compliance with international obligations.	<p>Section 7(2): Increase sanctions to enforce contempt citation for non-compliance with an order, decision, or directive “within a specified time”.</p> <p>Section 20(2): Parliament should review the “reasonable expectation” requirement of employers to provide workplace accommodations for persons with disabilities to ensure compliance with the law.</p> <p>Parliament should adopt the Child Rights Act’s definition of a child as a person below the age of 18 years, not 16.</p> <p>Parliament must include the provisions of Article 23 of the Maputo Protocol in future amendments and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.</p>
16.	National Youth Service Act, 2016	Sections 26 and 28	Exemption from service for pregnant women; non-compliance with international obligations	<p>Sections 26 and 28: Parliament should amend the law to:</p> <ul style="list-style-type: none"> • Extend the exception from service to pregnant women. • Remove the provision for a 12-week maternity leave subject to a special allowance for pregnant service members under paragraph (9) of the National Youth Service Code of Conduct and include it under section 28. • Conform to Articles 2, 12 and 14 the Maputo Protocol, and Articles 2, 10, 11, 12 and 16 of CEDAW.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
17.	Sierra Leone Small and Medium Enterprises Development Agency Act, 2016	Sections 25, 26 and 28.	Parliament has yet to ratify the Optional Protocol to the International Convention on Economic, Social, and Cultural Rights, and the Optional Protocol to CEDAW.	<p>Sections 25 and 26: Parliament should:</p> <ul style="list-style-type: none"> Review the law to ensure that fee and capital requirements for the registration of small and medium enterprises do not inhibit women's entry into these enterprises. Ensure denial of assistance for failure to register under the Sierra Leone Small and Medium Enterprises Development Agency Act or under the Business Registration Act, 2007, does not disparately impact female-owned enterprises that are under-capitalized and lack access to other funding sources. <p>Section 28: Parliament should reconsider fines and prison terms for failure to comply with registration requirements as this may have a chilling effect on women-owned businesses.</p>
18.	Registration of Business Act, 2007	Sections 7-9 and 12-13	There are no waivers for extenuating circumstances.	<p>Sections 7-9: Parliament should reconsider fines and prison terms for failure to comply with registration requirements as this may have a chilling effect on women-owned businesses.</p> <p>Sections 12-13: Parliament should reconsider fines and prison terms for failure to register businesses, and capital and turnover requirements as it may disparately impact women-owned businesses.</p>
19.	Offences Against the Person Act, 1861	Sections 58, 59, 61 and 62	Outdated and in need of reform.	<p>Sections 58 and 59 of the Act, which punish the person carrying the fetus and those who would supply poison to terminate the pregnancy, should be repealed.</p> <p>Sections 61 and 62: Parliament should consider repealing these sections to ensure equal protection under the law for LGBTQ persons.</p>
20.	Pharmacy and Drugs Act, 2001	Sections 35(1)(b) and (c)	Outdated and in need of reform.	Parliament should consider repealing Sections 35(1)(b) and (c) of the Act, which criminalize the advertisement, publication or cause of any drug that may be used to terminate a pregnancy.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
21.	Anti-Human Trafficking Act, 2005	All sections	Customary law may impede its enforcement; non-compliance with international obligations.	Parliament should ratify the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption to protect adopted children, especially girls, from abduction, sale and traffic in countries outside Sierra Leone. The Act's reach should extend to customary laws and practices among various ethnic groups.
22.	Domestic Violence Act, 2007	Sections 1 and 20	Distinction between aggravated and non-aggravated domestic violence may lead to inconsistent application of the law.	Sections 1 and 20: Parliament should consider removing the distinction between aggravated and non-aggravated domestic violence. In non-aggravated domestic violence, with the consent of the victim, the court can refer the matter for settlement out of court.
23.	Sexual Offences Act, 2012	Sections 5 and 9(4)	Challenge to constitutionality of the Act for accused persons who raise other defenses such as physical, psychological, emotional, learning and other disabilities; non-compliance with international obligations.	Sections 5 and 9(4): Amendments must reconcile the care worker defense to crimes involving persons with mental disabilities. If not rectified, it may provide a loophole for a defendant accused of a crime to plead the defense. Future amendments should incorporate Articles 3, 4, 8 and 14 of the Maputo Protocol.
24.	Sexual Offences (Amendment) Act, 2019	Section 2	Waiver of the Child Rights Act's minimum age of criminal responsibility of 14 years for a child.	Section 2: Waives the Child Rights Act's minimum age of 14 years for a child's criminal responsibility for the crime of rape, which carries a minimum prison term of five years and a maximum term of 15 years. As the 2019 amendment has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act, Parliament should investigate this matter with a view to reconciling the differences in favor of the child.

S. No.	Title and date of law	Explicitly or implicitly discriminatory sections	Gaps in the law	Recommended action
25.	Draft criminal procedure bill, 2013			<p>Parliament needs to consider repealing or amending Section 7 of the Public Order Act and Section 13(1)(e) of the Criminal Procedure Act, 1965 to:</p> <ul style="list-style-type: none"> • Make loitering a non-arrestable offense due to its disparate impact on women and the poor. • Provide clear sentencing guidelines for minor debt and traffic offenses that disparately impact women and the poor. • Use alternative dispute resolution processes for debt-related offenses.
26.	Report of the Constitutional Review Commission (2008) and the Report of the Constitutional Review Committee (2017)			<p>Government and Parliament have not implemented any of the recommendations of the CRC reports of 2008 and 2017. Both reports recommended sweeping changes to the Constitution. The government, in its most recent UPR, has indicated that it is currently considering a white paper on the CRC recommendations, which suggests that positive changes are forthcoming.</p>
27.	<p>Pending legislation on women's and girls' empowerment:</p> <p>Matrimonial causes bill, 2005</p>			<p>The matrimonial causes bill is currently under review, while the outdated Matrimonial Causes Act, 1960, is in effect. An updated bill should include increased levels of spousal and child support and fair custody orders. It should also include a no-fault petition for divorce.</p>
28.	Female genital mutilation bill			<p>There is no law against FGM/C in breach of Articles 4 and 5 of the Maputo Protocol. Parliament must act on this bill to protect women's health.</p>
29.	Gender and equality bill, 2011			<p>This bill seeks to address gender imbalances in elective and appointive decision-making positions in both the public and private sectors. To that end, it seeks a minimum 30 percent gender representation in those positions, including "equal pay for the same work or work of equal value".</p>

CONCLUSION

The analysis of domestic laws covers 38 laws, seven bills that are in various stages of consideration by the Cabinet and other government departments and agencies, and several policy measures, which, if fully implemented, can complement the legislative reform agenda in Sierra Leone. The analysis also reveals that a total of 22 laws, including key sections and provisions of the Constitution of Sierra Leone, 1991, must be amended or revised; six must be repealed in whole or in part; and at least seven new laws must be enacted to bring Sierra Leone's

legislative framework in line with its international and regional obligations on gender and women's empowerment. The report also emphasizes the need to prioritize the implementation of national laws that fulfill gender and equality standards and, in this context, recommends at least two policy measures to complement the legislative reform agenda.

Please refer to Appendix 1 for the list of laws and policy measures reviewed and analyzed.

APPENDIX 1: LIST OF LAWS REVIEWED

Laws reviewed

Domestic laws analyzed

- | | |
|---|--|
| A. Abolition of the Death Penalty Act, 2021 | X. Political Parties Act, 2002 |
| B. Adoption Act, 1989 | Y. Prevention of Cruelty to Children Act, 1926, 1960, Cap 31 |
| C. Anti-Human Trafficking Act, 2005 | Z. Protectorate Land Ordinance, 1927 |
| D. Chieftaincy Act, 2009 | AA. Provinces Land Act, Cap 122 (as amended by Act No. 20, 1972) |
| E. Children and Young Persons Act, 1945, Cap 44 | BB. Public Elections Act, 2012 |
| F. Child Rights Act, 2007 | CC. Public Order Act, 1965 |
| G. Christian Marriage Act, 1960 | DD. Registration of Business Act, 2007 |
| H. Civil Marriage Act, 1960 | EE. Registration of Customary Marriage and Divorce Act, 2007 |
| I. Constitution of Sierra Leone, 1991 | FF. Sexual Offences Act, 2012 |
| J. Corporal Punishment Act, 1953, Cap 41 | GG. Sexual Offences (Amendment) Act, 2019 |
| K. Criminal Procedure Act, 1965 | HH. Sierra Leone Citizenship Act, 1973 |
| L. Devolution of Estates Act, 2007 | II. Sierra Leone Citizenship (Amendment) Act, 1976 |
| M. Domestic Violence Act, 2007 | JJ. Sierra Leone Citizenship (Amendment) Act, 2006 |
| N. Education Act, 2004 | KK. Sierra Leone Small and Medium Enterprises Development Agency Act, 2016 |
| O. Human Rights Commission Act, 2004 | LL. Unoccupied Lands (Ascertainment of Title) Act, 1960, Cap 117 |
| P. Local Courts Act, 2011 | |
| Q. Local Government Act, 2004 | |
| R. Matrimonial Causes Act, 1960 Cap 102 | |
| S. Muslim Marriage Act, 1960 | |
| T. National Youth Service Act, 2016 | |
| U. Offences Against the Person Act, 1861 | |
| V. Persons with Disability Act, 2011 | |
| W. Pharmacy and Drugs Act, 2001 | |

Laws to be enacted

1. Criminal procedure bill, 2021
2. Female genital mutilation bill
3. Gender empowerment bill, 2021
4. Gender and equality bill, 2011
5. Matrimonial causes bill, 2000
6. Maternal health and safe motherhood bill
7. National Land Policy, 2017 (should be translated into a bill)

Policy measures

1. Gender Equality and Women's Empowerment Policy, 2020
2. National Land Policy, 2017

APPENDIX 2: BRIEFING

REPORT FOR THE

EXECUTIVE

On the surface, Sierra Leone has a robust policy framework for gender equality through global, regional and national commitments. The country is a signatory to nine core international human rights instruments, while regionally, its commitments include the Maputo Protocol and the African Charter on the Rights and Welfare of the Child (ACRWC). Domestically, Sierra Leone has passed the following, among others:

- Gender Acts (2007): the Domestic Violence Act, the Registration of Customary Marriage and Divorce Act (RCMDA), and the Devolution of Estates Act
- Two policies geared toward mainstreaming gender in policies, laws and programs, namely, the Gender Mainstreaming Policy and the National Policy on the Advancement of Women (2000), as well as a National Gender Strategic Plan (2010-2013).

Recently, in 2019, the country strengthened the Sexual Offences (Amendment) Act with stronger measures against those who abuse women and girls. Sierra Leone has also passed the Gender Equality and Women's Empowerment (GEWE) policy, 2020, and a new bill has been developed, the gender empowerment bill (2021), which provides for quotas for women's political participation and appointment positions.

Despite these advancements, shortcomings remain. To this end, this report makes the following recommendations to the legislature for their attention.

Provisions and laws to be repealed

A. The Constitution of Sierra Leone, 1991

Section 27(4)(d-e) of the Constitution claws back the anti-discrimination provisions of the Constitution, providing exemptions "with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law".

It fails to provide due process and equal protection of the law and does not comply with Sierra Leone's international obligations.

Recommendation

- Parliament should repeal Section 27(4)(d-e) and replace it with a new section that prohibits gender discrimination and guarantees due process and equal protection of the law.
- Customary law should be codified in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW; Articles 2 and 5), the Maputo Protocol (Articles 7, 20 and 21) and the Convention on the Rights of the Child.

Aspects of the Constitution discriminate against persons with dual nationality: Sections 75 and 76 proscribe persons with dual nationality and citizens by registration and naturalization from holding elective and appointive positions.

Recommendation

- Repeal/amend Sections 75 and 76 as recommended by the 2016 Constitutional Review Committee (CRC) report, to enable persons with dual nationality and citizens by naturalization and registration to hold elective and appointive positions, except that of the President of Sierra Leone, which should be based on birthright citizenship.

B. Statutes

Sierra Leone Citizenship Act, 1973, Sierra Leone Citizenship (Amendment) Act, 2006

The Sierra Leone Citizenship (Amendment) Act, 2006, retains discriminatory components: A Sierra Leonean woman cannot give her citizenship to her foreign spouse, unlike a Sierra Leonean man (Sierra Leone Citizenship Act, 1973); and the 2006 citizenship amendment law defines the word “mother” to mean “a natural but not an adoptive mother” (Section 2), thereby clawing back some of the progress women had made in previous years.

Recommendations

- Repeal the Sierra Leone Citizenship Act, 1973, as amended and replace it with a new section on citizenship in the 1991 Constitution that is non-discriminatory on the grounds of race, color or gender as per the 2016 CRC report recommendations.
- Further amend the Sierra Leone Citizenship Act, 2006, to enable persons with dual nationality and citizens by naturalization and registration to hold elective and appointive positions (except that of the President of Sierra Leone).
- Amend Section 2 of the Sierra Leone Citizenship Act, 2006: the current definition of “mother” to mean “a natural but not an adoptive mother” should be amended to include adoptive mother in line with the Adoption Act, 1989, so that adoptive mothers can confer citizenship to their children.

Chieftaincy Act, 2009

Section 8 of the Chieftaincy Act, 2009, is discriminatory on grounds of gender/sex and parental marital status. In delineating the qualifications for election of a paramount chief in Sierra Leone, on the one hand, it recognizes the right of a male aspirant born in wedlock to a rightful claimant of a recognized ruling house in a chiefdom to run for paramount chief.

On the other hand, “where tradition so specifies, he or she has direct paternal or maternal lineage to a rightful claimant in a recognized ruling house, whether born outside wedlock or not”. There is a double standard between a male claimant who is born in wedlock versus a tradition-bound male or female claimant who may or may not have been born out of wedlock.

Additionally, regardless of whether a female candidate was born in or out of wedlock, tradition in the northern provincial chiefdoms and some in the eastern provincial chiefdoms prevents female candidates from qualifying for election as paramount chief.

Recommendations

- Section 8(b): Parliament should eliminate “where tradition so specifies” (as there are no uniform rules governing “tradition”, which often favors male candidates), and establish uniform criteria for the election of women paramount chiefs.

Registration of Customary Marriage and Divorce Act, 2007

Sections 2(1), (2) and (3) contain inconsistent provisions for the age of consent and are not compliant with Sierra Leone’s international obligations. Section 2(1) establishes the minimum age for consenting parties to enter into marriage as 18 years. However, Sections 2(2-3) allow for marriage before 18 with the consent of a recognized authority, including a parent.

Recommendations

- Sections 2(2-3) should be repealed or amended to remove the provision for an underage party to obtain the consent of parent, guardian, magistrate or local government chief administrator.

Offences Against the Person Act, 1861

Abortion remains illegal under Sections 58 and 59, which punish the person who is carrying the fetus as well as whoever supplies or procures poison with a view to terminating the pregnancy, which run counter to Article 14(2)(c) of the Maputo Protocol.

Sections 61 and 62 of the Act affect LGBTQ persons as they criminalize homosexuality.

Recommendations

- Sections 58 and 59, which make abortion illegal, should be repealed.
- Sections 61 and 62 should be repealed to ensure equal protection of the law for LGBTQ persons.

Pharmacy and Drugs Act, 2001

Sections 35(1)(b) and (c) of the Pharmacy and Drugs Act, 2001, criminalize the advertisement, publication or cause of any drug that may be used to terminate a pregnancy.

Recommendations

- Parliament should consider repealing Sections 35(1)(b) and (c) of the Pharmacy and Drugs Act, 2001.

Laws and provisions to be revised/ amended

A. The Constitution of Sierra Leone, 1991

Chapter II: Section 14 ousts the judiciary in the implementation of the fundamental principles of state policy.

Recommendations

- The fundamental principles of state policy should be made justiciable.

Section 171(15) states the supremacy of the Constitution: “This Constitution shall be the supreme law of Sierra Leone and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect,” but this critical section appears in Chapter XIII, styled “Miscellaneous”.

Recommendations

- Future amendments to the Constitution must ensure the repositioning of the “supremacy clause” in Section 171 in a chapter other than “Miscellaneous”. It gives the impression to the legal practitioner and lay person alike that the Constitution is just another document that people often ignore or do not take seriously.

The Constitution of Sierra Leone, 1991, does not make mention of quotas for political parties.

Recommendations

- In accordance with the recommendation of the 2016 CRC report, amend Section 35(2) of the Constitution as follows: “(e) The internal organization of a political party shall conform to

democratic principles, and its aims, objectives and purposes and programs shall not contravene or be inconsistent with any provisions of this Constitution. At least 30 percent of the party’s nominees for national and local government shall be women.”

B. Statutes

Chieftaincy Act, 2009

Section 8 of the Chieftaincy Act, 2009, delineates the qualifications for election of a paramount chief in Sierra Leone. On the one hand, it recognizes the right of a male aspirant born in wedlock to a rightful claimant of a recognized ruling house in a chiefdom to run for paramount chief. On the other hand, “where tradition so specifies, he or she has direct paternal or maternal lineage to a rightful claimant in a recognized ruling house, whether born outside wedlock or not”. Regardless of whether a female candidate was born in or out of wedlock, tradition in the northern provincial chiefdoms and some in the eastern provincial chiefdoms prevent female candidates from qualifying for election as paramount chief.

Recommendations

- Parliament should amend the Chieftaincy Act to require that 30 percent of candidates for public elections are women as the Truth and Reconciliation Commission (TRC) recommended in its 2004 report.

Human Rights Commission of Sierra Leone Act, 2004

The Commission needs to be strengthened in order to protect the human rights of Sierra Leoneans more effectively.

Recommendations

- Sections 7, 8, 9 and 10 should be amended to empower and fund the Human Rights Commission to enforce the right to life and equality before the law, and Sierra Leone’s international obligations.

Public Elections Act, 2012

Under Section 46, the fee structures for candidates who wish to contest presidential and parliamentary elections can mitigate against women's participation in the political life of the country.

Recommendations

- Parliament should reconsider the fee structure to preclude exorbitant nomination fees that inhibit women candidates from contesting presidential and parliamentary elections.

Education Act, 2004

The Education Act offers no guidance as to what constitutes "unreasonable" fees for basic education. Within the Act, there is non-compliance with Sierra Leone's international obligations.

Recommendations

- Amend the law to offer guidance on what constitutes "unreasonable" fees for basic education.
- Incorporate Articles 2 and 12 of the Maputo Protocol.
- Incorporate Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Adoption Act, 1989

Section 1, Article 3(3) does not provide for foreign adoptions. The definition of juvenile conflicts with the definition given in the Child Rights Act.

Recommendations

- Section 3(3): The law should be amended to provide for domestic and foreign adoptions by women with the right to pass their citizenship status to adopted children.
- Section 1: A juvenile is a person under the age of 17 years, whereas in the Child Rights Act, a child is a person below the age of 18 years. The laws should be harmonized in favor of the latter's minimum age for a child.

Anti-Human Trafficking Act, 2005

Customary law could impede the enforcement of this Act. There is non-compliance with Sierra Leone's international obligations.

Recommendations

- The Act defines a juvenile as a person under the age of 17 years, whereas the Child Rights Act of 2007 defines a child as a person under the age of 18 years. These contrasting definitions should be reconciled in favor of a minimum age of 18 years.
- Parliament should ratify the 1993 Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption to protect adopted children, especially girls, from abduction, sale and traffic in countries outside Sierra Leone.
- The Act's reach should extend to customary laws and practices among various ethnic groups.

Child Rights Act, 2007

Under Sections 35, 46 and 76, fines and prison terms are inconsistent with those of the Sexual Offences Act as amended. There is non-compliance with Sierra Leone's international obligations.

Recommendations

- Section 35: Parliament should consider increasing the maximum prison sentence for offenses under Part III from two to five years, consistent with the Sexual Offences Act, 2012, as amended in 2019.
- Section 46: The prison sentence for the customary practices of early marriage and child betrothal should be increased from the maximum of one to five years, and the fine increased from Le500,000 to Le30 million, as in Section 35.
- Section 76: Due to the gravity of offenses against children, Parliament should consider expanding the jurisdiction of the High Court to include Child Rights Act cases.
- Parliament should consider amending the Child Rights Act to incorporate all of the provisions of the Convention on the Rights of the Child and the ACRWC.
- Parliament should also consider amending the Child Rights Act to eradicate the exemption of corporal punishment in schools and homes.

Devolution of Estates Act, 2007

The language of the Act attributes to the lack of agency for women. There is non-compliance with Sierra Leone's international obligations.

Recommendations

- Remove language that describes a spouse as a “dependent” because it deprives women of agency in marital relationships.
- Remove the exception to family, chieftaincy or community from consideration from distribution to give more real property to surviving spouses to inherit.
- Sections 6(2), 8 and 9(2) should be repealed or amended to give more of the intestate's estate to surviving spouse and children than the current 35 percent.

Muslim Marriage Act, 1960 (CAP 96)

Section 9(2) of the Act only recognizes male family members as eligible to take out letters of administration.

Recommendations

- Section 9(2) of the Muslim Marriage Act should be repealed.

Domestic Violence Act, 2007

In Sections 1 and 20, the distinction between aggravated and non-aggravated domestic violence may lead to inconsistent application of the law.

Recommendations

- Parliament should consider removing the distinction between aggravated and non-aggravated domestic violence. In non-aggravated domestic violence, with the consent of the victim, the court can refer the matter for settlement out of court.

Sexual Offences Act, 2012

Sections 5 and 9(4) pose a challenge to the constitutionality of the Act for accused persons who raise other defenses such as physical, psychological, emotional, learning and other disabilities. There is non-compliance with Sierra Leone's international obligations.

Recommendations

- Sections 5 and 9(4) should be amended so as to reconcile the care worker defense to crimes involving persons with mental disabilities. If not rectified, it may provide a loophole for a defendant accused of a crime to plead the defense.
- Future amendments should incorporate Articles 3, 4, 8 and 14 of the Maputo Protocol.

Sexual Offences (Amendment) Act, 2019

The Act has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act. This may erode some of the gains that children have made, especially in the area of sentencing. Section 2 waives the Child Rights Act's minimum age of criminal responsibility of 14 years for the crime of rape, which carries a minimum prison term of five years and a maximum term of 15 years.

The law has resulted in harsher punishments or penalties for child sex offenders, in violation of international human rights law principles of “the best interest of the child”. Justice is also more punitive than rehabilitative; there are few guidelines on how approved schools and remand homes should be run, and juvenile and remand homes are few and far between.

Recommendations

- As the 2019 amendment to the Sexual Offences Act has created tension over the meaning and protections afforded to a child under the Children and Young Persons Act and the Child Rights Act, Parliament should investigate this matter with a view to reconciling the differences in favor of the child.
- Parliament, in enacting additional legislation or amending existing legislation, should consider Sierra Leone's obligations under international conventions and protocols. In particular, Parliament, in drafting legislation, should adhere to Articles 3 (right to dignity), 4 (right to life, integrity and security of the person), 8 (access to justice and equal protection before the law) and 14 (health and reproductive rights) of the Maputo Protocol.

Persons With Disability Act, 2011

Under Section 7(2), the definition of a child is at variance with that of the Child Rights Act. Key phrases and time frames are ambiguous and there is non-compliance with Sierra Leone's international obligations.

Recommendations

- Section 7(2): Increase sanctions to enforce contempt citation for non-compliance with an order, decision or directive "within a specified time".
- Section 20(2): Parliament to review the "reasonable expectation" requirement of employers to provide workplace accommodations for persons with disabilities to ensure compliance with the law.
- Parliament should adopt the Child Rights Act's definition of a child as a person below the age of 18 years, not 16.
- Parliament must include the provisions of Article 23 of the Maputo Protocol in future amendments and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Draft Criminal Procedures Bill, 2013

Sierra Leone has overcrowded prisons, and women's prisons are no exception. AdvocAid and the Centre for Accountability and Rule of Law identified the criminalization of petty offenses as one of the major factors contributing to overcrowded prisons, along with stringent bail conditions, as well as difficulties in accessing justice, with frequent adjournments contributing to court backlogs.

Several laws are responsible for the overcrowding of prisons: loitering [Public Order Act, 1965, Section 7; Criminal Procedure Act, 1965, Section 13(1)(e)]; non-payment of debt [Larceny Act, 1916, Section 20(1)(iv)(b), Section 32]; and minor traffic offences (subsections of the Road Traffic Act, 2007).

Recommendations

- Parliament should pass the recently drafted draft criminal procedures bill, 2021.
- Review the powers of arrest and detention, addressing provisions in the Criminal Procedure Act, 1965, that have contributed to lengthy pre-trial detention and delays in accessing justice, including through frequent adjournments of cases.

- Make provision for alternative sentencing.
- Repeal or amend Section 7 of the Public Order Act and Section 13(1)(e) of the Criminal Procedure Act, 1965.
- Domesticate the African Charter and provide training on the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, 2017 (known as the Luanda Guidelines) and on the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003, to officers within the formal and customary courts.
- Make loitering a non-arrestable offense.
- Provide clear sentencing guidelines for debt offenses as well as traffic offenses, to minimize discretion.
- Use alternative dispute resolution processes for debt-related offenses.

National Youth Service Act, 2016

The National Youth Service Act may appear to be gender neutral, but a gap seems to exist in Sections 26 and 28 regarding exemptions from the requirements of service. Members of the armed and police forces are exempt from service, as well as graduates with medical reasons and/or with disciplines that are deemed not germane to national development.

Recommendations

- To close the gap, Parliament should consider amending Section 28 to extend the exemption from service to pregnant women. Instead, provision for a 12-week maternity leave for pregnant service members is relegated to paragraph (9) of the National Youth Service Code of Conduct. Rather than relegating pregnancy to a code of conduct issue, it should be part of the main exemptions for service.
- The National Youth Service Act could consider postponing the service of new mothers. Paternity leave could also be considered.
- In terms of a gender gap in enlistment and selection processes, a report has suggested due diligence on the part of the National Youth Service to ensure equal distribution of those enlisted on the basis of gender and geographic location in Sierra Leone.

Laws to be enacted

Gender Empowerment Bill, 2021

This bill has provisions for gender quotas at leadership and appointment levels as well as provisions to ease women's access to finance.

Recommendations

- Parliament should urgently pass the gender empowerment bill and ensure that it has adequate funding for implementation.
- The bill should have clear monitoring and evaluation guidelines to monitor progress of implementation.
- The bill should incorporate quotas in Parliament and all sectors of life where women are under-represented, including social, economic and political sectors.

Maternal Health and Safe Motherhood Bill

Notwithstanding its free healthcare policy, Sierra Leone continues to suffer from high maternal and child mortality. Reasons include high rates of teenage pregnancy and early child marriage. There is also limited access to information on sexual and reproductive health rights and contraceptives. Sexual and reproductive rights also do not conform to Sierra Leone's legal obligations: Article 14(2)(c) of the Maputo Protocol calls on States to allow medical abortion under certain prescribed conditions

Recommendations

- Priority should be placed on passing the safe motherhood bill.

Female Genital Mutilation Bill

There is no law criminalizing FGM/C. This is in breach of Articles 4 and 5 of the Maputo Protocol.

Recommendations

- A law on FGM/C should be developed or incorporated into existing laws such as the Child Rights Act.

Matrimonial Causes Bill, 2005

The current law, Matrimonial Causes Ordinance, 1960, is outdated. As a result, establishing grounds for divorce can be difficult, and women who experience domestic violence at the hands of their spouses can often face accusations of condonation after consensual sex with their husbands, making it difficult for them to leave abusive relationships. Also, the time period before one can initiate a divorce is lengthy (three years); or a judge can decide. The interest of the child also supersedes that of the mother in the judge's consideration to grant the divorce.

Recommendations

- The matrimonial causes bill needs to be passed. An updated bill should include increased levels of spousal and child support and fair custody orders. It should also include a no-cause petition for divorce.

Anti-Human Trafficking Act, 2005

Recommendations

- The draft legislation updating the Act should be reviewed and passed, or it could be repealed and replaced.

Labor/Employment Bill

Most policies governing labor can be found in various gazettes, rather than in a comprehensive labor law.

Recommendations

- Sierra Leone should ratify key ILO conventions that can address the discrimination that women face in the economic sector. These include the Employment Policy Convention, 1964 (No. 122); Workers with Family Responsibilities Convention, 1981 (No. 156); Maternity Protection Convention, 2000 (No 183); and the Violence and Harassment Convention, 2019 (No. 190).
- Sierra Leone must pass a comprehensive employment bill that incorporates sections on key issues that cover women's labor rights including maternity protection, employment policy around equal pay and allowance, childcare and harassment protection.

National Land Policy, 2017

Women have unequal access to land, which has many implications. Loans are often conditional on discriminatory clauses that include male co-signing, or access to collateral such as land, which unfairly exclude women who are often unable to own land due to customary laws that prohibit women's access to land. Property rights, including women's interests in land, are constrained by Section 27(4)(d-e) of the Constitution of Sierra Leone, 1991, which exempts "devolution of property on death or other interests of personal law" from the non-discrimination provisions of Subsections (1-3). In the provinces, land is governed by customary laws that vary from one province to another and from one ethnic group to another and even within ethnic groups. The National Land Policy, 2017, guarantees equal rights for both women and men, and the elimination of all forms of discrimination against women regarding equitable access and control over land resources. The policy calls for the amendment of the Constitution of 1991 to include provisions that ensure women have the right to full and equal protection by the law and have the right not to be discriminated against based on their gender or marital status. However, it is uncertain when the government plans to enact legislation to codify the policy.

Recommendations

- Government should enact legislation incorporating its 2017 land policy, which ensures equal land access rights for women.

Policy measures

The National Land Policy, 2017

The land policy guarantees equal rights for both women and men, and the elimination of all forms of discrimination against women regarding equitable access and control over land resources. The policy calls for the amendment of the Constitution of 1991 to include provisions that ensure women have the right to full and equal protection by the law and have the right not to be discriminated against based on their gender or marital status. However, it is uncertain when the government plans to enact legislation to codify the policy.

Recommendations

- Legislation incorporating the 2017 land policy, which ensures equal land access rights for women, should be enacted.

- Repeal Section 27(4)(d-e) of the Constitution of Sierra Leone, 1991.

Promoting women's political participation

Recommendations

- This report concurs with the recommendations by O'Reilly et al. that the National Electoral Commission (NEC) should introduce gender focal points at the regional and headquarter department level to deepen consideration of gender issues.
- NEC must follow through on its commitment to collect and disseminate sex-disaggregated data at all levels, as stated in its gender policy.
- PPRC and civil society should encourage political parties to adopt gender policies that are incorporated in their respective constitutions, and PPRC should monitor compliance of these policies with ramifications/sanctions for non-compliance.
- PPRC's ability to monitor and regulate party compliance with gender inclusive components of the various codes of conduct should be strengthened.

Women's access to land

Recommendations

- The government should commit to working toward eliminating all harmful social and cultural practices that inhibit women's equal rights to land ownership, consistent with Sierra Leone's international obligations under the Maputo Protocol (Articles 2, 7, and 8 in particular) and CEDAW (Articles 2, 3, 4 and 14 in particular).
- Implement affirmative action programs and policies, consistent with Article 4 of CEDAW, to accelerate the de facto equality between men and women in land rights.
- Promote awareness of women's rights to land.

Implementing the Sexual Offences (Amendment) Act, 2019

Recommendations

- Under the law, the Family Support Unit (FSU) of the Sierra Leone Police, working with partners, has the “mandate to deal with sexual offences and child abuse, in addition to domestic violence”. Therefore, it is incumbent upon Parliament to fully fund the FSU (personnel, equipment, training, etc.) to carry out its mandate under the various laws. Also deserving of funding is the one-stop centers initiative. These centers in government hospitals provide medical, psychological and legal support to survivors of sexual and gender-based violence.
- There is a need for more resources to ensure that juveniles are held separate from adults at all levels – from the FSU/police station to sentencing, juvenile offenders should not be with the adult prison population.
- More remand homes and schools need to be built and made available throughout the country. Guidelines should be developed for their management and operations.

Education

Recommendations

- Address pregnancy among students at the policy level.
- Government should have and implement a policy of providing comprehensive sexual and reproductive health education in schools.
- Ensure ready access to family planning services, contraceptives and education to help minimize the need to resort to unsafe practices.

Implementing the Anti Human Trafficking Act, 2005

Recommendations

- The practice of fosterage, whereby families and friends take in young girls in particular to attend school, especially in cities and towns far removed from their parental homes, should be monitored by the FSU of the Sierra Leone Police as well as school counselors so as to prevent abduction, sale and traffic.
- Anti-trafficking efforts should also include the education authorities as defined under the Education Act, 2004 monitoring the trafficking of school-age children. Education authorities

include the minister responsible for education, boards of education, local authorities, advisory boards and committees, boards of governors and management committees, and of course, teachers

Women’s economic empowerment

Under the Registration of Business Act, 2007, Sections 7-9 and 12-13, there is no provision of waivers for extenuating circumstances. Fines and prison terms for failure to register businesses, and capital and turnover requirements may disparately affect women.

Recommendations

- Parliament should reconsider fines and prison terms for failure to comply with registration requirements as this may have a chilling effect on women-owned businesses.
- Ensure that denial of assistance does not disparately impact female-owned enterprises that are under-capitalized and lack access to other funding sources.
- Ratify the Optional Protocol to the ICESCR.
- Parliament needs to review the law to ensure that registration, fee and capital requirements do not inhibit women’s entry into enterprises.

Global commitments

Sierra Leone should sign and ratify:

- The Optional Protocol to the ICESCR.
- The Optional Protocol to CEDAW, which removes limits from women’s ability to advocate for their rights at the level of the United Nations treaty bodies, in situations where their rights have not been vindicated by the authorities in Sierra Leone.
- The 1993 Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, to protect adopted children especially girls from abduction, sale and traffic in countries outside Sierra Leone.
- The Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- Key ILO conventions that can address the discrimination that women face in the economic sector. These include the Employment Policy Convention, 1964 (No. 122); Workers with Family Responsibilities Convention, 1981 (No. 156); the Maternity Protection Convention, 2000 (No. 183); and the Violence and Harassment Convention, 2019 (No. 190).

ENDNOTES

1. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission (Accra, GPL Press, 2004).
2. International Development Law Organization, Vacancy Announcement, Gender and Law Consultant, 2020.
3. As elaborated in UN Women, "Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action", 2019.
4. These are: Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; International Covenant on Civil and Political Rights (ICCPR); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CRPD).
5. European Centre for Law and Justice (ECLJ), Status of Human Rights in Sierra Leone for the 38th Session of The Universal Periodic Review (Strasbourg, 2020); Office of the High Commissioner for Human Rights, United Nations Human Rights Treaty Bodies; UN Treaty Body Database (2021), available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx
6. Progressive laws include the three so-called Gender Acts (2007): the Domestic Violence Act, the Registration of Customary Marriage and Divorce Act, and the Devolution of Estates Act; two policies geared toward mainstreaming gender in policies, laws and programs: the Gender Mainstreaming Policy and National Policy on the Advancement of Women, (2000); a National Gender Strategic Plan (2010-2013) that ostensibly provided a road map to implement goals of changing the norms and structural conditions contributing to women's marginalization; and a recently (2019) strengthened Sexual Offences Amendment Act, with stronger measures against those who abuse women and girls.
7. Government of Sierra Leone, the Gender Equality and Women's Empowerment Policy (GEWE), 2020.
8. Ade Renner-Thomas, Land Tenure in Sierra Leone: The Law, Dualism and the Making of a Land Policy (Central Milton Keynes, Author House, 2010).
9. Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (Lomé, Togo, July 1999).
10. Lomé Peace Agreement, Article X, Preamble.
11. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2, Chapter 3 (Accra, GPL Press, 2004), p. 122, para. 38.
12. Sierra Leone, Report of the Commission to Review the Constitution of Sierra Leone, 1991 (January 2008); Sierra Leone, Report of the Constitutional Review Committee, 2016. Hereafter, Report of the CRC 2008, and Report of the CRC 2016 respectively.
13. Key informant interview, 3 May 2021.
14. Key informant interviews, 26 April and 2 May 2021.
15. The checklist can be found at: <http://www.unwomen.org/en/digital-library/publications/2019/03/equality-in-law-for-women-and-girls-by-2030>
16. Report of the CRC 2008; Report of the CRC 2016.
17. UN Committee on the Elimination of Discrimination Against Women, General Recommendation 28 on the Core Obligations of State Parties under Article 2 of CEDAW, CEDAW/C/GC/28 (16 December 2010), available at: <https://www.refworld.org/docid/4d467ea72.html>, accessed 30 August 2021.
18. M. Kardas-Nelson and C. Inveen, "Sierra Leone's President declared rape a national emergency. What happens now?" Goats and Soda: NPR WNYC, 15 February 2019, available at: <https://www.npr.org/sections/goatsandsoda/2019/02/15/694846069/sierra-leones-president-declared-rape-a-national-emergency-what-happens-now>
19. C. Mitchell, "Books and bills: Tackling sexual violence in Sierra Leone", Al Jazeera, 6 February 2020.
20. Report of the CRC 2016.
21. Report of the CRC 2008.
22. European Centre for Law and Justice, Status of Human Rights in Sierra Leone for the 38th Session of The Universal Periodic Review (Strasbourg, 2020). See also: <https://www.ohchr.org/en/countries/africaregion/pages/slindex.aspx>
23. C. O'Reilly, Annetta Flanigan and Kate Sullivan, Women Use Your Power: A Gender Assessment of Sierra Leone's Elections (National Electoral Commission, Sierra Leone, 2018) p. 9.
24. Concluding comments on the combined initial, second, third and fourth periodic reports of Sierra Leone, CEDAW/C/SL/CO/5 (11 June 2007).
25. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6 (10 March 2014).
26. Concluding observations and recommendations on the initial and combined periodic report of the Republic of Sierra Leone on the implementation of the African Charter on Human and Peoples' Rights, adopted at the 19th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 16 to 25 February 2016, in Banjul, Islamic Republic of The Gambia
27. The summation of thematic areas for both CEDAW and the Maputo Protocol are taken directly from The Gambia Report 2020.
28. Concluding comments on the combined initial, second, third and fourth periodic reports of Sierra Leone, CEDAW/C/SL/CO/5 (11 June 2007).
29. Concluding observations and recommendations on the initial and combined periodic report of the Republic of Sierra Leone on the implementation of the African Charter on Human and Peoples' Rights, adopted at the 19th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 16 to 25 February 2016, in Banjul, Islamic Republic of The Gambia.
30. Ibid.
31. Ibid.
32. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 32.
33. "The Abolition of the Death Penalty Act, 2021", Supplement to the Sierra Leone Extraordinary Gazette, Vol. CXLXII, No. 33, 2 July 2021.

34. Office of the Clerk of Parliament, "Parliament Abolishes the Death Penalty", Press Release, 23 July 2021, available at: parliament.gov.sl, accessed 17 August 2021.
35. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6 (10 March 2014), para. 31(e).
36. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 32.
37. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 32.
38. Key informant interviews, 3 and 15 May 2021.
39. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6 (10 March 2014), para. 8 and 9.
40. Article 2 of the Maputo Protocol obligates State Parties to undertake appropriate legislative, institutional and other measures to eliminate all forms of discrimination against women. States are also required to commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information and communication strategies. This aims to support the elimination of harmful cultural practices and all other practices based on the idea of inferiority or superiority of either of the sexes.
41. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/General Comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014); CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017), updating CEDAW General Recommendation 19.
42. United Nations Children's Fund, Sierra Leone: Statistical Profile on Female Genital Mutilation (updated January 2019), available at: https://data.unicef.org/wp-content/uploads/country_profiles/Sierra%20Leone/FGMC_SLE.pdf.
43. Soweis are women who are charged with the initiation of girls and all the attendant rites and practices including female genital cutting.
44. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 59.
45. Key informant interview, 25 August 2021.
46. Concluding observations and recommendations on the initial and combined periodic report of the Republic of Sierra Leone on the implementation of the African Charter on Human and Peoples' Rights, adopted at the 19th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 16 to 25 February 2016, in Banjul, Islamic Republic of The Gambia.
47. AdvocAid and Centre for Accountability and Rule of Law, "Decriminalising Poverty in Sierra Leone: Call for Reform of Petty Offences", Position Paper (August 2019), available at: https://advocaidsl.org/wp-content/uploads/2021/04/AdvocAid-CARL-Decriminalisation-of-poverty-position-paper_final1.pdf.
48. F. M'Cormack-Hale, "Secret Societies and Women's Access to Justice in Sierra Leone: Bridging the Formal and Informal Divide", *Stability: International Journal of Security and Development*, 7(1) (2018), p.13. DOI: <http://doi.org/10.5334/sta.604>
49. United States Department of State (USDOS), "2020 Country Reports on Human Rights Practices: Sierra Leone", 2020 Country Reports on Human Rights Practices, USDOS Bureau of Democracy, Human Rights and Labor, 30 March 2021.
50. Amnesty International, "Sierra Leone: Steps Forward and Human Rights Challenges: Amnesty International Submission for the UN Universal Periodic Review, 38th Session of the UPR Working Group, 3-18 May 2021", 16 November 2020, available at: <https://www.amnesty.org/en/documents/afr51/3335/2020/en/>.
51. Sierra Leone, The Constitution of Sierra Leone, 1991 (Act No. 6 of 1991) (Freetown, Government Printing Department, 1991).
52. Sierra Leone, The Constitution of Sierra Leone, 1978 (Act No. 12 of 1978) (Freetown, Government Printing Department, 1978).
53. Report of the CRC 2008; Report of the CRC 2016.
54. Report of the CRC 2008, p. 3.
55. Report of the CRC 2008.
56. Report of the CRC 2016.
57. Sierra Leone, Local Courts Act, 2011 (Freetown, Government Printing Department, 2011).
58. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2 (Accra, GPL Press, 2004), para. 107 and 108, pp. 137-138.
59. *Ibid.*, para. 104-106, p. 137.
60. Constitution of Sierra Leone, 1991, Sections 124 and 134.
61. Local Courts Act, 2011.
62. P. Davies, "Marriage, Divorce, and Inheritance Laws in Sierra Leone", *Human Rights Brief* (12):3 (2005), pp. 17-20.
63. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2, (Accra, GPL Press, 2004), p. 105.
64. UNESCO Institute for Statistics, Literacy rate, adult female (% of females aged 15 and above) – Sierra Leone, 2018.
65. Report of the CRC 2016, p. 88.
66. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2 (Accra, GPL Press, 2004), p. 100.
67. United States Department of State (USDOS), "2020 Country Reports on Human Rights Practices: Sierra Leone", 2020 Country Reports on Human Rights Practices, USDOS Bureau of Democracy, Human Rights and Labor, 2020, available at: <https://www.state.gov/wp-content/uploads/2021/03/SIERRA-LEONE-2020-HUMAN-RIGHTS-REPORT.pdf>, accessed 7 September 2021.
68. Key informant interview, 28 April 2021.
69. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2 (Accra, GPL Press, 2004), p. 140, para. 121.
70. Institute for Governance Reform, Oxfam GB and Global Partnership for Social Accountability, Broadening Access and Quality: Citizens Feedback on the State of Health and Education Services in Sierra Leone, Report for the World Bank's Global Partnership for Social Accountability, 2020.
71. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2 (Accra, GPL Press, 2004), p. 168, para. 321.
72. *Ibid.*, p. 15.
73. State House lists 30 cabinet positions, including the Chief Minister and Deputy Minister of Defense. The Inter-Parliamentary Union lists 27 cabinet positions, out of which five are held by women, totalling 18.5 percent, as of 1 January 2019. Available at: <https://aceproject.org/ace-en/topics/ge/ge2/ge21/ge212/political-party-laws>, accessed 24 April 2021.

74. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 39.
75. Report of the CRC 2008, pp. 14-15.
76. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Vol. 2 (Accra, GPL Press, 2004), p. 137.
77. Report of the CRC 2016, pp. 137-138.
78. In the United States, President John F. Kennedy issued Executive Order 10925 to create affirmative action programs in the federal government in 1961. Since then, other presidents have issued executive orders to ban discrimination in the award of federal contracts and research grants, for example. Federal laws such as the Civil Rights Act of 1964, 42 USC 2000e, et al. have also made discrimination on the grounds of race, color, creed, national origin and language illegal. See also *Richmond v. Croson*, 488 U.S. 469 (1989) on the award of contracts.
79. Maputo Protocol, Article 9.
80. CEDAW, Article 7.
81. CEDAW, Articles 1 and 2(f).
82. The gender and equality bill has received Cabinet and Presidential approval but is yet to be passed by Parliament. Despite that, the bill is reviewed under this section as a key document that would address major challenges for gender equality in the areas of women’s political participation, gender equality in the workplace, access to finance, gender mainstreaming and budgeting.
83. European Union, European Union Election Observation Mission Sierra Leone (2018), available at: https://eeas.europa.eu/election-observation-missions/eom-sierra-leone-2018/38410/european-union-election-observation-mission-sierra-leone-2018_en
84. Key informant interviews, 26 April and 3 May 2021.
85. Local parlance for the candidate selection process during party primaries.
86. Key informant interview, 24 June 2021.
87. The Carter Center, “March 7, 2018, Presidential and Parliamentary Elections in Sierra Leone”, 23 March 2018, available at: www.cartercenter.org, accessed 2 May 2021.
88. Key informant interview, 8 May 2021.
89. As stated in APPWA’s Code of Conduct with PPRC, APPWA was formed in 2010 (with all female political party members across the political divide eligible for membership). APPWA’s goal is to increase women’s political participation in Sierra Leone through providing a platform to advocate for their inclusion with their political parties, strengthening women’s leadership capacity, and promoting peace in elections.
90. Political Parties Registration Commission, “Code of Conduct for All Political Parties Association”; “Code of Conduct for All Political Parties Youth Association”; and “Code of Conduct for Political Parties, Candidates and Supporters”, 2017.
91. Political Parties Registration Commission, “Code of Conduct for Political Parties, Candidates and Supporters”, 2017: 5.
92. *Ibid.*, 2017: 6.
93. Political Parties Registration Commission, “Code of Conduct for All Political Parties Women Association”, 2017: 4
94. *Ibid.*, 2017: 6
95. C. O’Reilly, Annetta Flanigan and Kate Sullivan, *Women Use Your Power: A Gender Assessment of Sierra Leone’s Elections* (National Electoral Commission, Sierra Leone).
96. National Electoral Commission, *Gender Policy* 2018.
97. National Electoral Commission, *Disability Policy* 2018: 1
98. Key informant interviews, 26 April, 3 and 8 May 2021.
99. Discussions from the two-day workshop co-facilitated by the consultant with a cross-section of Election Management Bodies (EMBs) and civil society organizations on understanding the GEWE policy and translating the policy into a bill, 15-16 April 2021.
100. C. O’Reilly, Annetta Flanigan and Kate Sullivan, *Women Use Your Power: A Gender Assessment of Sierra Leone’s Elections* (National Electoral Commission, Sierra Leone).
101. More information about the barriers to effective participation of women in the electoral process can be found at: <https://aceproject.org/ace-en/topics/ge/ge2/ge21/ge212/political-party-laws>. Accessed on 4/24/2021.
102. Mohamed Fofanah, “Sierra Leone: Woman Breaking Traditional Walls in Chieftaincy Elections”, *Inter Press Service*, 15 December 2009; key informant interview, 16 April 2021.
103. Sierra Leone, *The Sierra Leone (Constitution) Order in Council*, 1961.
104. The new law stripped John J. Akar of his citizenship by birth because while his mother was a Sierra Leonean of negro African descent, his father was of Lebanese origin, and therefore, not of negro African descent. Due to the retroactivity of the 1962 amendments to the Constitution, Akar lost his birthright citizenship and had to obtain citizenship by registration in January 1964. In 1967 he sued the Attorney-General in the then Supreme Court, challenging the law on the grounds of national-origin discrimination. He lost his case in the Supreme Court but won on appeal to the Judicial Committee of the Privy Council, but the government stuck to its position. See Peter A. Dumbuya, “The Challenge of Constructing Citizenship in a Multiracial Society in Postcolonial Sierra Leone: Rethinking the Case of John Joseph Akar”, forthcoming in the *Journal of West African History*.
105. Report of the CRC 2016, p. 172.
106. Article 9 says: “1. State Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. State Parties shall grant women equal rights with men with respect to the nationality of their children.”
107. Key informant interview, 16 April 2021.
108. Report of the CRC 2016, pp. 182-183.
109. *Ibid.*
110. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/General Comment 18 of the Committee on the Rights of the Child on harmful practices, (2014) CEDAW/C/GC/31-CRC/C/GC/18
111. F. M’Cormack-Hale, “Secret Societies and Women’s Access to Justice in Sierra Leone: Bridging the Formal and Informal Divide”, *Stability: International Journal of Security and Development*, 7(1), 2018, p.13. DOI: <http://doi.org/10.5334/sta.604>
112. E.K. Ameyaw, J.K. Tetteh, E.K. Armah-Ansah, et al., “Female Genital Mutilation/Cutting in Sierra Leone: Are Educated Women Intending to Circumcise Their Daughters?”, *BMC International Health and Human Rights*, Vol. 20, 2020, DOI: <https://doi.org/10.1186/s12914-020-00240-0>
113. UN General Assembly, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, para. 59.

114. Registration of Customary Marriage and Divorce Act, Section 2(2) and Section 2(3).
115. United Nations Children’s Fund, “Child marriage is a violation of human rights, but is all too common”, Child marriage, October 2021, available at: <https://data.unicef.org/topic/child-protection/child-marriage/>
116. Millicent Mannah, “Anomalies in National Legislations Affecting Children in Sierra Leone”, Centre for Accountability and Rule of Law, 16 August 2016, available at: <https://www.carl-sl.org/pres/anomalies-in-national-legislations-affecting-children-in-sierra-leone/>
117. Maputo Protocol, General Comment 2 on Article 14.1.(a), (b) and (c): the right to exercise control over one’s fertility, decide one’s maternity, the number of children and the spacing of births, and choice of contraceptive methods. Available at: <https://www.achpr.org>.
118. General Comment 6 on Article 7(d) of the Maputo Protocol. Adopted at the 27th Extra Ordinary Session of the African Commission on Human and Peoples’ Rights, held from 19 February to 4 March 2020 in Banjul, The Gambia. Available at: <https://www.achpr.org>.
119. Section 35 of the Child Rights Act, 2007, Part III (Child Rights, Parental and State Responsibilities).
120. Much of the discussion in this section is drawn from Peter A. Dumbuya’s chapter, “Women and Law Reform in Post-War Sierra Leone,” in *War, women and post-conflict empowerment: Lessons from Sierra Leone*, Josephine Beoku-Betts and Fredline A. O. M’Cormack-Hale, eds. (Bloomsbury Academics and Zed Books, forthcoming 2022).
121. M. Kardas-Nelson and C. Inveen, C., “Sierra Leone’s President Declared Rape a National Emergency. What Happens Now?” *Goats and Soda: NPR WNYC*, 15 February 2019, available at: <https://www.npr.org/sections/goatsandsoda/2019/02/15/694846069/sierra-leones-president-declared-rape-a-national-emergency-what-happens-now>
122. Rainbo Initiative, Rainbo Centres GBV Data Analysis 2020.
123. Sheila Meintjes, “Introduction: The Aftermath: Women in Post-War Reconstruction”, *Agenda: Empowering Women for Gender Equity*, No. 43, 4 (2000); Jacqui True, *The Political Economy of Violence Against Women* (Oxford, Oxford University Press, 2012), pp. 135-159.
124. H.J. Abdullah, “Advancing Women’s Empowerment or Rolling Back the Gains? Peace Building in Post-Conflict Sierra Leone”, in *Feminisms, Empowerment and Development: Changing Women’s Lives*, A. Cornwall and J. Edwards, eds. (2014), pp. 67-86.
125. Key informant interview, 16 April 2021.
126. Key informant interview, 28 April 2021.
127. Irish working group on gender-based violence, *Impact Assessment: The Three Gender Acts in Sierra Leone*, available at: https://www.gbv.ie/wp-content/uploads/2019/11/Report-Impact-Assessment-The-Three-Gender-Acts-in-Sierra-Leone_1.pdf
128. Key informant interview, 11 May 2021.
129. Key informant interview, 11 May 2021.
130. Section 1 of Act 10 of 1988 amended the Mohammedan Marriages Act of 1960 by repealing the word “Mohammedan” and replacing it with the word “Muslim”. Hereafter the Muslim Marriage Act of 1960. Key informant interviews, 26 and 28 April 2021.
131. Key informant interview, 17 April 2021.
132. Key informant interview, 28 April 2021.
133. Food and Agriculture Organization of the United Nations, *Gender and Land Rights Database*, available at: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/en/?country_iso3=SLE, accessed 1 July 2021.
134. Awino Okech, *Widow Inheritance and Contested Citizenship in Kenya* (Routledge, 2019), p. 24. Among the Luo in Kenya, widow inheritance does not constitute “a remarriage”. Instead, “The inheritor served in the deceased husband’s place, both physically and sexually.” The inheritor can be a deceased husband’s brother “or another male relative”. Okech writes that “Inheritance therefore maintained a widow’s obligations to her husband and his family, of which the inheritor was a part, and ensured social and economic support for her and her children.”
135. Lyn Graybill, “Gender-Based Violence Post-War to Post-Ebola: ‘One Step Forward, Three Steps Back’”, in *War, Women and Post-Conflict Empowerment: Lessons from Sierra Leone*, Josephine Beoku-Betts and Fredline M’Cormack-Hale, eds. (Bloomsbury Academics and Zed Books, forthcoming 2022).
136. Key informant interview, 11 May 2021.
137. See General Comment 6 on Article 7(d) of the Maputo Protocol for further discussion on the issue.
138. High Court of Sierra Leone, *In the Matter of the Estate of Haja Dankay Kabia*, Misc. App. 237/2009.
139. High Court of Sierra Leone, *In the Matter of the Estate of Musa Kamara*, Misc. App. 305/09.
140. Key informant interview, 15 October 2021.
141. High Court of Sierra Leone (Family and Property Division), C.C. 4/11 2011 T No. 6.
142. Muslim Marriage Act, 1960 (Cap 96).
143. Key informant interview, 16 April 2021.
144. Statistics Sierra Leone, *Sierra Leone 2015 Population and Housing Census: Thematic Report on Gender* (October 2017), pp. 2-3.
145. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6 (10 March 2014).
146. High Court of Sierra Leone, *Jalloh v. Jalloh*, Misc. App. 186/12.
147. Ismaila Sahid and Aminata Sahid (DIV C 73/16) [2017] SLHC 1133 (31 January 2017); Shaka Konneh and Fayrah Konneh (1) (2012) SLHC1 (10 June 2016).
148. Key informant interview, 18 April 2021.
149. Key informant interview, 28 April 2021.
150. Sierra Leone, Family Support Unit, *Guidelines on SGBV Case Management: A Reference Handbook for the FSU*, pp. 6-7, 13.
151. *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, Vol. 2 (Accra, GPL Press, 2004), p. 28.
152. The Rainbo Initiative reported 3,137 cases of SGBV in 2018, 3,897 in 2019, and 3,548 in 2020 at the five Rainbo Centres across the country. Rainbo Initiative, *Rainbo Centres GBV Data Analysis 2020*.
153. Sierra Leone, *First Lady*, 2018, available at: <http://firstlady.gov.sl>.
154. “Justice for Kadijah: ‘Dem rape and strangle my five-year-old daughter’”, *BBC News*, 29 June 2020, available at: <https://www.bbc.com/pidgin/tori-53187566>
155. State House Media and Communications Unit, 24 July 2020, available at: <https://statehouse.gov.sl>.
156. Key informant interview, 16 April 2021.
157. Purposeful web page, available at: <https://wearepurposeful.org/projects/the-survivor-solidarity-fund/>.
158. Available at: www.survivorssolidarityfund.org.
159. Key informant interview, 16 April 2021.
160. F. Sorie, “A Gap Analysis on Sexual Gender Based Violence Laws in Sierra Leone”, *Draft Report*, 2021.

161. Defence for Children International, *Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone*, 2010, available at: http://www.ipji.org/fileadmin/data/documents/reports_monitoring_evaluation/DCI_BeyondLawAssessingSierraLeone_2010_EN.pdf.
162. *Ibid.*
163. *Ibid.* 'Approved schools' are defined as schools established by the President under the provisions of section 31 or any place or institution declared to be an approved school under the provisions of that section.
164. United States Department of State (USDOS), "2020 Country Reports on Human Rights Practices: Sierra Leone", 2020 Country Reports on Human Rights Practices, USDOS Bureau of Democracy, Human Rights and Labor, 30 March 2021, p. 16.
165. The Children and Young Persons Act, 1945 (Cap 44) not only defines a child as "a person under the age of fourteen years" but also states in Section 24(1) that "No child shall be sentenced to imprisonment." Section 70 of the Child Rights Act, 2007, which defines a child as a person below the age of 18 years, states that "In any judicial proceeding in Sierra Leone, a child shall not be held to be criminally responsible for his actions if he is below the age of fourteen years."
166. Section 24(1) states that "No child shall be sentenced to imprisonment" unless, under subsection (2), the court could not find other suitable methods of legally dealing with the case.
167. In trying to explain why Parliament did an end-run on Section 24(1) of the Children and Young Persons Act and Section 70 of the Child Rights Act, 2007, one may look at the statement made by the Director of Public Prosecutions, Easmon Ngakui, during a State House presentation by a task force on SGBV in the office of the First Lady, Fatima Bio, on 16 October 2020. The Director indicated that in many cases, victims and perpetrators were between the ages of 5 and 17 years. State House Media and Communications Unit, 16 October 2020, available at: <https://statehouse.gov.sl>.
168. Sierra Leone, Family Support Unit, *Guidelines on SGBV Case Management: A Reference Handbook for the FSU*, pp. 6-7, 13
169. State House Media and Communications Unit, 24 July 2020, available at: <https://statehouse.gov.sl>.
170. United States Department of State (USDOS), "2020 Country Reports on Human Rights Practices: Sierra Leone", 2020 Country Reports on Human Rights Practices, USDOS Bureau of Democracy, Human Rights and Labor, 30 March 2021, p. 16.
171. Key informant interviews, 17 and 26 April 2021.
172. Peter Newell, "Briefing on Sierra Leone for the Human Rights Committee, Country Report Task Force", July 2013, Global Initiative to End all Corporal Punishment of Children, available at: https://www.ecoi.net/en/file/local/1071987/1930_1378994929_gieacpc-sierraleone-hrc108.pdf
173. "GoSL To Introduce Anti-Corporal Punishment Initiative In Schools", SNRadio, 16 September 2021, available at: <https://snradio.net/gosl-to-introduce-anti-corporal-punishment-initiative-in-schools/>
174. UKaid and SABI, *Citizens Perceptions 2019: Education*, 2019, available at: <http://sabi-sl.org/wp-content/uploads/2019/10/SABI-Citizens-Perception-Survey-2019-Education-report.pdf>, p.20
175. Eric Kawa, "Save Sierra Leone takes anti bullying campaign to Hammond International School", SwitSalone, 4 March 2019, available at: https://www.switsalone.com/26635_save-sierra-leone-takes-anti-bullying-campaign-to-hammond-international-school/
176. Key informant interview, 23 April 2021.
177. Mohamed P. Fofanah, Esq., Report on the Review of the Child Right Act 2007 and Adoption Act 1989 Respectively, March 2021.
178. See, for example, Mohamed P. Fofanah, Esq., Report on the Review of the Child Right Act 2007 and Adoption Act 1989 Respectively, March 2021.
179. United States Department of State, "2020 Trafficking in Persons Report: Sierra Leone", available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/sierra-leone/>
180. Niesha Braggs, "10 Facts about Child Labour in Sierra Leone", The Borgen Project, 5 September 2019, available at: <https://borgenproject.org/10-facts-about-child-labor-in-sierra-leone/>
181. United States Department of State, "2020 Trafficking in Persons Report: Sierra Leone", available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/sierra-leone/>
182. United States Department of Labor, Bureau of International Labor Affairs, "2019 Findings on the Worst Forms of Child Labor: Sierra Leone", available at: https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/Sierra-Leone.pdf
183. United States Department of State, "2020 Trafficking in Persons Report: Sierra Leone", available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/sierra-leone/>
184. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1.
185. Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission, Appendix IV - Part one: Amputations in the Sierra Leone Conflict (Accra, GPL Press, 2004), §1.
186. *Ibid.* pp. 1, 9.
187. United Nations Girls' Education Initiative and Leonard Cheshire Disability, *Still left behind: Pathways to inclusive education for girls with disabilities*, June 2017, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/EMBARGOED_%20%2815.6.2017%29%20StillLeftBehindFullReport_FINAL.PDF
188. Human Rights Committee, concluding observations on the initial report of Sierra Leone, UN Doc CCPR/C/SLE/CO/1 (17 April 2014).
189. African Commission on Human and Peoples' Rights, *Principles on the Decriminalisation of Petty Offences*, 2018, available at: <https://www.achpr.org/legalinstruments/detail?id=2>
190. More information at: <https://pettyoffences.org/>
191. AdvocAid and Centre for Accountability and Rule of Law, "Decriminalising Poverty in Sierra Leone: Call for Reform of Petty Offences", Position Paper (August 2019), available at: https://advocaidsl.org/wp-content/uploads/2021/04/AdvocAid-CARL-Decriminalisation-of-poverty-position-paper_final1.pdf
192. Key informant interview, 11 May 2021.
193. Key informant interview, 11 May 2021; J. Jakema and Rhiannon Davis, "Debt and Gender in Sierra Leone", Progressive International (July 2020), available at: <https://progressiveinternational.com/blueprint/647a46cd-4cbc-4102-98c6-6af658cd840c-jakema-davis-debt-gender-in-sierra-leone/en>; Search for Common Ground, *Final Evaluation of Search for Common Ground's Project: "Expanding the Table: Empowering Women to Identify Protection Strategies In Sierra Leone's Industrialising Districts"* (2017).

194. African Commission on Human and Peoples' Rights, Principles on the Decriminalisation of Petty Offences, 2018, available at: <https://www.achpr.org/legalinstruments/detail?id=2>
195. AdvocAid and Centre for Accountability and Rule of Law, "Decriminalising Poverty in Sierra Leone: Call for Reform of Petty Offences", Position Paper (August 2019), available at: https://advocaidsl.org/wp-content/uploads/2021/04/AdvocAid-CARL-Decriminalisation-of-poverty-position-paper_final1.pdf, pp. 3-5
196. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6 (10 March 2014).
197. Aisha Fofana Ibrahim, "The Politics of Religion and Women's Activism: The Abortion Bill Tussle in Sierra Leone", in *War, women and post-conflict empowerment: Lessons from Sierra Leone*, Josephine Beoku-Betts and Fredline A. O. M'Cormack-Hale, eds. (Bloomsbury Academics and Zed Books, forthcoming 2022).
198. Key informant interview, 11 May 2021.
199. Key informant interviews, 30 April and 11 May 2021.
200. Key informant interview, 11 May 2021.
201. Key informant interview, 11 May 2021.
202. CEDAW, Article 12.
203. Statistics Sierra Leone, Sierra Leone 2015 Population and Housing Census: Thematic Report on Gender (October 2017), p. 21.
204. UNICEF, Multiple Indicator Cluster Survey, 2017.
205. Ministry of Education, Science and Technology, Government Position on Pregnant School Girls, April 2015.
206. Community Court of Justice of West African States (ECOWAS), WAVES CWS-SL and The Republic of Sierra Leone, ECW/CCJ/JUD/37/19 (December 2019).
207. Ministry of Basic and Senior Secondary Education, Overturn of Ban on Pregnant Girls Attending School, April 2020, available at: <https://africanlii.org/sites/default/files/Sierra%20Leone.pdf>
208. Ibid.
209. Defence for Children International, "DCI Sierra Leone urges the Government to prohibit: 'all corporal punishment of children'", 11 September 2019, available at: <https://defenceforchildren.org/corporal-punishment-of-children-in-sierra-leone/>
210. Sierra Leone, Ministry of Basic and Senior Secondary Education, 30 March 2020; UN General Assembly, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Sierra Leone, A/HRC/WG.6/38/SLE/1, 16 February 2021, para. 57.
211. Sierra Leone, National Youth Service: Strategy and Roadmap for Implementation, 2017, pp. 13, 48.
212. Key informant interviews, 3 and 15 May 2021.
213. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 32.
214. Ministry of Labour and Social Security, "Lifting of Ban on Overseas Recruitment", Press Release, 30 April 2021.
215. Gud Mornin Salon Radio Democracy 98.1, Interview with Chelcy Heroe, 14 May 2021, available at: <https://www.facebook.com/467429659977499/videos/473008260438972>
216. International Labour Organization, Convention 189, Domestic Workers Convention, 2011, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189
217. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 32.
218. This information is taken from the Gender and Land Rights Database of FAO, available at: <http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework>
219. Sierra Leone Land Alliance, "Policy Brief: Women, Property Rights and the Need for Land Reforms in Sierra Leone", pp. 1-3; Maputo Protocol (2003) and the Right of Women in Sierra Leone.
220. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 47.
221. Sierra Leone Land Alliance, "Policy Brief: Women, Property Rights and the Need for Land Reforms in Sierra Leone", pp. 4-5.
222. Statistics Sierra Leone, Sierra Leone 2015 Population and Housing Census: Thematic Report on Economic Characteristics (October 2017), pp. 1.
223. Ibid. pp. 20.
224. Ibid, pp. 1-20.
225. Human Rights Council Working Group on the Universal Periodic Review, thirty-eighth session, 3–14 May 2021, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/38/SLE/1, para. 47.

ISBN: 9788896155394

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