

IMPACT ASSESSMENT

The Three Gender Acts
in Sierra Leone





Rugiatu (9), in her community,
Mademu in Kambia District.
Photo: Mark Stedman

On the cover and at page 13:
Ya Matho Suma in Lungi, Port Loko District
Photo: Florie De Jager Meezenbroek / Trócaire

EXECUTIVE SUMMARY

Irish working group on Gender-Based Violence



Irish Consortium on Gender Based Violence



Acknowledgements

Many people contributed to the production of this document. Special thanks to the consultants Dr Caroline M Roseveare, Amie Kandeh and Simitie Lavaly, who met with stakeholders to gather their thoughts and ideas. The members of the Irish Working Group on Gender-Based Violence, particularly the staff of Trócaire, who facilitated the work and reviewed the document. Andrea Sciorato who supported with the graphic design of the content and Ming Holden who supported in copy-editing and proof-reading. The document would not have been possible without the contribution of all of the stakeholders who made time to share their thoughts and ideas and participated in the validation workshop.

As stated in the Terms of Reference (ToR) found at Annex 1, the overall objective of this assessment was: To undertake and deliver a national study examining the extent to which the three “Gender Acts” (GA) have contributed to improving the protection of women and girls in Sierra Leone ten years on.

The three Gender Acts (GA) of 2007 are:

- 1) The Domestic Violence Act;
- 2) The Devolution of Estates Act;
- 3) The Registration of Customary Marriage and Divorce Act.

Subsequently, this legislative framework was bolstered by enactment of the Sexual Offences Act (2012) to end the culture of impunity for those found guilty of having perpetrated sexual offences.

Our research has covered all four regions of Sierra Leone, namely: Western, Northern, Southern, and Eastern. Data was collected through Roundtable and Community Conversations in a way that differs from the more usual consultation tool of Focus Group Discussions: they are explicitly moderated in ways to ensure that each person sitting around the table or in a community circle

contribute to the conversation. In addition, individual face to face and small group Key Informant Interviews (KII) were conducted. A total of 350 stakeholders (including GA Duty Bearers, NGOs, CSOs, community level beneficiaries, and Gender-based violence [GBV] survivors) were consulted for the assessment.

Legal Framework

The Government of Sierra Leone (GoSL) is signed up to the major international and regional treaties and instruments, including the 1989 Convention on the Rights of a Child (CRC) and the 1988 Convention on the Elimination of all forms of Discrimination against Women (CEDAW). In recent years human rights and women’s activists have promoted the concept of “due diligence” recommended by the CEDAW Committee in 1992.

Due Diligence denotes the obligation of States to take ‘reasonable’ action to: prevent Violence Against Women; protect survivors; investigate, prosecute and punish perpetrators; and provide redress.

We recommend “due diligence” as a unifying principle for future policy advocacy and influencing to combat GBV/VAWG; and the utilisation of models and tools that have been developed to monitor legislative progress.

In terms of domestic, national legislation, the Constitution of Sierra Leone represents the ultimate authority.

There are currently various matters which are seen to be discriminatory of women and children’s rights that are under review. Still in the law reform and development pipeline is a Gender Equality Bill designed to instate the full provisions of CEDAW into domestic law. The three Gender Acts form part of a series of legislation that reflects CEDAW provisions in domestic law.

The three Gender Acts are also integral to combatting sexual and gender-based violence (SGBV), although the most significant law in respect to sexual violence is the Sexual Offences Act (SOA) of 2012. The Child Rights Act 2007 (CRA), which puts into Sierra Leone law the provisions of the CRC, and the African Charter on the Rights and Welfare of the Child, prohibit child marriage, but the RCMDA allows for marriage from the age of 16 years, with the

consent of the parties and their parents. Hence a draft Abolition of Child Marriage Bill is currently under review to harmonise the legislation and raise the minimum age of marriage age to 18 years. To date, none of the GA has statutory instruments to aid their implementation even though each of them makes provisions for this.

Our recommendations emphasise the important role that civil society, especially Women’s Rights Organisations, can play in contributing to the continuing legislative reform process.

Key findings

Through legal education and community sensitisation and awareness raising undertaken largely by civil society, there is now widespread recognition of, for example, wife beating as an offence for which a perpetrator can be detained in police custody. (Maintenance support for women and children is an issue that is being enforced under economic abuse, although this aspect also overlaps with the Child Rights Act.) More specific findings presented in this report are organised according to the criteria of relevance, effectiveness, coordination and collaboration, impact, and sustainability.

Relevance

- Globally, women and children in countries with domestic violence laws have a lower chance of experiencing violence than

those in countries without such laws. Domestic violence laws represent an important means for Governments to change norms. However, it is much more difficult to change informal social norms that are deeply embedded in culture because changing culture takes far longer than introducing formal law and policy that alone cannot automatically change cultures.

- Customary law and customary justice providers are more accessible to the women and children who need help than formal justice institutions and services. For this reason, customary law and justice practices play a central role in Sierra Leone’s pluralistic legal system.
- However, none of the three GA refers to the status of customary law or customary leaders. They do not provide for the responsibilities of Customary/ Traditional leaders. Nor do they refer to the Local Courts, which are permitted to rely on the customary law, for example, in the adjudication of low value disputes.
- One effective tool for raising awareness is civil society engagement with Chiefs, community elders and other traditional and religious leaders. Community Conversations is one mechanism used to raise awareness about GBV and harmful traditional practices such as child marriage and FGM/C.

In Tonkolili chiefdoms where Concern Worldwide operates, for example, these have spurred a community based “Equality Campaign” whereby community members pledge their commitment to gender equality by imprinting a paint image of their hands on a community wall.

We recommend:

- 1) Continuing civil society work with customary justice mechanisms;**
 - 2) Using gender transformative approaches where possible;**
 - 3) Increased engagement with Local Courts.**
-

Identifying the Needs and Meeting the Expectations of SGBV Survivors:

- Since its enactment in 2012, the SOA has simplified the prosecution of sexual offences, making it easier to address the needs and expectations of SGBV (i.e. sexual violence) survivors.
- These factors combined to encourage increased reporting of sexual violence crimes:
 - More robust laws;
 - Civil society and community sensitisation;
 - Legal education

- However, access to services remains a challenge, including police, especially in remoter chiefdoms in the northern region. It is impossible to identify the weakest points in the criminal justice process due to the lack of consolidated security.

Attrition

- The attrition of sexual violence cases in the criminal justice system (i.e. the number of sexual crimes committed that actually end with the perpetrator of the offence being convicted) remains an outstanding challenge.
- Current justice data also clouds the extent of attrition.
- Qualitative evidence suggests that attrition results from any combination of the following factors:
 - Family pressure for “out of court settlements”;
 - The corrupt “compromise” of cases by police and judicial officers;
 - The cost to the survivor, both direct and indirect, of accessing resources, (especially the relevant courts);
 - The slow speed of judicial travel.

Priorities:

- 1) To lobby the SLP and Ministry of Justice for

The top-line finding of the assessment is that implementation of the DVA shows the most progress in the three Gender Acts reviewed.

consolidated data collection and analysis. This will make evident the attrition of sexual violence cases in the criminal justice system.

2) At the same time, an IWGGBV-SL member organisation/s could invest in a case study. The case study would track the trajectories of a sample of sexual violence cases from first report through the criminal justice system. This could be achieved in collaboration with the Law Society or LAWYERS.

Intimate Partner Violence: Identifying Needs and Meeting Expectations

- Unless there is clear evidence of broken bones and/ or wounding with bleeding, the blanket response to survivors of Intimate Partner Violence (IPV) is to automatically divert them out of the criminal justice system and into Alternative Dispute Resolution (ADR)/ mediation/ conciliation.
- Although many IPV survivors may be reluctant to see their husbands or partners prosecuted, there is little evidence to suggest that they are given the relevant information and advice to exercise their “right to choose” in making an informed decision.

Women in Customary Marriages: Identifying Needs and Meeting

Expectations

- Although many women have expressed the desire to register customary marriages, there has been very little registration under the RCMDA.
- One obstacle is the erroneous expectation of Duty Bearers and civil society implementers that only monogamous customary marriages qualify for registration under the RDCMDA. This erroneous notion creates a deterrent in community sensitisation efforts towards registration, since many customary marriages in Sierra Leone are polygamous.
- DEA provisions for this primarily protect women in households with privately owned property and assets. Nonetheless, as a result of civil society community sensitisation and awareness-raising, DEA rights concerning the division of property upon the death of a man who dies intestate (i.e. with no will) are being observed to the benefit of women on family and customary land.

Women and Children: Recognizing the Diversity of Needs and Expectations

Civil society has clearly identified and attempted to address the needs and expectations of vulnerable women and children at the community level with reasonable nation-wide

We STRONGLY RECOMMEND a review of Alternative Dispute Resolution in physical Intimate Partner Violence cases. This should be undertaken collaboratively with key Duty Bearers and funded by an international development agency or NGO.

coverage.

Most (not all) civil society programming targets the needs and expectations of SGBV survivors.

Of the three GA, the DVA is the best known and understood by Duty Bearers, civil society and communities.

However, substantial barriers remain:

- Poverty remains a significant barrier to the attainment of justice and human rights. More highly educated women in higher income quartiles are better able to cover costs when claiming GA rights and entitlements.
- Women recognise that their increased economic empowerment, through interventions such as micro-finance, risks negative backlash from men in their homes and wider communities, including violence.
- Social barriers, including retrogressive social norms, attitudes, and behaviours, impede communications between responsible Duty Bearers and GA beneficiaries.
- The three GA do not specifically address the needs of women and girls with disabilities and this is reflected in implementation processes.

Recommendations

a) Civil society programming to support the development of a movement of People with

Disabilities (PWD), led by PWD who would be able to advocate and lobby for their rights in law reform processes.

b) Civil society interventions designed to reduce the negative backlash from men and boys that results from an increased programming focus on the needs of women and girls.

EFFECTIVENESS

How the Implementation of the Gender Acts Affects a Generation of New Institutional Policies

- GoSL policy commitment to the protection of women and children, gender equality and women's empowerment is evident at the macro level (Vision 2015, contextualisation of the Sustainable Development Goals (SDG), national development plan).
- At the sectoral (MSWGCA and SLP) and multi-sectoral (National Secretariat for the Reduction of Teenage Pregnancy) level, there is a range of national policies, action plans and strategies to address GBV and Violence against Women and Children (VAWC), including harmful traditional practices such as child marriage and Female Genital Mutilation/Cutting.

Civil society has contributed to the development of relevant

policy. It will be important to ensure that those policies the out-going Government left in "Draft" form (e.g. FGM/C Strategy, and strategy to address child marriage) are signed off by the new Government following the March 2018 elections.

- Commitments made in these national policies, plans and strategies have not been fully realised due in part to the following obstacles:
 - The Ebola crisis;
 - The sheer number of documents associated with policy implementation,
 - Lack of policy coherence;
 - Inadequate Government funding;
 - Apparent donor fatigue;
 - Poor internal GoSL monitoring of Duty Bearers' policy implementation (or lack thereof).

A good practice example from another African country, Tanzania, demonstrates the value of consolidating Government commitments to the protection of women and children into a single multi-sectoral National Plan of Action.

DOMESTIC VIOLENCE ACT

DVA Implementation Assessment At-A-Glance: A look at how the DVA contributes to the new generation of institutional protocols and procedures to protect women and children.

Summary: Rather than a deficit of skills and knowledge per se, a major obstacle to implementation, especially of the DVA Protection Order regime for IPV physical violence cases, is dominant social norms. These norms perpetuate the belief that IPV is a private “family matter” best left to families to sort out. In addition, the dismissive attitudes and corrupt practices of some Duty Bearers mean that IPV survivors are forced to remain in abusive relationships that endanger their health and well-being and those of their children. Effecting a change in dominant social norms should be at the heart of efforts to address each obstacle below, from Protection Order protocols to the conduct of Duty Bearers.

Obstacles to Implementation:

- With considerable civil society support, GoSL has developed some procedures and protocols

(e.g. to facilitate the multi-sectoral referral of GBV survivors, and to aid the investigation of sexual and domestic violence cases through standard operating procedures). However, these are not working as intended, nor are they being fully complied with. Additionally, they are not being adequately monitored to allow adjustments to be made either to training/capacity development interventions, or to revision of the protocols themselves.

- Initiatives such as dedicated court sittings (special court and Saturday courts) have eased the backlog of sexual offence cases, but the slow judicial process remains a challenge. Moreover, attrition from the criminal justice system still needs to be addressed.
- A greater number of reported sexual violence cases are entering the criminal justice system. The complaint is written down and recorded by the police/ FSU; the survivor is provided with a medical form and referred to a medical facility. However, community members report that despite the GoSL policy, free medical care is rarely provided to SGBV survivors in Government health facilities. Civil society continues to step in to fill the breach (e.g. Rainbo Centres and other civil society initiatives).
- No uniform response to IPV cases in the justice system means that different kinds

of GBV/IPV violence are treated differently, routed through the justice system differently, and encounter different obstacles.

- The dominant practice of diverting IPV physical violence cases to mediation, conciliation or another form of ADR without intervention by the court runs contrary to the DVA. In this practice, rather than the courts, the SLP, civil society, Chiefs and community members determine what the level of aggravation is in IPV cases and, therefore, what practical interventions it entitles the survivor to. IPV survivors are not routinely referred by the police or FSU to a medical facility, nor are complaints necessarily even recorded, let alone investigated.
- There are currently no risk assessments concerning IPV survivors’ personal safety, which increases the risk of further violence from the same alleged perpetrator.
- Corrupt settlement of cases for illegal pecuniary gain, often called “compromise”, continues to be a problem. In these instances, Duty Bearers take payment in order to prevent an alleged perpetrator from being prosecuted or convicted. “Compromise” runs in contravention of the SLP disciplinary regulations.
- Lack of police, and lack of judicial training, mean that there are still virtually no applications made to the

courts for DVA Protection and Restraining Orders.

- The courts do not request Social Enquiry Reports from social welfare officers, which would help determine appropriate provisions on a case-by-case basis for DVA Protection and Restraining Orders.
- The most significant gaps between DVA (and SOA) law/ policy and practice are those mandatory practices which have substantial budget implications.

RECOMMENDATIONS

a) A review of existing protocols and guidelines through a participatory process involving key Duty Bearers, implementing partners and civil society.

b) In particular, an immediate review of current policy and practice on the diversion of IPV cases out of the criminal justice system. (Strongly recommended.)

c) Increased Police training,

preferably that delivered through the Police Academy, on how to undertake a rapid but robust risk assessment in sexual and IPV cases.

d) New protocols and guidelines to ensure compliance with mandatory legal provisions protecting the rights of vulnerable women and children, with possible development of tailor-made protocols for different types of GBV/offences.

e) Increased civil society support of community women's organizations, which is vital in order for survivors of sexual and domestic violence to access the support and advice that would allow them to make informed decisions.

f) The context of post Ebola Sierra Leone introduces unique challenges to addressing these obstacles. Whilst civil society could, and indeed should, advocate for increased GoSL budgets dedicated to services for SGBV and IPV survivors, in addition it is necessary to identify priority needs and develop a strategy for meeting

those needs cost-effectively. Factors to consider include the numbers of women and girls affected, and which programmes are most likely to contribute to VAWG/VAWC prevention.

g) To accommodate the unique challenges of the post-Ebola context in Sierra Leone, we recommend a Government Directive of phased implementation of DVA provisions with large budgetary implications, such as a Statutory Instrument/Implementing Regulation.

REGISTRATION OF CUSTOMARY MARRIAGES AND DIVORCE ACT

RCMDA Implementation Assessment At-A-Glance: A look at how the RCMDA contributes to the new generation of institutional protocols and procedures to protect women and children.

Rebecca Kamara, a woman candidate in Bombali District. Photo: Stephen Douglas



Obstacles to Implementation

- Poor data collection by the Local Councils, i.e. the institution(s) responsible for registration under the RCMDA.
- However, abysmally low registration rates complicate data collection. (The period with the highest rates by far, from 2009 to January 2018's Freetown City Council, recorded 259 customary marriage registrations and 130 divorce registrations.)
- The lack of streamlined procedures results in differing registration fees charged by Local Councils and Local Courts.
- Lack of implementation procedures: there is not a coherent policy (written or unwritten) clearly outlining how to put each facet of the RCMDA into practice.
- Procedures that are specified in the RCMDA and its comprehensive Schedules are not followed. (One example of a mandated RCMDA procedure that is not often followed: potential registrants are required to go through a full marriage process with their partner [i.e. not independently] in the presence of family witnesses on both sides.)
- Misunderstandings persist about procedures for civil vs. customary marriage, i.e. registration of civil marriage (which is limited to monogamous unions) as opposed to registration of customary marriage

(which explicitly recognizes polygamous marriages).

- Customary marriages and their divorce proceedings are not provided for under the RCMDA. Instead, Local Courts run a parallel marriage and divorce registration procedure alongside that of the Local Council.
- Prejudicial social norms surrounding the sanctity of monogamous marriage lead Duty Bearers in both Local Council and Local Court to use financial and other hurdles to deter the registration of divorce, or severely restrain the woman's right to choose by using mediation to restore the marriage.
- Women who have been sensitised to the RCMDA have the impression is that the registered wife is the one over other unregistered wives to receive protection and security upon the death of the husband, deterring polygamous men from registering.
- An unintended result of legal education and rights awareness interventions in civil society has been to give women the impression that registration itself creates a monogamous relationship, deterring men from registering marriage and reducing RCMDA implementation.

RECOMMENDATIONS

- a) A Government Directive in the RCMDA ensuring Duty Bearer compliance with clear

procedures for the registration of customary marriages. The directive should come from the responsible Line Ministries and include clear specification of the mandates and responsibilities of the Local Councils vis a vis the Local Courts and those of Chiefs and other customary leaders.

- b) Multi-faceted programming to effectively address the complexity of the inter-relationships between child marriage, FGM/C and adolescent pregnancies.

Good practice examples: devolving registration to communities (Bonthe DC and Bombali implementing partners); the use of key events for mass registration, i.e. International Women's Day or the 16 days of activism, (Bo City Council)

DEVOLUTION OF ESTATES ACT (DEA)

DEA Implementation Assessment At-A-Glance: A look at how the DEA contributes to the new generation of institutional protocols and procedures to protect women and children.

- Women see the relationship between the DEA and the RCMDA

as a key benefit since registration of their marriages, including cohabiting partnerships (of 5 years duration or more) means that on the death of the husband they will be entitled to a share of the property along with their children.

Obstacles to Implementation

- Male relatives/family members taking over the property of a deceased man, depriving wives (especially unregistered wives) and their children of a share. This propagates male dominance in decision-making about the division of property on the death of a husband.
- Limited human and financial capacities have constrained MSWGCA leadership in co-ordinating implementation ensuring uniform and robust outcomes between Government and civil society.

RECOMMENDATIONS

a) Global best practice suggests that laws combatting GBV/ VAWG should provide for the creation of a multi-sectoral oversight mechanism to oversee implementation, with regular reports to Parliament.

A good practice Africa-country level example is that of the Tanzania National Plan of Action to combat Violence Against Women and Children, the delivery of

which is supported by a unified coordination and accountability mechanism that stretches from national to sub-village level.

COORDINATION AND COLLABORATION

Summary: GoSL policy development and legal reform is supported by NGO funding well as in community mobilisation, legal education and support (e.g. through paralegals) and rights-based awareness-raising. The VAWG Community of Practice (COP) bringing together members from across the Government, donor and civil society spectrum aims to facilitate the sharing of innovative and evidence-based methodologies and tools, as well as to collectively build competencies and knowledge on how best to address VAWG/ GBV through joint programming as a Consortium. International development partners have invested, and continue to invest, in Government programmes to increase the protection of women and girls: most recently, largely on GBV/ VAWC prevention, in particular child marriage and FGM/C with a focus on adolescent girls, a group that hitherto had been somewhat neglected.

Obstacles:

- Government budgets for GBV/VAWC prevention and response are insufficient to ensure the provisions for protection of women and children in Sierra Leone found in the three GA
- Stakeholders frequently

point to the poor coordination and collaboration among NGOs implementing partners, especially on the ground. There is a perception that each and every institution is simply “doing its own thing”, instead of working together in complementary ways. Many NGOs work in isolation and fail to make follow-up on initiated actions.

- The absence of robust evaluation data, and the scant number of independent evaluations of NGOs severely constrain evidence-based learning.
- In terms of support to communities, the IWGGBV-SL member organisations have a fairly good geographical spread.

Recommendations

a) Support development of a national, multi-sectoral GoSL implementation plan to address GBV/VAWC along the lines of Tanzania’s National Plan of Action on VAWC (which brings together disparate strategies and policies into one nationally costed plan).

b) Establish a coordination mechanism at national and decentralised levels to support and monitor implementation of that national plan. The multi-sectoral body constituting such a coordination mechanism would require significant input from:

1. The MLGRD;
2. The judiciary;
3. The Law Commission;
4. The TP Secretariat;
5. The National Council of Paramount Chiefs and the

- Inter-Religious Council of Sierra Leone,
- 6. Directorates of the MSWGCA
- 7. Directorate of the SLP
- 8. FSU Directorate.

The first task of this multi-sectoral mechanism should be to assess how to ensure that Government MDA collect, analyse and present statistical data relevant to GA implementation, especially that pertaining to the DVA and SOA.

c) Employ the “due diligence model” to encourage participation in the joint monitoring and implementation of the GA at all levels of civil society (national, regional and community).

The purpose of such monitoring would be to collect robust data, which can be put to several uses:

- To use as evidence for influence efforts with Government and international development partners;
- To use for advocacy for greater compliance with international standards (such as stronger accountability);
- To use in arguments for improvements in service delivery;
- To shape proposals for adequate budgets and financial resources.

d) Continued support for streamlining legal education and community sensitisation on the three GA and related legislation, in particular the SOA and CRC. The Ministry

of Justice should play a more central role to ensure that the education and training of Duty Bearers in particular, as well as their communities, is done with accurate information and coherent messaging.

e) Encourage leadership positions for women and girls within their local communities, so that they can drive agenda and policies ensuring human rights protections for their communities.

f) Key policy documents and evaluation reports on GA implementation should be put into the public domain for inter-organisation sharing nationally and at district level. (One way to accomplish this is for the COP to establish a shared website for the purpose of information sharing.)

g) Given their centrality in the everyday lives of many community members, customary or traditional and religious authorities need to be supported to continue enforcing bylaws and invited to participate in strategy formulation meetings for their communities.

h) Encourage the decentralisation process (i.e., Local Councils provide service in their areas, leaving Line Ministries to provide national policy direction.)

i) Develop and harmonize monitoring initiatives aimed to assist GA beneficiaries such as the “Pay No Bribe campaign”,

which encourages citizens to report acts of bribery.

j) More consistent and holistic international donor funding for GBV/VAWC prevention and response.



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Abbreviations/ Acronyms

Alternative Dispute Resolution	ADR
Child Marriage	CM
Child Rights Act	CRA
Civil Society Organization	CSO
Community Based Organisation	CBO
Complaints, Discipline and Internal Investigations Department	CIID
Convention on the Elimination of All Forms of Discrimination Against Women	CEDAW
Convention on the Right of the Child	CRC
Department for International Development	DFID
Devolution of Estates Act	DEA
Director of Public Prosecution	DPP
Domestic Violent Act	DVA
Family Support Unit	FSU
Female Genital Mutilation/ Cutting	FGM/C
Gender Acts	GA
Gender Based Violence	GBV
Government of Sierra Leone's	GoSL
Human Rights Council	HRC
Information & Communication Technology	ICT
International Rescue Committee	IRC
Irish Working Group on Gender Based Violence in Sierra Leone	IWGGBV-SL
Intimate Partner Violence	IPV
Legal Aid Board	LAB
Mid-Term Evaluation	MTE
Ministries, Departments and Agencies	MDA
Ministry of Health and Sanitation	MoHS
Ministry of Justice	MoJ
Ministry of Local Government and Rural Development	MLGRD
Ministry of Social Welfare, Gender and Children's Affairs	MSWGCA
Monitoring and Evaluation	M&E
Multiple Index Cluster Survey	MICS
National Social Security and Insurance Trust	NASSIT
National Commission for Children	NCC
National Committee on Gender Based Violence	NaC-GBV
National Social Security and Insurance Trust	NASSIT
Non-Governmental organisation	NGO
People with Disabilities	PWD
Primary Health Unit	PHU
Registration of Customary Marriage and Divorce Act	RCMDA
Sexual and Gender Based Violence	SGBV
Sexual and Reproductive Health	SRH
Sexually Transmitted Infection	STI
Sierra Leone Demographic and Health Survey	SLDHS
Sierra Leone Police	SLP
Sierra Leone Police Executive Management Board	SLP EMB
Standard Operational Procedures	SOP
Sexual Offences Act	SOA
Strategic Roll-Out Plan	SROP
Sustainable Development Goal	SDG
Terms of Reference	ToR
Theory of Change	TOC
Truth and Reconciliation Commission	TRC
UN United Nations	UN
United Nations Children's Fund	UNICEF
United Nations Population Fund	UNFPA
Violence against Children	VAC
Violence against Women and Girls	VAWG
Women's Action Groups	WAG
World Health Organization	WHO

APPROACH AND METHODOLOGY

This assessment of the impact of the Sierra Leone Gender Acts (GA) was commissioned by Trócaire on behalf of the Irish Consortium on Gender-Based Violence (GBV) in Sierra Leone. The Consortium was formed in 2005 to address high levels of sexual and gender-based violence (SGBV) in international conflict and crisis situations. With a global office in Ireland, Trócaire has representation in Sierra Leone as a key partner country.

The overall aim of the Irish Working Group on Gender Based Violence in Sierra Leone (IWGGBV-SL) is to promote the adoption of a coherent and coordinated response to GBV. It is made up of organisations that receive Irish Government funding either through the Irish Embassy in Sierra Leone or through Irish Aid Headquarters in Ireland. The Working Group members have diverse mandates and operational approaches representing development, humanitarian and human rights organisations.

The Working Group Members include:

1. Action Aid;
2. Child Fund;
3. Christian Aid
4. GOAL;
5. Concern;
6. Irish Aid;

7. International Rescue Committee (IRC);
8. Plan International;
9. Trócaire;
10. World Vision.
11. Save the Children

This assessment is authored by a small team of three consultants, namely:

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- c) Simitie Lavalay: Sierra Leone Legal Expert.

1.1 Objectives and Scope

As stated in the Terms of Reference (ToR) found in Annex 1, the overall objective of this assessment was:

To undertake and deliver a national study examining the extent to which the three “Gender Acts” (GA) have contributed to improving the protection of women and girls in Sierra Leone ten years on.

The three Gender Acts of 2007 are:

1. The Domestic Violence Act;
2. The Devolution of Estates

Act; and

3. The Registration of Customary Marriage and Divorce Act.

Subsequent to 2007, the legislative framework of the three GAs was bolstered by passage of the Sexual Offences Act (SOA) of 2012 to end the culture of impunity for those who commit sexual offences.

The assessment was motivated by IWGGBV-SL concerns about how effective implementation of the three Gender Acts has been to date. It assesses whether or not ten years of implementation of the three GA has contributed to the improved legal status of women and children, especially girls in Sierra Leone; and how. The assessment is meant to gauge how the GA laws have enhanced the protection of women and children through changing institutional practices, programmes, procedures and policies.

Our research has covered all regions of Sierra Leone. Criteria for the selection of chiefdoms/ communities for field work included the following as identified by IWGGBV-SL members:

- a) Levels of GBV and vulnerability of women and girls;
- b) Potential to capture socio-

cultural diversity;

c) Coverage of rural/ remote chiefdoms as well as peri-urban or easily accessible locations; d) Consortium member presence on the ground. ¹

Data Collection: We collected data collected through Roundtable and Community Conversations, which differ from the more usual consultation tool of Focus Group Discussions in that they are explicitly moderated to ensure that each person sitting around the table or in a community circle contribute to the conversation. In addition, we conducted individual, face-to-face, and small group Key Informant Interviews (KII). A total of 350 stakeholders were consulted for the assessment, including GA Duty Bearers, NGOs and CSOs, community-level beneficiaries, and GBV survivors. (see Annex 3).

Scope: The assessment focused on those member efforts whose programming, policies, and plans explicitly recognize GBV prevention and response as a main focus area of programming. The assessment did not consider the multiple, multi-pronged efforts being made by IWGGBV-SL member organisations to prevent and respond more broadly to GBV in Sierra Leone of which support to GA implementation is but one component or sub-set of programming and advocacy. Nor did the assessment directly consider progress in the implementation of the Sexual Offences Act of 2012, as it is not one of the three GA.

1.2 Approach and methods

Our approach was anchored by

three principal commitments:

1. Depth of analysis;
2. Speak to the right stakeholders;
3. Producing findings that are both rigorous and practically useful, with a strong focus on the recommendations in the final report.

It is important to remember that GA implementation represents one set of interventions out of many. Direct attribution for improving the protection of women and girls in Sierra Leone is therefore rather difficult.

Rather than a methodology based on proving causality via a counterfactual, therefore, we used Contribution Analysis as the main approach.

The Contribution Analysis approach has enabled us to assess the extent to which implementation of the three GA has contributed (or not, as the case may be) to achievement of expected results and outcomes.

The Six Steps of Contribution Analysis:

Step 1: The attributive relationship being assessed: establishing the relationship between implementation of the three GA and the protection of women and children.

Establishing that relationship requires identification of the changes that have taken place over ten years of

implementation of the three GA and the extent to which that implementation has contributed, both positively and negatively, to the following outcomes:

- a) Women and children's improved legal status;
- b) Protection from domestic violence;
- c) Protection from rights infringements pertaining to:

- Marriage and divorce;
- Property inheritance.

Step 2: Develop a Theory of Change (ToC) by identifying some of the key risks and assumptions.

The implied overall theory of change is that: interventions or inputs (such as advocacy by international and local NGOs and CSOs) to support implementation of the three GA (alongside other broader GBV prevention and response work) will result in the following outputs:

- a) GA implementation processes that address the needs and expectations of the target group (i.e. vulnerable women and children, including violence survivors, who are at particular risk of rights infringements);
- b) Generation of new institutional practices, procedures, policies and programmes to protect women and children from GBV;
- c) Shared learning and information-sharing between

Government Ministries, Departments and Agencies (MDA) and development partners;

d) Greater investment in GBV prevention and response by the GoSL and its development partners.

According to the theory of change, the outcomes affected by the results of the above efforts will contribute to a long term impact, namely: progress towards the full realisation of women and children's human rights, including the right to protection from violence.

A key underlying assumption is: effective implementation of progressive law will result in tangible improvements in the life experiences of women and children, especially girls.

A second, important assumption underpinning the programme theory of change: human and financial capacity constraints play a major role in facilitating or impeding the desired outcome of positive change.

Step 3: Gathering Existing Evidence on each area listed above from both secondary and primary sources.

We conducted a desk review of the socio-economic environment in which the three GA are being implemented. This enabled us to map out:

1. The key features of relevant national priorities;
2. The related legal framework,
3. Associated policies and strategies.

This mapping-out process enabled us to identify key GA implementation moments over the last decade. We reviewed as much as possible the limited IWGGBV-SL documentation (including annual reports, previous research studies, and publications looking at members' engagement on GBV issues in the country) that was made available to us through the dedicated drop box set up at the very start of the assessment process. We have carefully assessed existing quantitative/ statistical data, including that derived from the Sierra Leone Demographic Health Survey (SLDHS) and the Multiple Index Cluster Surveys (MICS). We have also collected some statistical data concerning the registration of customary marriages and divorce. However, it was agreed with IWGGBV-SL members at the opening Roundtable Conversation that we would not attempt to gather other raw data as this would be a task in itself and is one that is best postponed to a future date.

The desk review enabled us to synthesise existing research and evaluation evidence relevant to a performance assessment of GA implementation. We have relied particularly on global research and evaluation evidence, since little exists in Sierra Leone. Qualitative supplementary data was collected through Key Informant Interviews (KII) and Roundtable Conversations with Government Duty Bearers and implementing

partners; and from Community Conversations with beneficiaries. This data is presented in our report findings and has informed our recommendations.

Stage 4: Assemblage and Assessment of Contribution Story and its Obstacles: In developing a contribution story through the above-mentioned theory of change, we focused on institutions with primary, statutory responsibilities for GA implementation (e.g. MSWGCA, the Judiciary, the SLP, Local Councils and Local Courts), and the implementing partners and international development partners supporting GA implementation. In addition, we consulted a large number of potential and actual beneficiaries of the protections offered by the GA, either directly or through their representative organisations. We undertook field work at national and decentralised levels, in all regions of Sierra Leone, including a select number of Districts and chiefdoms/ communities where the IWGGBV-SL members are engaged in relevant programming and influencing work.

Looking closely at how GA implementation is progressing at the community level revealed contextually specific factors influencing progress toward anticipated outcomes.

(The key questions that guided this assessment are found at Annex 4.)

1.3 Socio-Economic Context: A Brief Description

Sierra Leone has made improvements in several key protection areas since the early 2000s. The country has made significant progress in consolidating peace and strengthening democracy following a devastating civil war which ended in 2002. Unfortunately, a recovered but fragile Sierra Leone was ravaged again in 2014 by the largest Ebola outbreak in history. The successful enactment of the three GA was cheered by the country, especially women, as this was seen as a means to improve their legal status and protection.

However, ten years on, women and girls' legal, economic, social and protection continue to be compromised and they face widespread societal discrimination, particularly in marriage, divorce, property and inheritance – all of which are guided by customary law. Sierra Leone's Gender Equality Index is ranked 8th from the bottom on the 2016 UN Human Development Report reflecting significant gender-based inequalities in reproductive health, empowerment and economic activity.²

Moreover, as a senior official emphasised: "Sierra Leone is a patriarchal country and its cultural beliefs and practices have gravely affected implementation of the Acts. Men are not ready to change their beliefs and practices overnight."

Significant socio-economic, political and cultural obstacles continue to challenge women and girls' advancement. These include:

1. The contradiction between GA legal provisions and practice;
2. Harmful socio-cultural norms and practices;
3. Deep-rooted structural obstacles such as the unequal distribution of resources, power and wealth;
4. Discriminatory institutional norms that sustain inequality

In the ten years since enactment of the three GA, the Judiciary and its partners have made strides forward in bringing justice to peoples' doorstep. Compared to 2015, when only 36 Judges and Magistrates served the whole country, currently, there are now 65. However, women and girls have limited knowledge of their rights as enshrined in national law and how to access these rights when they are breached.

Barriers in the court system, which hamper proper application of the laws and prevent women and girls voices from being heard, include:

1. Frequent case adjournments;
2. Informal court charges;
3. The lack of accountability mechanisms within the police and the courts.

Sobering Statistics: Sierra Leonean Women at Risk

The latest national statistics from the SLDHS 2013 show that 57 percent of women aged 15-49 have experienced either physical or sexual violence in their lifetime.

Moreover, half (51%) of married women aged 15-49 have experienced some kind of Intimate Partner Violence (IPV), i.e., physical, sexual, or emotional violence perpetrated by their husbands or intimate partners.

44% percent of married women have experienced physical violence at the hands of their husbands. 7% have experienced sexual violence, and 29% have experienced emotional violence. Among the acts of physical violence, slapping was the most commonly reported act, experienced by 38% of ever married women, followed by being pushed (22%), and about the same proportion being kicked (SLDHS, 2013: 275-280).

These figures demonstrate that GBV prevalence rates in Sierra Leone are relatively high compared to other countries. Anecdotal evidence suggests that as much as 60% of domestic violence cases are caused by land-related disputes.³

LEGAL FRAMEWORK AND GAPS

2.1 Global legal framework

Within the broader global legal framework of international human rights standards, the GoSL has signed up to most Conventions for the protection of women and children, including the Convention on the Rights of a Child (CRC) 1989 and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 1988.

CEDAW and Due Diligence

CEDAW obliges States “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women” (Article 2).⁴

Moreover, in 1992 the non-legally binding CEDAW Committee recommended the redefinition of “discrimination” to include GBV⁵; and clarified the responsibility of State Parties “for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence...”⁶ This implies responsibility for inaction to prevent acts of GBV and discriminatory practices, and has motivated the development of Due Diligence models for

monitoring compliance with domestic laws and protocols.

Due diligence is now viewed as an important international principle denoting a State’s obligation to take ‘reasonable’ action to:

- a) prevent VAW;
- b) protect victims/survivors from VAW;
- c) investigate and prosecute incidences of VAW;
- d) punish perpetrators of VAW;
- e) provide redress for victims/survivors of VAW.

To this end, the Due Diligence Project has developed a resource guide on the elements that support effective implementation of laws to combat violence. This includes guidance on the laws themselves, and what is needed beyond the legislation in order for the laws to be both effective and implementable.⁷ Klugman argues that the concept of due diligence is “an important motivation and benchmark for activists seeking to support effective implementation of national legislation, and provides a basis against which domestic legislative provisions can be assessed”.⁸

GoSL is also a signatory to key regional instruments such as the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) 2003; the African Union Declaration

on Gender Equality and Development; and the Economic Community of West Africa (ECOWAS) Protocols on Women and Development. However, by no means have all legal protections yet been enacted into Sierra Leone law, so they remain aspirational. It is anticipated that the entry into force of the Gender Equality Bill will ensure that the provisions of CEDAW are fully reflected in domestic law.

2.2 Constitution of Sierra Leone

The Constitution of Sierra Leone 1991 guarantees fundamental human rights of the individual irrespective of sex and provides for non-discrimination, save in matters of personal law (Section 27). However, Section 27 (4) (d) and (e) protect against discriminatory practices under customary law which hinder the full enjoyment of GA provisions. Women’s groups submitted a position paper as part of the Constitutional Review process requesting that these sections be removed from the Constitution. The Review Committee eventually agreed to the request and the final report included a clause enabling affirmative action. However, the provision was not included in the government bill submitted to Parliament. (The bill was rejected by Parliament due to other unpopular clauses.) The Constitutional Bill is scheduled to be reviewed again following the March 2018 elections, at which

point the government will decide whether to resubmit the Bill or revisit the recommendations.

2.3 The three Gender Acts and supporting legislation

The three GA, two of which were passed in 2007 (Domestic Violence Act and Devolution of Estates Act) and the last in 2009 (Registration of Customary Marriages and Divorce Act)⁹ are part of a series of legislation intended to provide for CEDAW in Sierra Leone domestic law.¹⁰ They also form part of the legislative framework for combating SGBV, although the most significant law in respect to sexual violence is the Sexual Offences Act of 2012.

The Domestic Violence Act (DVA) seeks to legally protect women and girls experiencing sexual, physical, emotional, psychological, and economic violence in the home or family setting. It criminalises behaviour that had previously been considered acceptable within the domestic setting and establishes a comprehensive regime of Court Orders designed to protect survivors from further violence by the same perpetrator within this setting. The Sexual Offences Act 2012 (SOA) and the Anti-Human Trafficking Act 2005 provide additional protection. The SOA protects women and children from a range of different forms of sexual violence and abuse, irrespective of whether the alleged perpetrator is a family member, teacher, or another person in a position of power and community influence. The Anti-Human Trafficking Act criminalises the trafficking of women and girls within Sierra Leone and outside its borders.

The Registration of Customary Marriages and Divorce Act (RCMDA) provides the framework for a unified system of registering customary marriages and divorce across the country and provides a platform for equal treatment of married women irrespective of whether the marriage contracted is customary or civil, Muslim or Christian. It also allows women who have cohabited continuously for 5 years with a man to have the relationship registered as a marriage. Prior to its enactment, women in a customary marriage were treated as inferior to those in other forms of marriage.

The Child Rights Act 2007 (CRA), which puts into Sierra Leone law the provisions of the international CRC and the African Charter on the Rights and Welfare of the Child, prohibits child marriage and forced betrothal, a common occurrence in customary marriage. Unfortunately, the RCMDA allows for marriage from the age of 16 years, with the consent of the parties and their parents, and this loophole has been used to legitimise child marriage. However, a draft Abolition of Child Marriage Bill is currently being reviewed by the Law Reform Commission which seeks to harmonise all marriage age provisions raising the minimum age bar to 18 years.¹¹ The RCMDA time frame of six months within which all past existing marriages were to be registered following enactment has lapsed. The Law Reform Commission is working on amendment of the RCMDA to harmonise the minimum age of marriage, address the issue of dowry payments, and improve access to District Council registration. We identify a pressing need to consolidate all laws concerning the registration of marriages to ensure coherence.

With the enactment of the Devolution of Estates Act (DEA), wives and children were prioritised as beneficiaries to inherit from the deceased's estate in the case of intestacy (i.e. death without a will) and empowered to challenge the provisions of a will, where these are inadequate. It also enlarged the definition of children to include illegitimate and adopted children and further allowed a cohabitee of 5 years standing to inherit as though she were a wife. The wife is also empowered to administer the estate irrespective of what type of marriage is contracted, a major change to Islamic law wherein the eldest son or the older brother is required to administer the property. The Administration of Estates Act¹² appoints the Administrator and Registrar-General to oversee the administration of a deceased's estate, whilst the Muslim Marriages Act¹³ specifies other people who may administer the estate if the deceased is a Muslim. Where there is dispute around inheritance rights, the matter will be litigated in the High Court and the Courts Act 1965 and the High Court Rules 2007 will govern proceedings.

For the prosecution of offenders under the Acts, the Criminal Procedure Act 1965 (a revised draft of which was rejected by Parliament in December 2017) and the Children and Young Persons Act 1960¹⁴ set the procedures for the prosecution of actions which constitute criminal offences under the three GA, with police prosecutor and State Counsels from the Law Officers Department handling the matters. Offenders who are indigent may be eligible for legal aid from the Legal Aid Board, formed under the Legal Aid Act 2014, whilst GBV victims and survivors may be assisted by the Legal Aid Board

to make civil claims. The Legal Aid Act provides a statutory basis for the use of paralegals and the accreditation of legal aid service providers to assist individuals in both criminal and civil matters.

For the RCMDA, the Local Councils, created by the Local Government Act 2004, are responsible for registration, although the National Civil Registration Authority, created by the National Civil Registration Act 2016, will at some future date take over this function. Customary Marriage and divorce certificates still appear to be issued by the Local Courts, a function they held until commencement of the Act. Local Courts, which adjudicate on customary law issues and low level criminal matters, are governed by the Local Courts Act 2011 and now fall firmly under the purview of the judiciary having been distanced from local government. Some stakeholders suggest that with appropriate guidelines and training there is no reason why the Local Courts should not be entitled to issue registration certificates for marriage and divorce. Bylaws are also passed at the community level and through the Ministry of Local Government and Rural Development (MLGRD).

To date, none of the Gender Acts have the Implementing Regulations that each of them technically provides for.

The above analysis notes legislative reforms and developments that have taken place in Sierra Leone. Some are directly related to the three GA whilst others provide additional safeguards for women and children, especially girls. It is important to emphasise that much of the push for these developments, just like that

for the three GA themselves, has come from civil society with support from international development partners.

RELEVANCE

Identifying and addressing the needs and expectations of the target group

Most stakeholders we consulted commend the enactment of GA implementation processes identifying the addressing of the needs and expectations of the target group (i.e. vulnerable women and children, including the survivors of violence and those at particular risk) as an achievement in itself. However, many Sierra Leoneans believe that the three GA are framed in a way that does not sit comfortably with everyday realities in Sierra Leone (i.e. that many of the three GAs' provisions are not entirely relevant). When we drilled down to the detail of the laws' provisions, a number of Duty Bearers in particular commented that the GA were designed with a developed, rather than a developing, country model in mind. This is of interest since there was significant national and local Sierra Leone civil society, especially women's rights organisations and activists, engaged in the drafting of the laws and in successfully advocating and lobbying for their enactment.

Recent global research suggests that women who live in countries with domestic violence laws have 7% percent lower chance of experiencing violence than women who live in those without such laws (Klugman et al. 2014). These laws are one form of government involvement that can influence norms. However, it is difficult to change informal social norms which include:

“the traditions, beliefs, values, attitudes, norms, and practices that are deeply embedded in culture, and which operate at systemic and community, as well as at the individual levels. Culture is far slower to change than formal policy or law, and law and policy do not automatically create changes in culture”.¹⁵

Global evidence also shows that while policy and legislative change is absolutely necessary, it is not alone sufficient to achieve the desired impacts. Synergistic change is required to transform dominant social norms and behaviour that serve to perpetuate the practice and acceptance of unequal gender relations and VAWG. Women need to be empowered both individually and collectively in order to recognise and claim their legal entitlements. Be they policy actors, decision-makers, opinion leaders or family members, men need to be engaged in interventions to prevent VAWG, not least because if they are not there is a real risk of negative backlash.

3.1 Recognition of customary law and jurisdiction of the courts

A number of stakeholders noted that none of the three GA make any reference to the status of customary law or to the roles and responsibilities of Customary/ Traditional leaders, which affects

the laws' implementation. Yet for many women and children in Sierra Leone, the Chiefdom system represents the primary mechanism through which they attempt to access justice.

The United Nations (UN) Handbook on Legislation to address Violence against Women (VAW) explicitly underlines the importance of clarifying the relationship between customary and formal justice systems and of making a provision which states the survivor's right to be treated in accordance with human rights and gender equality standards under each.

It further notes that although some evidence points to the benefits of some customary justice mechanisms, measures that seek to provide “compensation” to the survivors' family or community are not always positive since they neither focus adequately on healing nor provide redress directly to the survivor.¹⁶ A recent study on GBV and the law similarly notes that “when legislative prohibitions are enacted alongside ...customary laws that promote male dominance, the potential of legislative reform is clearly muted” (Klugman 2017 p35).¹⁷

Central to this assessment are the issues of Accessibility and Jurisdiction (Here, Jurisdiction can be defined as the authority given by law to a court to try cases and rule on legal matters within a particular geographic area and/or

over certain types of legal cases). Chiefs and other customary leaders or community elders are socially more accessible to women and their children, at least in the three regions of the country with Chiefdom systems (northern, southern, and eastern). These leaders also tend to be located within easy geographical reach of women and children.

Similarly, Local Courts are much closer to most communities than Magistrates Courts and the High Court and its registries. Magistrates Courts are still a distance away from many communities, increasing the costs of accessing formal justice and High Courts are only found in the regional headquarter towns. Circuit court sittings in district headquarter towns are irregular and unreliable in places such as Matru Jong and Kambia. Adequately meeting the needs and expectations of the target group therefore requires continuing work with customary justice mechanisms and increased engagement with Local Courts. Some stakeholders believe, therefore, that the Local Courts could play a larger role with guidance and training.

3.2 Sexual offences and the criminal justice system

The entry into force of the SOA of 2012 has simplified the prosecution of sexual offences, making it easier to address the needs and expectations of women and children who have survived sexual violence. More robust law combined with civil society legal education and community sensitisation has encouraged greater reporting of sexual violence crimes. This has no doubt been facilitated by the creation of specialised Sierra

Of the 3 952 cases included in the study, an arrest was made in 2 283 (57%) cases and 2 579 (65%) were referred for prosecution. Prosecutors accepted 1 362 cases (34.4%) and these were enrolled for trial. Trials started in 731 (18.5%) cases and 340 (8.6%) cases were finalized, with a verdict of guilty of a sexual offence. In 80 of the 340 (23.5%) of cases the perpetrator pleaded guilty; 247/340 (72.6%) convicted perpetrators were imprisoned, 20.2% received suspended prison sentences, 2.4% were referred for correctional supervision and 4.1% were fined for lesser offences. Of the 247 who were sentenced to prison, 29 (11.7%) received a life sentence, 109 (44.1%) received the minimum sentence of 10 years, 91 (36.8%) received between 6 and 10 years, 62 (25.1%) received less than 5 years.²¹

Leone Police (SLP), and Family Support Units (FSU). Currently, there are 75 FSUs spread across the country, which represents a significant achievement.¹⁸ However, the supply of FSUs is not sufficient to meet growing reporting demands, especially in remoter parts of the country, meaning that survivors who choose to report violence to the FSU must often travel considerable distances to do so.¹⁹ The most challenging area in this regard is the northern region, where some communities do not even have a police post let alone an FSU (e.g. Samu Chiefdom). We were informed that as a result, when a girl is sexually abused the matter dies because there is nowhere to report it: "the Chiefs intervene and the matter is finished".²⁰ Likewise, Madina has a health post but no capacity to compile a medical report for the police, meaning that survivors must be transported to Makeni – which is usually only possible with civil society assistance.

3.2.1 Attrition of sexual offence cases from the criminal justice system

The attrition of sexual offence cases within the criminal justice system remains an outstanding challenge (i.e. the number of sexual crimes that are committed far exceeds the number that end with the perpetrator of the

offence being convicted). This problem is not unique to Sierra Leone. Data from South Africa's sophisticated criminal justice system, for example, reveal that the attrition of rape cases is a major issue.

Attrition starts from the moment a complaint is made to the police and continues as survivors travel through the criminal justice system. The needs and expectations of those seeking formal justice solutions are thwarted at every stage.

The problem of attrition in the Sierra Leone criminal justice system is compounded by the fact that neither its overall extent, nor the stage in the criminal justice process where it is most marked, is known with any precision. Annual statistics are produced routinely by the SLP, but are not disaggregated sufficiently to provide thorough analysis. This makes it difficult to identify with any degree of certainty what could be done to ensure that the criminal justice needs of this exceptionally vulnerable group of GBV survivors are identified properly and then addressed.

Stakeholders report that survivors of sexual violence fall out of the criminal justice system for the following reasons:

a) Family pressure and

interventions in favour of an “out of court settlement”;

b) The corrupt “compromise” of cases by police and judicial officers;

c) Distance and the associated out-of-pocket costs;

d) The costs of lost production;

e) The costs required to access the relevant court;

d) The slow speed with which the judicial process travels.

Any one of these factors, in isolation or combined, can mean that the expectation a survivor of sexual violence has of bringing an alleged perpetrator to justice will be thwarted. Unless the problem of attrition in the criminal justice system is taken on by civil society, community sensitisation to increase the reporting of sexual offences risks being a wasted effort.

3.2.2 Intimate Partner Violence: diversion into mediation

Too often, Duty Bearers are not doing what they should to identify and address the needs and expectations of victims of Intimate Partner Violence (IPV). Unless there is clear evidence of broken bones and/ or wounding with bleeding the blanket solution is to automatically divert these survivors out of the criminal justice system and into Alternative Dispute Resolution (ADR)/ mediation/ conciliation. As discussed below, FSU and other police officers, MSWGCA Social Workers, the Legal Aid Board (LAB), civil society supported paralegals, and some community women who have traditionally played this role, are all engaged in mediating IPV cases, often with little formal training – when according to the DVA, a good

number of these cases warrant charging to court because criminal offences are involved.

Since by definition IPV tends to escalate in frequency, in the severity and type of violence, and in aggravation, diversion out of the criminal justice system inevitably means that many women and girls are being forced to remain in abusive and violent relationships in their personal domestic settings. This is not an easy issue to address because there are strong social norms exerting pressure to keep marriages intact, to maintain their sanctity and to avoid difficulties in relations among wider, usually very extended, family and kin systems. Moreover, the expectation of IPV survivors is only rarely to go for a criminal prosecution because of the implications such a decision has for their status in the community and for their economic survival and that of their children. Few women and girls want to see a significant male breadwinner punished through imprisonment. And given prison conditions, there is little chance that on his release the perpetrator will be any easier or less violent and abusive to live with.

3.3 Needs and expectations of women in customary marriages

There has to date been very little registration of customary marriages under the RCMDA. Our findings suggest that this is due to a number of factors that have little to do with the needs and expectations of women, many of whom would like to register their customary marriages, including those who have been cohabiting with a man for the required five year period. One obstacle concerns

the erroneous expectation many Duty Bearers and civil society members appear to have that only monogamous customary marriage qualifies for registration. This creates a deterrent in community sensitisation efforts towards registration, since many customary marriages in Sierra Leone are polygamous. If a polygamous man is forced to choose which of his wives to register and thereby potentially cause disharmony in the home among his unregistered wives, he is unlikely to go for this option.²² It will also detract from meeting the needs of children since the legitimacy status of children whose mothers are unregistered wives and their claims on intestacy (i.e. the death of a father who has no will) will be affected.

The protective provisions of the DEA are largely oriented towards women who enjoy individually owned or private property and assets who tend to be most educated and well to do economically. In other words, in these cases the DEA itself prioritises meeting the needs of women and children living on privately owned land.

However, as a result once again of community sensitisation and awareness-raising, the rights provided for in the Act concerning the division of property on the death of a man who has no will are being observed by some communities in practice regardless of the form of property ownership. Needless to say, the relationship between the law (DVA) and IPV survivors’ needs and expectations is controversial and complex.

Councillor Aminata Bangura sitting in front of her office in Kambia District
Photo: Caroline Long / Trócaire

3.4 Diversity of women and children's needs and expectations

At the community level, civil society has clearly identified and attempted to address the needs and expectations of vulnerable women and children. Across members of the IWGBV-SL, for example, there is reasonable nationwide coverage of community interventions. However, there are some gaps to address. In particular, most (not all) programming emphasis has been given to the needs and expectations of the survivors of violence, especially of sexual offences. Of the three GA, the DVA is the best known and understood by both Duty Bearers and community members, as well as by civil society implementers. There are some important exceptions, including the drive to take customary marriage registration to communities. Going forward there is clearly more work to be done to enhance understanding of the RCMDA and the DEA.

Overall, it is clear that women with more education and in higher income groups can afford to cover the relevant costs involved in claiming their legal rights and entitlements (e.g. medical report, lawyers' fees, court expenses etc.). They are more able to take advantage of some protections offered by the law, although as noted above the RCMDA addresses the needs of women living in customary marriages who tend to be less well-to-do in economic and social terms. Poverty itself remains a significant barrier to justice and the attainment of human rights.

There are social and other barriers (including social norms, beliefs

and patterns of behaviour) which impede communications between Duty Bearers with responsibilities for implementing the GA and the women and girls whom the laws are designed to protect, especially when the women are not aware of their rights and entitlements.

None of the three GA specifically addresses the needs of women and girls with disabilities; therefore, it is difficult to ensure that implementation processes do. This is likely to be reflective of the fact that there is not yet a fully-fledged movement of People with Disabilities (PWD) led by PWD to advocate and lobby for their rights to be included and recognised in law reform processes. Indeed, the issue of PWD needs was not raised in the wide range of community conversations we convened for this study. Of the 350 women and men consulted, only two had a disability: one woman was mobility impaired and a wheelchair user; and another man used crutches. The young woman self-propelled into the community conversation and remained present, but she was silent throughout the session. She was in fact a "GBV survivor", but when the time came for her to talk in confidence with a designated member of the Study Team, she chose not to. On the other hand, the man was a community activist and offered to act as interpreter for our conversations.

Economic empowerment and negative backlash from men is perceived by women to be a real risk to their newly mandated rights and entitlements. There is a perception at community level that economic empowerment activities are threatening women's homes. "Our husbands are feeling scared that we women are trying to take power from them. Instead of them



supporting us, they physically and emotionally abuse us on a daily basis. Our husbands do not contribute financially to the home and the upbringing of the children, but they expect food on the table daily".²³ Some women say that they face domestic violence as a result of recently introduced micro-finance activities targeting them as women. Husbands are said to interfere with the businesses, by taking loans from their wives and refusing to repay them. When they are asked to repay, the husbands resort to violence as they do not feel a wife should request repayment from her husband. One young male participant further explained that "it is not easy for me to beat my wife but sometimes, when she becomes economically empowered then she will challenge me publicly. If I do not beat her, then I will be embarrassed before my companions. I have to beat her to show her that I am more powerful".²⁴ Unless the issue of male engagement is addressed properly, there is a danger that whilst there is growing recognition of women's needs and expectations this will be undermined by negative backlash from men and boys.

EFFECTIVENESS

Contribution of GA implementation to new institutional practices, policies and programmes

In this section of the report we look at how implementation of the three GA has contributed to the generation of new institutional policies, procedures, programmes and practices to protect women and children. Having looked at the relevant national policies, plans and strategies, we consider each of the Acts separately because they differ considerably in both approach and in the roles and responsibilities they ascribe to different Government Ministries, Departments, and Agencies (MDA) and Duty Bearers. When assessing the extent to which and how development partners have contributed to promoting and advocating for GA implementation, we provide a number of illustrative examples. (These examples do not always specify which particular organisation has contributed what.)

4.1 Relevant national policies, plans and strategies

4.1.1 Government of Sierra Leone national development priorities

At a macro policy level, the GoSL's commitment to advancing gender equality, women's empowerment and the prevention of sexual violence is evidenced at the highest, macro level in its DRAFT adaptation of the Sustainable Development Goals (SDG) to the Sierra Leone context.²⁵ As we can observe in Annex 5, the Government has

pledged to dramatically reduce all forms of IPV and domestic violence as well as sexual violence perpetrated by a person unknown to the victim. It sets targets for the reduction of child marriage and the practice of FGM/C. The plan also commits to increasing the access of adolescent girls to Sexual and Reproductive Health (SRH) care, including contraception; and increasing the share of women who are owners or rights-bearers of agricultural land by establishing a legal framework (including customary law) to guarantee women equal rights to land ownership and other entitlements.

Starting at the highest level with these global pledges to the SDG, the theme of combatting GBV, promoting gender equality and women's empowerment runs through the GoSL policy framework, and includes the following examples:

Pillar 8 of the GoSL's development plan:

Sierra Leone Agenda for Prosperity (PRSP III) Road to Middle Income Status (2013-2018)²⁶ "Gender and Women's Empowerment"

The focus is on strengthening GBV prevention and response mechanisms, and committing the Government to enact Gender Equality legislation, set up a National Women's Commission, and focus on coordinated gender awareness and action across

MDA and civil society. To this end as mentioned above, a Gender Equality Bill has been prepared. The *Zambian Gender Equity and Equality Act [No. 22 of 2015]*²⁷ is a good example of legislation to put the full provisions of CEDAW into domestic law

4.1.2 Strategic Roll-Out Plan for GA implementation

In November 2008, the MSWGCA developed and launched a Strategic Roll-out Plan (SROP) together with a 15 page Work Plan following enactment of the three GA, with the support of a large range of international donors and civil society (in particular the International Rescue Committee [IRC]).

The SROP recognised that enactment of the GA was a first step and that "the Acts need to be enforced and disseminated through concrete programming to effect meaningful change".²⁸ A 2010 end-of-project review, commissioned by the IRC with funds from Irish Aid, found widespread enthusiasm for the participatory and consultative processes used to develop the SROP. Line Ministries and other stakeholders believed it had helped to create the necessary momentum to support GA implementation; raised awareness among key Duty Bearers of the significance of the new Acts and their obligations under them; and mobilised broad-based support across government and non-governmental organisations.

However, already two years into the process, they all pointed

to the dissipation of the initial momentum and to the fact that the SROP, far from being the living document it was intended to be, had fallen quickly into disuse.²⁹ The anticipated external funding had not materialised, and that, combined with leadership challenges appears to have caused the inertia. At the time of writing this report, the MSWGCA is reported to be updating and revising the SROP.³⁰ In the meantime, implementation has been subsumed within the wider policy frameworks for gender equality, GBV, and most recently national policy to end child marriage and FGM/C.

4.1.3 Ministry of Social Welfare, Gender and Children Affairs Policy

Through interagency partnership, MSWGCA developed the National Gender Strategic Plan (2010-2013) aligned to the GoSL national development plan. The Plan provided a clear framework and tools for the coordination and implementation of gender-responsive programming. The MSWGCA Mid-term Evaluation of the Plan commissioned in 2012³¹ found that through partnerships with civil society, there had been increase in the roll-out and popularisation of the three GA as a way of connecting statutory provisions with communities' capacities to claim and enforce their rights. However, it also found that citizens continued to struggle to claim their rights under the GA and that implementation and enforcement were challenging. This was likely due to somewhat sporadic and ad hoc activities supporting GA roll-out (such as radio shows, GBV court monitoring, etc.) and to weak MSWGCA institutional administration.

The Sierra Leone National Action Plan for the Full Implementation of United Nations Security Council Resolutions, 1325 (2000) & 1820 (2008), 2010-2014³² sets out the GoSL's proposed action in implementing these UN security council resolutions to facilitate and strengthen women's efforts in conflict prevention, resolution, peacebuilding; and to recognise and provide early response mechanisms to address the impact of sexual violence and GBV on women and girls. A key finding of the 2015 implementation progress evaluation found modest success by the MSWGCA and development partners to enhance the legal protection of women, limited to strengthening the investigation and prosecution of SGBV crimes and outreach to enhance citizens' understanding of rape and other forms of SGBV.

³³

In November 2006, under the leadership of MSWGCA, the National Committee on Gender-based Violence (NaC-GBV) was born. The NaC-GBV, an interagency working committee, aimed to introduce mainstream GBV services and activities into the public health system and other national structures (NAPGBV p9). Hosted by the MSWGCA, the committee is chaired by its Minister and co-chaired by the Assistant Inspector General of the SLP in charge of Crime Services (AIG/CID); and its membership includes MDAs, service providers and GBV civil society organisations. In addition, regional GBV Committees are now established in the North, South and Eastern Provinces. In recent years, the effective functioning of the committee has been hampered by successive changes in Ministerial leadership, funding constraints due to changing international donor

priorities, and general "committee fatigue".

One of the committee's key achievements is the development of the now expired five years National Action Plan on GBV (2012-2016). The plan sets out an interagency coordinated and joined-up framework for combating GBV and Violence against Women and Children (VAWC) to ensure effective and sustainable protection and services for GBV survivors across the country. These mechanisms included:

- a) Identifying gaps in national laws regarding rights and protection of women and children, and enacting, implementing and enforcing GBV laws;
- b) Sustained actions to ensure standardisation of public and community education;
- c) Advocacy for institutionalising direct GBV services for national coverage and accessibility.

However, a major shortfall of the plan is that it does not outline how its own implementation will be monitored and evaluated.

The (Draft) National FGM/C Strategy (NFGMCS) 2016-2020 details the key strategic objectives and targets to:

- a) Improve political and legal commitment to FGM/C reduction through working with Paramount Chiefs on bylaws and encouraging ceremonies without cutting;
- b) Strengthen national capacities to prevent and treat

FGM/C by training MDA and service providers, including in risk analysis;

c) Strengthen and sustain communities' public commitment to FGM/C abandonment through effective interventions such as Community Conversations and public declarations;

d) Put in place coordination, monitoring and evaluation mechanisms;

e) Increase knowledge and understanding about FGM/C by creating a national steering committee;

f) Establish strong M&E systems with an emphasis on evidence generation.³⁴

The strategy recognises the wide range of organisations working towards FGM/C abandonment in Sierra Leone using diverse approaches, from awareness-raising about harmful health effects; to intergenerational dialogues to create spaces for public discussion; and linking FGM/C with other harmful traditional practices (such as early marriage and early pregnancy) in community campaigns.³⁵

4.1.4 National Secretariat for Reducing Teenage Pregnancy

The National Strategy for the Reduction of Teenage Pregnancy (2013-2015) aims to protect young school going girls who became pregnant during the Ebola epidemic to enable them to return to school after the birth of their babies. This multi-sectoral strategy, under the leadership of the President, uses a twin-track approach:

1) Interventions to review existing policies and legal documents and develop new ones to protect adolescents and young people's rights;

2) Community-level mobilisation to reduce early childbearing and teenage pregnancy through improved SRH services for young people.

The National Secretariat for Reducing Teenage Pregnancy in Sierra Leone (TP Secretariat) has developed a life skills manual launched in 2017 which integrates modules on GBV. However, we were informed that material concerning the three GA and related legislation have not been specifically integrated yet, which represents a missed opportunity.

The (Draft) National Strategy for the Reduction of Adolescent Pregnancy and Child Marriage (2017-21) was not signed by the outgoing President before the elections in March 2018. Hence it

remains a draft. It aims to:

a) Reduce child marriage to 25% by 2021, including by improving the policy and legal framework;

b) Ensure a minimum package of adolescent friendly health services in schools and PHUs; c) Promote access to sex education for all girl and boys;

d) Increase uptake of these services among adolescents and communities.³⁶

4.1.5 Sierra Leone Police

The 2008 SLP Gender Mainstreaming Policy outlines the principles governing commitment to eliminate "all forms of discrimination, including discrimination on the basis of gender" [section 5.1] and to integrate principles governing gender mainstreaming in police recruitment, training, deployment and transfers, welfare, representation and leadership. It also states that "a mentoring program shall be established to support the professional and personal development of junior female personnel" [section 9.3]. In terms of enforcement, the policy pledges the creation of a "mechanism to monitor implementation of the gender equality and mainstreaming policy" and submission by the Assistant Inspector General (AIG) Professional Standards of quarterly reports to the SLP Executive Management Board for it to review and evaluate in order

Global best practice underlines the principle that domestic violence law should explicitly prohibit mediation as an alternative to criminal justice either before or during legal proceedings. This is to: a) stop cases being removed from judicial scrutiny; b) counter the presumption that both parties to domestic violence have equal bargaining power; and c) promote offender accountability (UN, 2011). Moreover, the Istanbul Convention forbids any alternative methods for resolving a dispute where violence has occurred (Fraser 2018 p8).

A good practice example is the recently produced **National Plan of Action to End Violence Against Women and Children in Tanzania: 2017/18 – 2021/22**⁴² (known as the NPA VAWC). Importantly, this fully costed plan consolidates what were previously eight different action plans to address VAWC. It comprises two pillars Prevention and Response; under which are eight thematic areas, each accompanied by a strategic objective describing what will be achieved in terms of outcomes and outputs (NPA 2017 p5). A core approach is “Getting to the right legal framework” which includes legal reform that will contribute to ending VAWC.

It is also important to note that the NPA VAWC emphasises that changes in laws are to be supported by “work to address social norms and strengthen alternative practices” and “ensuring the legal system is sensitive and responsive to the needs of vulnerable groups such as children in contact or conflict with the law and women, children with disabilities or children with albinism” (NPA 2017 p12).

The NPA VAWC also establishes an institutional and coordination structure at national and decentralised levels which is further detailed below.

to improve performance [section 1: enforcement].³⁷ There is no evidence of such monitoring.

The SLP Policy on Sexual Exploitation, Sexual Abuse and Sexual Harassment, Sierra Leone Police, April 2008: explicitly complements the Police Discipline Regulations and in its scope applies to “all Sierra Leone Police personnel, including contractors, consultants and volunteers such as members of the Local Police Partnership Boards” [Sections 4.1-4.2]. All SLP personnel are explicitly prohibited from committing acts of sexual exploitation, sexual abuse or sexual harassment against colleagues and the general public whether on or off duty. These acts constitute acts of serious misconduct that are grounds for disciplinary measures, including summary dismissal.

The SLP Informal Resolution (IR) Policy was introduced in 2005 and comprises Policy A and Policy B.

Policy A concerns the use of

informal resolution by the SLP in order to: “provide a free, quick, flexible, simple, expedient and informal alternative to settling disputes of a minor nature outside of the courtroom thus building relationships and promoting more peaceful and safer communities”.³⁸ It sets out the conditions in which IR may be considered appropriate and the procedures to be followed in such cases.

Policy A also details the objectives of IR, which include:

- a) Reducing the volume of cases charged to court;
- b) Enhancing access to justice for all especially the vulnerable and marginalised;
- c) Promoting public trust and confidence in the criminal justice system;
- d) Providing a quick and easy means of redress in minor disputes.

The benefits of IR, as well as key stakeholders and key internal and

external threats (including the lack of funds for training and lack of donor funding) are also covered in Policy A.

Policy B “sets out the standard procedure to be followed where a member of the SLP is the subject of a complaint, report or allegation requiring investigation”.³⁹ The IR policy would only be used to resolve these types of dispute by the Director of CIID appointing an officer to assist the Investigating Officer. Further, the IR policy would only be used provided the conduct described in the complaint would not justify a criminal charge; that the complainant permits IR to be used; and that the complaint is minor in nature.

The IR policy was hotly debated by the SLP EMB in 2011 when it was agreed that it should NOT be used in physical domestic violence/ IPV cases in compliance with the DVA.

In 2011, with support from Irish Aid and IRC, the SLP CID

set up an internal Working Group to develop Standard Operating Procedures (SOP) for the Investigation of Sexual and Domestic Violence Offences. The SOPs were endorsed as national police policy in February 2011 and were subsequently updated in 2013 to account for the entry into force of the SOA (2012). These procedures “relate to the police conduct of investigations into sexual and domestic violence offences as currently defined under Sierra Leone law whatever the age of the victim”.⁴⁰

The purpose of the SOPs is to ensure the spread of minimum good practice standards in the investigation of sexual and domestic violence offences across police units, including the specialist FSU’s.⁴¹ It was intended that the SOP would be closely monitored and regularly updated by the SLP EMB, but this does not appear to have happened since they were updated in 2012 with the entry into force of the SOA.

4.1.6 Policy coherence

It is clear from the above that there is no lack of Sierra Leone policy, strategy and plans to address GBV and VAWC. Indeed, there are so many it is hard to see how any are being sufficiently robustly monitored, let alone financed from the Government Budget in the wake of the Ebola epidemic.

In particular, the MSWGCA is responsible for delivering on not only the national gender policy, but multiple other plans and strategies. Although the 2012-2016 GBV plan encompasses children as well as women which is positive, the range imposes serious delivery, Monitoring and Evaluation (M&E) and reporting burdens on what is already an overstretched Ministry. Moreover,

it means that commitments and programmes towards ending GBV/ VAWC are spread across a number of the Ministry’s own plans as well as featuring in the plans/ strategies of the inter-ministerial TP Secretariat to which the Ministry made major contributions.

Separate plans may make sense from the perspective of international development partners who have specific global programmes targeting particular aspects of GBV/ VAWC, such as child marriage or FGM/C. But from the perspective of the MSWGCA it might be more straightforward and less burdensome in terms of M&E and reporting if the multiple forms of GBV/ VAWG/ VAWC/HTP and commitments/ actions to address these were all brought together into either a National Strategy or a National Action Plan. The Box above highlights a good practice example from Tanzania.

We recommended that GoSL considers the development of a fully costed, multi-sectoral and inter-governmental national plan to combat all forms of GBV and VAWC, including harmful traditional practices. In particular, the Ministry of Justice, the Law Commission and the judiciary should be engaged in the development of such a plan.

4.2 The Domestic Violence Act

4.2.1 Procedures and protocols to support survivors of sexual and physical violence

The 2012 National Referral Protocol on Gender Based Violence, Pathways to Service Provision for Victims/Survivors of GBV⁴³ is an agreement amongst key actors to ensure an effective response to and coordination of services for GBV survivors. The protocol lays out the specific roles and responsibilities of the responsible MDA in addition

Over a long time period, IRC has been supporting Women’s Action Groups and Men’s Action Groups in the East (Kenema, Kailahun, Kono) to monitor domestic violence in the community and provide a support structure for victims.

This model could be replicated with IWGG-BV-SL support in other areas using existing community women’s and men’s groups to undertake that function for sustainability.

to civil society and community mechanisms. However, a 2016 gender equality assessment undertaken for the European Union (EU) in Sierra Leone found that the protocol is not functioning properly.⁴⁴ We recommend that the recently established Community of Practice on VAWG convene a Roundtable Conversation at an early opportunity to identify challenges with the practical operation of this protocol, and to consider advocacy and influencing work to combat those challenges.

The SLP SOPs for the Investigation of Sexual and Domestic Violence Offences (2011, updated 2012) formed part of a toolkit of materials, including Age Assessment Guidelines developed with support from

Onita Mariatu Koroma, elected in Port Loko District during 2018 Elections.
Photo: Stephen Douglas

UNICEF, and the FSU Handbook on SGBV Management developed with support from the UNDP. A number of NGOs have contributed to the design and delivery of training for FSU officers in the use of the SOPs and accompanying guidance. Although the SOP were supported by an M&E Framework, this does not appear to have been rolled out or if it was is not being used. Moreover, contrary to what was planned, the SOP have not yet been routinely integrated into the induction of new SLP officers, nor do they form a core part of the Police Training Academy curriculum. We recommend that the IWGGBV-SL considers how best to take this project forward, having evaluated use of the SOPs and accompanying Toolkit of resources to date and their contribution (or not) to improved police investigation of sexual and domestic violence offences.

4.2.2 Community bylaws prohibiting domestic violence & wife beating

An altogether different type of community driven protocol, and supported in some instances by civil society, are community bylaws which a good number of Chiefs have instituted in different communities. These prohibit certain forms of domestic violence, such as wife beating. In communities wherein such bylaws have been implemented in line with the Act, the incidence of physical domestic violence, especially IPV, is said to have decreased.⁴⁵ As reported by a Kenema participant: “in my area, the bylaw says that, ‘any man beating their wife will go to jail’”.⁴⁶ In some instances, monetary fines ranging from 50,000 to 200, 000 Leones



are levied, and /or the wife is relocated away from the abusive environment in order for the situation to calm down. There is some debate currently about the value of codifying the community bylaws so as to ensure that they are fully compliant with international human rights standards. However, there is contrasting evidence on the relative benefits. An alternative approach has been used in Namibia, where the centrality of customary practices to peoples' lives has resulted in a long process of harmonisation through community dialogue to generate commitments that are then documented in 'self-statements' of customary law. A number of communities led by their traditional leaders have produced written accounts of the parts of their customary laws which they deem to be particularly important and which are in harmony with Constitutional principles and human rights (i.e. non-discriminatory of women).⁴⁷ This example, underlines the need to involve traditional leaders in DVA implementation, with clear agreement of their roles and an instituted accountability

4.2.3 Sexual Violence cases

There is a generally accepted practice of distinguishing "serious" or "aggravated" cases from "minor" or "non-aggravated" cases using the guideline: presence or not of "bleeding, wounding or broken bones". At one level this represents progress as it suggests that a greater number of sexual violence

cases are going through the criminal justice system than was the case previously. In cases which are judged to be serious, we were told that the complaint is written down and recorded by the police/ FSU; and the survivor is provided with a medical form and referred to a medical facility. Nonetheless we did not find free medical care to be readily (if at all) available to clients in the locations we visited. And, community members report that free medical treatment is rarely provided in Government health facilities. We were informed that medical costs which survivors must pay range from Le 25,000 per consultation in Freetown, Le 40,000 in Kenema, Le 60,000 in Bombali and Le 80,000 in Mattru Jong.

Rainbo Centres (located in Freetown, Kono and Kenema), supported by the IRC with funds from Irish Aid, provide free medical and psychosocial services to adult and child survivors (predominantly women and girls). In areas within any reach of the Rainbo Centres there is a clear survivor preference to make use of these services. We were told, for example, that sexual offence survivors, especially children in Kailahun are transported to the Kenema Rainbo Centre when possible. This is partly explained by the fact that Rainbo Centres provide services without charge to the client, are better supplied with essential drugs, and employ well trained teams who observe "patient confidentiality" and other protocols. A range of

other NGOs and CSOs are also providing financial and psychosocial support to survivors, although this is said to be subject to the availability of international funding.

As Rainbo Centres require heavy financial investment and do not cover the whole country, community based monitoring, support and referral mechanisms may be more sustainable in the long term.

4.2.4 Prosecution of sexual violence cases

A number of changes in practice have helped to speed up the criminal justice process for sexual offence cases charged under the SOA. The specialised GBV court in Freetown and has seen a reduced number of cases suggesting that the backlog has been successfully addressed. However, there are a significant number of cases pending trial in the regional High Courts in the South, North and East,⁴⁸ although the practice of sporadically convening Saturday Courts has also helped to address the backlog of cases.

Less positive, from the prosecution angle, is the fact that the Director of Public Prosecution must advise on sexual and serious physical violence cases before they can be charged to court. This results in severe delays, thereby motivating families to opt for an out-of-court settlement.⁴⁹ We were informed, for example, that in the case of rape or child sex abuse, families and wider communities often support the reporting of the case to the FSU initially. As a case proceeds slowly through the criminal justice system, however, the complainant and family are often pressurised by the accused's'

relatives and/ or Duty Bearers to drop the case. Since children and the livelihoods of the complainant are at stake, the women often have no choice, but to succumb to social and economic pressure.

4.2.5 Use of ADR in domestic violence cases

As directed by the SLP leadership, the above-mentioned resources and policies (including the SOPs and the SGBV Case Management Handbook) concur with the DVA's provisions to prevent the diversion of cases to Alternative Dispute Resolution by stipulating that this must only take place through the court system. Following a lively debate on this subject the SLP EMB decided, in February 2011,⁵⁰ that legislative stipulations are such that Police and FSU Officers should not engage in Alternative Dispute Resolution, Informal Dispute Resolution or mediation in physical domestic violence/ IPV cases where criminal offences are implied.⁵¹ This decision was also influenced by FSU concerns at that time that the use of Alternative Dispute Resolution in such cases might leave the door wide open to the possible misuse of office for pecuniary gain, given the financial transactions and arrangements which customarily surround the out of court settlement of such cases. However, the IR Policy (summarised in the previous section above), developed prior to enactment of the DVA, was considered by the SLP as being appropriate for civil disputes over inheritance,

Safe houses: As one of three options provided in the DVA, the Court may make a Protection Order directing “the relocation of the applicant to a safe house to be provided by the Minister” if it is satisfied that this is reasonably necessary for the safety of the victim or a child.

- There are no Government-funded safe homes or refuges and even those run by NGOs, raise concerns about the safety and security of their occupants.⁶⁸
- The reluctance of the police to practice the DVA stipulation of assisting victims/ survivors to make applications to the court for Protection Orders makes the protection requirement hard to meet.
- Survivors are sometimes referred by the FSU to an NGO if there is one in the area to provide additional support. In communities where there are strong Women's Rights Organisations (e.g. Women's Action Groups) protection issues, especially in sexual violence cases are addressed by them to the best of their ability.

Psychiatric help for offenders:⁶⁹ There is no evidence of a psychiatric support programme being in place for DV offenders. This represents a gap since global evidence suggests that interventions such as “perpetrator counselling” can prevent repeat offending and therefore contribute to the secondary prevention of IPV.

Similarly, where the Court diverts a domestic violence case to ADR, it is obliged to refer the victim and offender for **counselling** [section 20(2)(c) -s.20(3)].⁷⁰

- Once again because there is no Government budget for such, counselling services primarily for survivors are provided by civil society partners.
- In addition, after consultation with the Ministry, the Court is obliged to “appoint a **probation officer** to observe and report on the subsequent conduct of the offender to the court”.
- Again there is no evidence that this service is currently being provided because there are very few probation officers in the country and the MSWGCA is already short of funds.

divorce and child maintenance. In addition, it was seen to be relevant to some cases under the CRA to appropriately divert cases of children in conflict with the law out of the criminal justice system and reduce the pressure on it. There is a pressing need to review what current policy on the diversion of cases out of the criminal justice system is and what it should be in practice to comply with mandatory legal provisions and to protect the rights of vulnerable women and children. The Community of Practice on VAWG could work with the SLP to develop Guidelines on this.

The DVA is absolutely clear that family mediation or intervention is not to stand in the way of the investigation or prosecution of domestic violence complaints. For IPV survivors' current practice is not in line with DVA provisions.⁵² The Act specifically provides that the Courts are to preside and determine the level of aggravation. However, the SLP, civil society, Chiefs and community members have taken it upon themselves to determine what that level of aggravation is and, therefore, what practical interventions it entitles the survivor to. For example, IPV survivors are not routinely referred by the police or FSU to a medical facility, nor are complaints necessarily even recorded, let alone investigated. Rather the first intervention is to mediate between the woman and her abuser so as to return the family to a state of union.

Similarly, the police do not routinely help the victim to a "place of safety" (which could simply be the house of a neighbour) or escort her home to retrieve her personal belongings if this is necessary. No risk assessment is made concerning a victim's personal safety which is something that demands urgent attention to reduce the risks of further violence from the same alleged perpetrator or a family member. Police training, preferably delivered through the Police Academy, on how to undertake a rapid but robust risk assessment in sexual and IPV cases is clearly a priority. In addition, community women's groups could be trained in monitoring this new practice once introduced.

4.2.6 Corrupt practice and "compromise"

In addition, there appears to be a continuing practice of "compromise" (corrupt settlement of cases for illegal pecuniary gain) with Duty Bearers taking payment in order to prevent an alleged perpetrator from being "charged to court", prosecuted or convicted. FSU officers are accused of, and indeed openly admit to, mediating domestic violence matters that should by law be sent to court without survivors having obtained any real sense/ semblance of justice,⁵³ because they see their role as being to conserve marriages and not encourage their break up. Frequently, women report that IPV survivors are forced back into abusive homes after the husband has paid over some money. As a Tombo community member said: "FSU offices are not reliable; all they care about is money, even more

than the value of a woman's life."⁵⁴ This sentiment was repeated by other women in communities across the country. A community elder in Blama stated: "men say that if the wife reports them, they will refuse to give maintenance support as the money has been given to the police so they should starve at home. The cost incurred in going to the police is (a) the cost of medical paper and (2) spending to stop the police pursuing the matter. They would pay Le 50,000 for bail depending on the gravity of the matter. If they pay, then the case does not get charged to court and must be resolved as a family matter".⁵⁵ Some Chiefs are also reported to seek pecuniary gain, as a participant in Bombali described: "Only domestic violence incidents involving bleeding and wounding are referred to the FSUs by chiefs. Other incidents not fitting the highlighted criteria are handled by the chiefs. In such cases, before the case is mediated, an initial fine is levelled on the offender and the outcome of the case determines what further costs are finally levied".

Corrupt practice, such as the "compromise" of criminal cases by Duty Bearers, continues despite the fact that the SLP SOPs contain a summary of the Police Discipline Regulations. These specify that an officer "placing himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member of the Force" is a disciplinary offence of corrupt or improper practice.⁵⁶

Clearly there is a need for advocacy to ensure that regulations such as the Police Discipline Regulations are properly

understood and complied with, and that officers who are non-compliant are penalised

4.2.7 DVA Protection Orders

There are no records of how many applications have been made to and granted by the courts for Protection or Restraining Orders under the DVA. Hence it is impossible to determine regional or other differences. The granting of these court orders, whether interim or final, appears to be extremely limited due to perceptions about their lack of contextual relevance to Sierra Leone everyday realities, lack of training the police, and legal and judicial personnel. The very few Protection Orders made have been where the presiding Magistrates have studied family law as an elective in Law School.⁵⁷ Therefore, such Magistrates could be used as trainers in review meetings with fellow Magistrates to encourage use of the orders.

There is no evidence of any case where an offender who has contravened a condition of a Protection Order and has been investigated or prosecuted, let alone convicted.⁵⁸ We were told that people are not bold enough to report a violation of such court orders if granted⁵⁹ which limits their enforceability⁶⁰ and suggests that community awareness needs to be raised on their value. The implication here is that current practice limits the potential deterrent effect.

The DVA also gives MSWGCA Social Welfare Officers and Probation Officers the duty to prepare and submit a Social Enquiry Report to the Court at its request in order to aide decisions about which specific provisions to include in a Protection Order

[section 11(4)-(5)]. This provision is unknown and does not form part of judicial training, so when making a judgement, Magistrates or Judges rely solely on the available evidence and on the particulars of charge. Without the development of a template accompanied by mandatory training for members of the judiciary and Social Welfare Officers in its use, this practice is unlikely to change much. Until the concept of a protective regime gains currency in Sierra Leone, however, this is not a priority.

4.2.8 Prosecution of Intimate Partner Violence

A key benefit of the DVA identified by participants in the Community Conversations is that it offers women greater protection by criminalising physical abuse. In this way the Act complements the SOA which offers a range of protections to the survivors of sexual offences, including stringent penalties in terms of prison sentences. Most cases of IPV in Sierra Leone, if they are not diverted out of the criminal justice system at a very early stage (at the FSU or police station) and “resolved”, are prosecuted under the old OAP Act because this offers tougher penalties than the DVA. However, even if a physical violence case is referred to court the judiciary is not keen to be seen to break up families as there is perception that if a woman brings her husband to court, then the marriage will be over. As a result, the judiciary also strongly encourage mediation and reconciliation.

4.2.9 Early, forced and child marriage and FGM/C

There is an urgent need for policy to combat child marriage

and FGM/C. This assessment found that the inter-relationships between child marriage, FGM/C, domestic violence and adolescent pregnancy are complex. “Most married women in my community are beaten, as they are forced into marriages they never wanted, so they suffer in silence when they are beaten as they do not know who to turn to. When the incident is reported to family, the abused women and her children are booted back into the abusive homes”. As stated by a Kambia resident: “My father is the cause of my suffering; I never wanted to marry this man, but he forced me to by threatening to curse if I don’t marry the man. I was taken out of school and married off. Now my father is dead and I am left to suffer in the marital home”.⁶¹ From the perspective of a chief in Kambia district “We do not see the issue of early marriage here. Before we, the parents, used to give the girl in marriage; now it’s the girls making their own choice of getting married to the men by choosing to get pregnant for them”.⁶²

Parents are not marrying off their children, but get around this practice by giving a pregnant girl to the boyfriend to take care of. There are few development opportunities for girls, so their best option is to marry early. Some chiefs believe that school girl pregnancy brings shame on the community, so they go for early marriage to provide a safety valve. However, these relationships are frequently characterised by the highest levels of abuse. During the HRC engagement in Kambia, for example, the forced marriage of girl children to older husbands was found to be very widespread and deserving of serious attention to safeguard the girls’ future. The HRC has intervened in a number

of cases.

Child marriage is found by an NGO Implementing Partner working on child justice to be driven by parents' desire to free themselves of the financial burden of looking after children above a certain age. If a girl refuses to marry her family may shun her. The practice of FGM/C is linked to that of child marriage.⁶³ FGM/C is most widely practiced in the north. NGO and CSO efforts to address child marriage and FGM/C are often seen to be separate from other GBV prevention and response work, rather than being regarded as part of the whole picture of violence that women face over their lifetime.

4.2.10 Knowledge, skills and social norms

Police personnel are believed to lack the requisite training to handle delicate domestic matters, especially those involving violent conflict between spouses. However, a more major obstacle appears to be dominant social norms and lack of gender awareness among key Duty Bearers that result in dismissive attitudes and practices. For example, a beneficiary in Kambia reports that any time she walks into the FSU to follow-up on the maintenance payment that was agreed with her husband, the unit personnel just laugh at her. "My sister, FSU officers are not reliable. Because they are siding with the man they do not pressure him to give me the child maintenance support".⁶⁴ A similar sentiment was shared by a survivor in Mattru Jong: "The FSU failed to play an active role in supporting me, and my

children claim support from my ex-partner. All they want is money and never actively follow-up on issues they mediate. The FSU is a national disgrace".⁶⁵

Adolescent girls also pointed to the lack of support they receive from FSU personnel when they report issues of physical violence to them. They believe that their cases are not treated seriously. Rather, they are chased away and told not to return to the station. It is widely believed, according to dominant social norms, that when you have children and take your husband to the police, the children will be cursed and will not grow up well because of the father's wrath against the mother. These types of belief act as a brake on women reporting violence which they or their children have experienced. They also fear that if they do so their husband will "chase" them away. In some instances, the in-laws and other community members will see the woman as evil when she reports her husband to the police. As such, the women keep silent and endure continued domestic violence. As reported by a John Thorpe WAG member, "I am unhappy but just have to bear the situation".⁶⁶

Poor practice deriving from negative social norms is recognised across security and justice institutions, as one key informant commented: "In most instances, FSUs are unable to provide protection for the women and girls, rather, they do defence

work. By defence work, I mean that they just undertake primary investigations and/ or sometimes mediation and allow for the victim to return into the abusive space".⁶⁷

4.2.11 Gaps between policy and practice

There are significant gaps between policy and practice, especially when it comes to mandatory practices outlined in the DVA (and SOA) with implications for the Government budget

It is important to note, however, that any law is intended to survive the passage of time and that therefore some provisions may be aspirational in the short- to medium- term. Moreover, it is difficult to read provisions in isolation from each other since, taken together, they sometimes provide alternative remedies (e.g. a Protection or Restraining Orders rather than institutionalisation of a survivor in a "safe house" or women's refuge) and leave much to the relevant Duty Bearers' powers of discretion. Moreover, provisions with direct implications for the Government budget might not be immediately realisable or realistic, but require phased implementation as set out in a Statutory Instrument/ Implementing Regulations or another form of Government Directive.

4.3 The RCMDA

4.3.1. RCMDA registration procedures

A major challenge concerning implementation of the RCMDA is that there is no policy (written or unwritten) setting out clearly what procedures are to be followed. At the same time the procedures that are specified in the Act itself,

including its comprehensive Schedules, are not being followed.

The RCMDA clearly describes the procedure whereby a Local Council must register and record customary marriages.⁷¹ On receipt of an application (from one or both parties to a customary marriage) it must register it in the register set out in the First Schedule. Using the form set out in the Second Schedule it must then notify the public of the registered marriage by displaying a notice on a public notice board at the office of the Local Council within twenty-eight days [sections 10(1)- 10(2)]. If there are no objections to registration of the customary marriage then it is to be recorded in the Local Council register.

The procedure laid down by the Act whereby the Local Council must register the dissolution of a customary marriage is equally clear and straightforward.⁷² However, the registration of customary divorces is even more problematic, with only one out of the eight councils (Freetown City Council) currently having a procedure in place to register divorce. Hence, it is the Local Courts exclusively that preside over matters concerning spouses in customary marriages who seek divorce even though it has no legal mandate under the RCMDA to do so.

As the key body responsible for implementation of this Act, the role of the Local Council is simply to REGISTER the marriages or divorces that have already taken

place in the community, including 5-year cohabitation relationships. Unfortunately, through lack of knowledge or failure to internalise and accept the provisions of the Act, potential registrants may be required to go through a full marriage process with their partner or be prevented from registering the marriage on their own without the partner, in addition to family witnesses on both sides, being present.⁷³ Many Local Councils erroneously believe that only one customary wife or cohabitee can be registered. Due to Local Council personnel's perceived prejudices on the issue of divorce, major financial hurdles deter its registration or mediation is undertaken to restore the marriage, and social norms dictating a preference for

Security in the home: Some women expressed the view that the formalisation of their marriage through registration and the issue of a Marriage Certificate by the Local Council has contributed to the idea of their marriage being more of a partnership. They observed that their husbands exhibit more commitment to the relationship, making them feel more secure and that husbands are more willing to whole heartedly commit to the relationship.

Protection for women and their children: The Certificate of Registration, which provides proof of marriage, acts as a form of protection for the woman between a wife and the husband's family. As the husband becomes more conscious of the consequences of how he treats both his wife and children and is more respectful of the relationship this is said to promote greater harmony between the in-laws and the wife.

- As reported by a Tombo resident: "My husband's family now sees me as his wife and respects me much more and I feel my children are now in a better situation than they were before the marriage registration".
- Another woman in Kangama stated that: "When the formal registration takes place, the husband will tell his family members, "this woman is now protected by the government so don't mess about with her life as the government now know she is with me and I don't want any trouble. Be careful how you treat her".

Access to Institutional benefits: We were informed about cases where wives have been able to use a Marriage Certificate to claim their deceased husbands or their own benefits. Also, some institutions/ employers now recognise a Marriage Certificate as proof of entitlement to claim spousal medical care and to travel abroad as a spouse or dependent.

- A Registered wife in Blama explained, "I had been living with my man for 17 years and we have 1 child. He was having many women outside the home. My man is a school teacher; when his school required him to register for NASSIT, then he had to prove that he was married and that is how our relationship came to be registered".

monogamous marriage.⁷⁴ This severely constrains women’s right to choose.

Due to the manner in which Duty Bearers have interpreted or translated the law into practice, the RCMDA has had negative consequences for the intended beneficiaries of the Act. First, the insistence of some, if not most Local Council officials that such a marriage can only be registered if both parties to the marriage present in person with “family witnesses” from both sides makes the relatively simple and straightforward procedures laid out in the Act unduly cumbersome, time consuming and costly (particularly in terms of time/ lost income and travel costs). Second, qualitative findings from this assessment suggest strongly that Duty Bearers and implementers, including NGOs/CSOs, have either insufficiently grasped the legislative intention to offer women and children living in polygamous unions/ households special protection, or are imposing on others their own views about the value of monogamous marriage.

Additional problems created by the absence of clear policy and guidelines include the following:

- a) Customary marriages are undertaken in the presence of chiefs, but no role is assigned to them in the RCMD or Local Council registration processes.⁷⁵ Likewise for divorces, the Local Courts preside but no mention is made of them in the Act. Instead, Local Courts run a parallel marriage and divorce registration procedure alongside that of the Local Council.
- b) The Act has built in protections against criminal acts, but stakeholders are unaware that a person can be prosecuted for

making a false application to a local council for the registration of a customary marriage or divorce or for making a false entry into the local council register.⁷⁶ We were informed of only one case in Bo when in 2012 a fraudulent application to register a customary marriage was made by a woman who allegedly wanted to claim her partners’ property and so tried to register the marriage.⁷⁷ However, she was simply turned away, not prosecuted, so it is impossible to know if she was actually guilty of an offence.

c) The judiciary say they have not received any applications to declare a customary marriage invalid (by court order) on the grounds of either spouse being a minor [section 5(1)]. This is surprising given the high rates of child marriage in Sierra Leone and is explained by the fact that the responsible duty bearers are unaware of the actions they are obliged to take in such circumstances. Unsurprisingly, there have not been any cases where an objection to the registration of a customary marriage has been lodged with the court in order to expunge the registration from the local council register [section 11(1)-(3)].

4.3.2 Absence of policy on registration fees

The lack of streamlined procedures means that the registration fees charged by Local Councils differ considerably (See Annex 6 for details of difference in costs across Local Councils). For example:

- At Bo District Council registration costs a total of Le 40,000 with the parties to the marriage being required to attend the registration process with 1 witness each. There was no process for divorce registration and no

applications to register a divorce was said to have been applied for.⁷⁸

- At Kambia, Western Area Rural and Kenema District Council customary marriage registration costs Le 50,000.
- At Freetown City Council the registration cost starts at Le 200,000 and up to 3 witnesses per spouse are required to attend the registration process.

The lack of standardisation has created additional difficulties for Sierra Leoneans wishing to travel. The Australian Government, for example, refuses to accept any marriage certificate issued by a Local Council because the consul has seen so many different types of marriage certificate it no longer knows what an authentic

Local court area	Cost to bring divorce action
Matru Jong	From Le 100,000 to Le 500,000;
Bumpe	Le 300,000
Kenema	Le 350,000
Blama	Initial Le 150,000 fine to both parties. The local court will ask about assets for the past 5 years and then share 50% between the spouses. If a woman cannot afford the costs then the divorce is not granted.

customary marriage certificate looks like.⁷⁹

As the Table below illustrates, Local Court costs are not standardised either and can be prohibitively high to poorer members of a community.

4.3.3. Rates of customary marriage registration

It is impossible to ascertain with any degree of certainty how many customary marriages have been registered to date as data collection by Local Councils is found to be very poor and there are few statistics available. In Freetown City Council from 2009 to 18/01/2018 there were 259 recorded customary marriage registrations and 130 registrations for divorce; although the staff initially thought they had registered more than a 1,000 marriages. In Western rural district council, only 5 marriages had been registered. The overall trend is one of very low rates of customary marriage registration. Registration numbers are highest where there is need for marriage registration to comply with social security (NASSIT), health insurance, and immigration requirements, which require proof of marriage.⁸⁰

Poor marriage registration rates can be explained by a number of factors, including the following:

First, there is popular misunderstanding about the different systems for registering a marriage.⁸¹ Under the rules governing civil marriage registration is limited to monogamous unions; whereas the RCMDA recognises and allows for the registration of polygamous marriages.

Second, the RCMDA has been misinterpreted in relation to the pre-existing Local

Court registration. As such, communities are confused as to what exactly the expectations are for the registration of a marriage to take place and where: a Local Council, a Local Court, or both?

Third, marriages that are finally registered with the Local Councils would have been performed at least twice within the community, with the third process being with the Councils. For example, one woman explained that after performing a fist-tie with a kalabash, she had to perform another whole new marriage ceremony with the Local Council before she was finally issued a certificate.⁸² Again in some areas, such as in the southern province, the Study Team found cases where the parents of the girl must obtain a certificate of initiation/ female circumcision/ FGM/C from the Local Court before the girl is deemed eligible for marriage.⁸³ The cumbersome processes are accordingly cost intense, limiting families' willpower to invest in the process.

Lastly and importantly, women frequently reported to us the unwillingness of the man to register the union, especially if this is based on co-habitation. In many co-habiting unions, we were told that a man is not willing to co-operate with a woman's wish to register a marriage as he believes that she will take control of his life the moment he has registered the marriage and that she will seize/steal his property and then walk away.⁸⁴ Moreover, the five-year cohabitation in the RCMDA is loosely defined and needs to be amended because it creates additional difficulties on divorce or separation. It has undermined the protection of many women. For example, men are sending women away after residing with them for 4 years, 11 months and 20 days.

It is important to note that some sensitisation and awareness-raising undertaken by civil society has contributed to misunderstandings and low rates of customary marriage registration. Early messages focused on encouraging women who had been cohabiting with a man for 5 years to register their marriages with the Local Councils so that they could claim his property on his death and gave the impression that registration created a monogamous relationship. These messages deterred men from agreeing to registration as they did not want to empower the registered woman above the unregistered ones. Indeed, this would seem a wise decision on their part because to register only one of a number of wives might risk creating further hierarchy among co-wives and mean that only one enjoyed the legal rights and protection which the GA seeks to give ALL "wives".

Another prevalent male view acting as a brake on customary marriage registration is that once recognised as a wife, a woman will become more possessive and will not allow her husband to have relationships with other women; and that only the registered wife's children will benefit on the man's death. As noted by a man in Tombo: "you do not need a marriage certificate for the marriage to be legal. It wasn't the law that told us to cohabit so why should the law now require us to register our relationship as marriage?"⁸⁵ The low registration of marriages is attributed to men refusing to work with their wives to fulfil the registration requirements. Whilst women are willing, the men are usually reluctant. Meaning, in communities, the decision to register marriages is primarily left in the hands of the men. An NGO

community worker explained that the husbands think that this law is to instigate wives against them. "A female chicken should not crow (i.e. women should not aspire to be like men) and they should not have rights over men/ become decision-makers over the men."

From men's perspective, major disincentives are reported to exist for those in polygamous households to register their customary marriages. First, they mistakenly believe that only one wife can be registered and do not know which one to choose. Second, it is too expensive (in terms of direct and indirect costs) to register multiple wives, so they register none. Reluctance to register may therefore stem from legitimate and rationale reasons in some cases rather than from what is generally perceived to be a problem of "lack of sensitisation and awareness".

Explanations for the virtually non-existent rates of registration of customary divorce include the following:

a) Divorce issues are mostly handled by families, so it is not easy for women to talk about separation in public. Further, divorce is discouraged in customary marriage wherein a bride price would have been paid thus making the woman the man's possession until death. As a result, most families will force their daughters back to the matrimonial home, even if the relationship is abusive, in order for them not to bring shame on the family.

b) If a woman initiates customary divorce proceedings in the Local Court, high fees and cumbersome procedures are put in place to deter the woman from leaving the man.⁸⁶

c) It is rare for a wife to be granted a divorce in the Local Court. Knowing that, they will be forced into a relationship they do not like, nowadays younger women often prefer to just walk away from the relationship without informing anybody. When the husband and the family realise what has happened, they may take the woman and her family to court and ask for the bride price to be returned.

d) If a woman is able to get a customary divorce and wishes to register it, most of the councils are unwilling to register such or seek mediation between the parties and only register divorce if this is unsuccessful.⁸⁷

4.3.4 Women's awareness of benefits of registering customary marriages

Some women at community level have clearly internalised civil society legal education and rights awareness interventions concerning the benefits of customary marriage registration

4.3.5 Good practice examples

There are some examples of good practices undertaken by Councils and these are set out aside.

4.3.6 Relationship between the registration of customary marriage and the devolution of estates

A key benefit of the DEA lies its relationship to the RCMDA. Women feel that registration of the marriage is a blessing for their children, in that on the death of their husbands this will allow for the equal sharing of property among any registered wife/ wives, their children and

Registration: Bonthe District council has an innovative idea of devolving the registration process. They will use their councillors to collect the requisite registration information, bring it along when attending monthly council meetings and then take back the certificates to the registrants.

Promotions: another exciting development is that undertaken by the Bo City Council wherein during either key women's events, such as International Women's Day or the 16 Days of Activism, they undertake free marriage registrations to aid sensitization and encourage married couples to come forward for registration.

Advocacy to take the registration process to the communities: Tró-caire's partners successfully advocated for the Bombali Local Councils to move the process to communities, and in that period over 86 registrations are reported to have taken place.

relatives. Also, registration allows them to claim their husbands' social security benefits from the National Social Security and Insurance Trust (NASSIT). A woman in Kono said: "the inheritance of wives by the male members of a deceased husband as a means of the men staying on the property has reduced significantly in Kono. Women can now handle their own business and are quick to take legal action when someone tries taking advantage on them".⁸⁸

4.4 The DEA implementation procedures and practice

4.4.1 DEA Policy

Although there is no policy to guide implementation of the DEA, the Act itself sets out the procedures governing estates that are privately owned where, in the absence of a will, it is for the court to decide how much is to be given to the deceased spouse/s and child/ children [section 5(1)-(2) and s.6(1)-(2)].⁸⁹ The Act also specifies the percentage shares which the court is obliged to use when distributing the private estate of a deceased person who is survived by a spouse, child or parent [section 8]; together with guidelines [sections 9(1)-(8)] and formula to apply when this is worth less than Le 15,000,000 [section 18].

The DEA categorically excludes from an estate any property which falls under customary law or is family, chieftaincy or community property; and that these are to be governed by the rules of succession under customary law [section 15(1)]. However, the DEA also states that a surviving spouse/s and child/ren have the "right to reside during his lifetime

in any family property, chieftaincy property or community property in which s/he cohabited with the deceased as their matrimonial home" [section 15(2)]. In addition, they are entitled to equal shares of the personal property of a deceased spouse who dies without a will [section 9].

To date no procedures have been developed specifically to guide the police or FSU on how to deal with matters that constitute crimes under the DEA. Such criminal offences include unlawfully ejecting a surviving spouse or child from the matrimonial home, or depriving those entitled to the use of the deceased's' property, which on conviction carry a fine or two year prison sentence [section 33(4) and s. 34(1)]. Penalties are also imposed for the offences of intermeddling with an estate or fraudulently obtaining letters of administration [section 32].

4.4.1 Institutional practice: the DEA

Offences or disputes relating to the Devolution of Estates, as with the RCMDA are referred to the High Court for redress. Women told us that they are taking inheritance matters to the Local Courts, but that they are unable to resolve these since they have no mandate to handle them.

We were informed that if a woman reports a matter concerning inheritance or child maintenance on the death of her husband to the police they see this as a civil matter that does not concern them. However, a senior FSU officer in Kambia said that he intervenes in inheritance disputes to educate family members on the law and thereby tries to prevent domestic violence or public order offences occurring or continuing.⁹⁰ An FSU officer

in Kenema informed us that the devolution of estates has been part of the FSU's mandate to curtail GBV perpetrators (uncles), since most of the time widows come to the FSU with complaints against the brothers of their deceased husbands. The FSU will then make a referral to the Legal Aid Board or to a legal practitioner to handle the issue. MSWGCA social workers are rely on the DEA when dealing with widows' issues, especially when a woman's husband dies without a will. Working also with the FSU they aim to settle cases out of court as well as to support families' access to NASSIT.

The Ombudsman's office receives many complaints concerning the way in which the Registrar-General's office works. One example of a complaint is the effort to secure a marriage certificate to make claims on death because of a lack of access to NASSIT. We recommend a national plan to close this gap, which is the source of much suffering.

As with the other GA, no role has been given by the DEA to traditional and religious authorities or to the Local Courts allowing them to enforce the act. In addition, the fact that the Act excludes family and community property creates hardship for many wives on the death of their husbands. According to the 2013 SLDS, 64.2 per cent of women aged 15-49 years do not own land, with only 4 per cent jointly owning land with another (SLDHS, 2013:253).

The Office of the Administrator and Registrar-General oversees estates on intestacy and has custody of Wills deposited there. The Office has not been decentralised to every district, so access to letters of administration to administer privately owned land

and assets is difficult to attain.⁹¹

The Legal Aid Board undertakes mediation in inheritance matters/ disputes but will not provide legal aid to litigate these matters in court. Rather it refers the litigants to the services of a private practitioner, on the list of practitioners who will handle such cases at a reduced fee.⁹² This puts the burden on women and children who may have no access to funds to pay the fees.

4.4.2 Community practice and remaining challenges

It is important to note that we were informed by some communities that the principles and procedures for dividing private property are seen to be fair and appropriate and so efforts are being made to ensure that there is a similar pattern of distribution in cases involving women and children whose deceased spouse only had family or chieftaincy property.

However, several major challenges remain outstanding the devolution of estates, for the wives of deceased men and their children. The following were most often reported to us:

Family members taking over the property: This is a challenge that exists especially for childless women in that the deceased husband's and their own families continue to take advantage of them when their husband dies, especially if they were in a polygamous marriage.⁹³ The deceased husbands' elder children usually take charge of the distribution of property to ensure that they and their mothers are adequately rewarded, solely ignoring the childless woman and sometimes pushing her out of her late husband's home. The children will say, for example: "If

we give the childless mother any of the property, who will she hand it over to when she dies, except her relatives? They are not part of our family."⁹⁴ Male relatives still administer property and will only relinquish it to the women and children if a Chief or other elder in the community intervenes.⁹⁵ Many children are deprived of property due to uncles' and aunts' failure to recognise their rights, but because they have no voice their complaints are not well documented.⁹⁶

Male dominance in property division: in cases where there are male and female children, the males take the lion share and only allow the sisters to have access to the property but not ownership as they are expected to get married and benefit from the husband's property.⁹⁷

4.5 Overall progress: concluding observations

Overall, the stakeholders we consulted commended enactment of the three GA, as these laws provide the legislative framework for women and children's increased legal protection with respect to remedies for those living with domestic violence; the right to legal recognition of a customary marriage or divorce; and a series of new rights of succession. However, one senior Government official working at national level estimates that only 35% of the provisions enshrined in the GA have been implemented, which means that the challenges outweigh the achievements in terms of benefits to women and children.⁹⁹

Primary challenges which continue to constrain GA implementation and enforcement relate to the following:

(i) At the Government level: too much responsibility has been

put on the shoulders of the MSWGCA, the lead Government Ministry for GA implementation, with minimal additional resources (financial and human) and minimal direct input to date from other Line Ministries, especially the Ministry of Justice.

- (ii) The lack of statutory instruments/ implementing regulations to facilitate phased implementation of the 3 GA;
- (iii) Lack of proper decentralisation of services, processes, and decision-making powers to Local Councils with the attendant budgetary allocations;
- (iv) A lack of coordination across and between Government and civil society partners;
- (v) Inadequate or inappropriate

Bombali District

Women are now demanding their entitlement to property after their husbands die, and are not allowing family members to any longer take advantage of them. The trends have changed with women now more freely demanding what belongs to them. They have taken responsibility for their lives and have chosen to rely on themselves, rather than others, whom they believe do not usually work for their interests. Acceptance of the law has been problematic for traditional leaders as they see this as women wanting to claim property only for themselves and their family members. Also, in local communities, families usually reside on family property which is devolved to the eldest male of the family who is next in line to manage, after the death of the deceased. Money left by the deceased is as difficult for women to access as family owned land is.

training and capacity building for Duty Bearers, especially that which enables them to understand the legal content of the GA fully;

(vi) Lack of co-working/ partnership working within existing community structures (e.g. the Chiefdom structures) and a tendency to create parallel structures.

Compared to the other two GA, stakeholders believe that there has been most implementation progress with the DVA. Through legal education and community sensitisation and awareness raising undertaken largely, but not only, by civil society, there is now widespread recognition of, for example, wife beating as an offence for which a perpetrator can be detained in police custody. Maintenance support for women and children is an issue that is being enforced under economic abuse, although this aspect also overlaps with the CRA. However, some concerns are raised about

the fact that “neglect” remains hidden even though it is an issue for many women whom we spoke with at community level. Here, it was said (more than once) that since the evidence of physical assault is highly visible, men have resorted to neglecting the economic needs of their wives and families as punishment because such forms of violence are less easy to detect than beating and slapping.

DEA: good practice example

Active police involvement: in Kambia, the FSU Line Manager intervenes in inheritance disputes to educate family members on the law and thereby prevent domestic violence or public order offences occurring or continuing.⁹⁸

Sama Koroma, a woman farmer in Bombali District. Photo: Caroline Long / Trócaire



COORDINATION AND COLLABORATION

5.1 Constraints and opportunities

Further, due to its limited human and financial capacities the MSWGCA has been unable to take a lead role in coordinating implementation between Government and civil society in order to provide uniform coverage for more robust outcomes. The Ministry lacks a uniform approach, but is rather driven by the Minister in post at any one time. Some stakeholders suggest that the MSWGCA needs a plan to inform strategic direction and guide the leadership. Some good practice examples are highlighted in the Box aside.

5.2 Learning and information sharing

The IWGGBV-SL partners have been working together since the latter part of 2016. The group has a strong potential to challenge gender inequalities and effect change in GBV norms across the country but is at an embryonic stage. The IRC in collaboration with the Irish Consortium on GBV and key local partners such as the 50/50 Group and the Rainbo Initiative is setting up a 'Community of Practice' (COP). This COP brings together a wide range of partners with a shared interest on VAWG/ GBV: line ministries, national and international organisations, civil society organisations, United Nations agencies, the media, the

private sector and academia. It is envisaged that members will be able to interact and learn together, to share innovative and evidence-based methodologies and tools, as well as to collectively build their competencies and knowledge on how best to address VAWG/ GBV through joint programming as a Consortium.¹⁰⁰

In terms of programming, the very fact that this study was designed as a joint initiative by

the IWGGBV-SL is a positive sign. The benefits of bringing members of this group together to discuss issues of shared concern was evidenced in the Roundtable Conversations we convened at the start and end of the field research in the north, south and east. However, stakeholders whom we consulted frequently point to the poor quality coordination and collaboration among NGO implementing

Global best practice suggests that laws to combat GBV/ VAWG should make a provision for the creation of a multi-sectoral oversight mechanism to oversee implementation with regular reports to Parliament. The functions of such a mechanism include: information gathering and analysis; interviews with key stakeholders; and proposals to amend the laws as necessary. These mechanisms are found to be most effective when they engage various Government MDA and civil society, and proactively seek survivor and service provider inputs (UN, 2010).

As mentioned above, a good practice Africa country level example is that of the Tanzania NPA VAWC coordination mechanism that stretches from national to sub-village level. A national Annual Stakeholders' Meeting is intended to bring together stakeholders nationwide to review implementation progress and challenges. In addition, national level structures include: a) National Protection Steering Committee to provide overall policy guidance and coordination, chaired by the Permanent Secretary of the Prime Minister's Office; b) National Protection Technical Committee chaired by the Permanent Secretary of the lead Ministry of Gender; c) eight Thematic Working Groups (TWGs) corresponding to the priority themes; d) a Secretariat formed by members from the implementing Ministries under the lead Ministry. At decentralised levels (regional, district, ward, village and township) the plan details which MDA and specific officers are responsible for doing what (NPA 2017 part 5).

partners, especially on the ground. There is a perception that each and every institution is simply “doing its own thing”, instead of working together in complementary ways. In some locations that we visited, for example, some NGOs were not aware of others who are working in the same locations towards more or less the same goals, but barely communicate with each other and do not always know of each other’s presence in a community, let alone have any exposure to their respective programmes. The lack of a coherent approach carries the risk that confusing and/ or disjointed messages are disseminated to communities and allows for parallel interventions on the same theme by multiple partners within the same communities. Many NGOs work in isolation and fail to follow up on initiated actions.

5.2.1 Evaluation evidence

Notwithstanding the widely recognised fact that Sierra Leone is a predominantly oral culture and that much information sharing takes place verbally, it is hard to see how evidence-based learning can take place in the absence of robust evaluation data. We found it extremely challenging to gain access to key documents concerning GA implementation that could easily be put into the public domain. Perhaps more worrying is the fact that there do not appear to have been many independent evaluations of NGO programmes undertaken. And, whilst internal reports and reviews prepared for funders, if they were more readily available, would provide valuable insights into who is doing what with which effects, the findings from such are not comparable to evaluation evidence. Given the emphasis which large donors such as the Department for International

Develop place on solid evidence to inform both programming and influencing to address GBV/VAWG, the lack of evaluations is likely to seriously handicap the work of the new COP and will need to be addressed.

Going forward reports, policy documents and non-sensitive evaluation reports on GA implementation should be shared with organisations nationally and at district level. It is recommended that existing coordinating mechanism like NAC-GBV, District Security Committee (DISEC) and sector local council meetings incorporate GA information-sharing into their work plans. In addition, learning and information sharing among NGOs would be significantly enhanced if key reports, especially evaluations were accessible on the internet. One idea to consider might be for the new COP to establish a shared website for the purpose of information sharing.

5.3 Investment in GBV prevention and response

There is no generally agreed definition of GBV (or SGBV) in Sierra Leone and nowhere does the concept feature in the three GA. This makes it difficult to assess changing patterns of investment in GBV prevention and response.

5.3.1 Government funds

The lead Ministry (the MSWGCA) is generally agreed to be seriously underfunded relative to its mandate. It is not known how much of the budgeted sums allocated in its national plan to combat GBV/VAWG were realised in practice, but one would expect the plan to have been seriously underfunded given

the demands of the Ebola response. The Secretariat for the Reduction of Teenage Pregnancy has no ring fenced budget and perceives itself as being heavily donor dependent. It received funds from Irish Aid through UNFPA to produce, pilot and train a number of Master Trainers on its Life Skills Manual, which contains GBV modules with accompanying “Facilitators Guides”. Currently it is seeking additional funds with which to disseminate the manuals to district level. Operational funds for the FSUs are drawn from the SLP budget; and it is hard enough to find data concerning case types in the criminal justice system let alone data concerning Ministry of Justice investment in SGBV cases.

At the same time, adequate budgets at all levels are absolutely critical to the effective implementation of laws to protect women and children from violence and promote gender equality are

The UN Secretary General’s report for the Beijing Platform for Action’s 20 year review underlines that although many states reform laws and adopt action plans to combat GBV/VAWG, few adequately budget for or release funds for GBV prevention and response. The report notes: “The Special Rapporteur is deeply concerned about the weakening of the women’s rights sector due to funding cuts for core service provision, including legal, policy and advocacy work” (Frazer 2018 p9). UN Women gives examples of

countries that have set a general budgetary obligation to guarantee dedicated funding to implement legislation on violence. For example, the Republic of Korea Government budget allocates funds to implement the country's laws on both Domestic Violence and Sexual Violence. Spain's 2004 Act: Integrated Protection Measures on Gender Violence includes dedicated funding for education and public awareness to ensure uptake of the law (UN Women, 2011).

5.3.2 International Development Partner funding

In terms of investment by international development partners, there appears to be an apparent trend globally and in Sierra Leone for GBV prevention and response programming and influencing work to be integrated into sectoral programmes rather than stand alone "VAWG focussed" programmes:¹⁰¹

- Irish Aid is a significant contributor to GBV prevention and response programming in Sierra Leone as evidenced in the number of IWGGBV-SL organisations and the range of their programmes.¹⁰² Focal areas are: provision of essential health services; counselling and psychosocial support to survivors of rape, physical and sexual assault and domestic violence; raising communities' knowledge of and attitudes to GBV and to women and girls' rights; and improved and increased awareness of GBV services. Irish Aid has also funded the Girls Access to Education (GATE) programme through UNFPA and partners focusing on the health and psycho-

social components.

- DFID Sierra Leone currently invests significantly in GBV prevention work in schools through GATE, implemented by UNICEF and partners (focusing on the education component); and in Adolescent, Sexual and Reproductive Health (ASRH) rights through the "Saving Lives Programme" implemented by UNFPA and partners. It plans a major new adolescent girls' empowerment programme (SAGE) which will include components to prevent GBV as well as child marriage and FGM/C. Formerly, the DFID funded Access to Security and Justice Programme (ASJP), which ended in 2017 and encompassed GBV prevention and response components. In addition, DFID has a Global fund dedicated to ending child marriage which in Sierra Leone is implemented by UNFPA and partners.
- UN agencies: in addition to programming mentioned above, UNICEF implements various programmes to strengthen child protection and UNFPA is supporting women and adolescent girls, including through safe space interventions. UNDP supported the establishment in early 2011 of Saturday Courts and training of police officers to investigate SGBV crime. It is also working with the judiciary more broadly on development of a digital case tracking system. UN Women in Sierra Leone provides technical assistance to MSWGCA, especially for legal and policy reviews, as well as supporting the Sierra Leone Parliamentary Female Caucus (SLEFPAC); and working with women in paramilitary and law

enforcement institutions.

Strategic and well-coordinated international donor funding can play a strong enabling role in supporting women's groups and civil society organisations to drive the effective implementation of legislative reform (Fraser 2018 p25). It is generally recognised, however, that the implementation of legislative reform because of its long time frame inevitably creates a risk of international donor fatigue:

- a) Primary risk: internal incentive structures are counter-productive (e.g. short-time frame of many donor-funded projects, pressure to spend money quickly, and high rates of staff turnover);¹⁰³
- b) Risk: law reform perceived as being a "western agenda" which international donors want to impose on local values;
- c) Risk of legislation being watered down because it challenges patriarchal structures and touches on issues of marriage and the family (Fraser 2018 p14).

5.3.3 The "due diligence" standard and GBV/VAWG

Various global and country-level initiatives are currently underway to ensure that States comply with the 'due diligence' standard in international law. This requires Governments' to take 'reasonable' action to prevent, protect against, prosecute, punish and provide redress for VAWG. The global "Due Diligence Project" has developed a resource guide to support effective implementation of laws against violence (see summary of Due Diligence Framework recommendations for Africa at Annex 7). Organisations such as the NGO Sisters for Change have developed their own version of the Due Diligence Framework,

to improve the implementation of domestic violence law at community level. It has developed a 5-step monitoring mechanism outlined in the Table below. recommendations for Africa at Annex 7). Organisations such as the NGO Sisters for Change have developed their own version of the Due Diligence Framework, to improve the implementation of domestic violence law at community level. It has developed a 5-step monitoring mechanism outlined in the Table below.

In using the above framework, data (quantitative and qualitative) is collected from various sources, including legal cases supported by Community Paralegals, field surveys and questionnaires with women. Evidence collected and analysed is used to hold local and national Duty Bearers to account and to advocate for improved implementation of domestic

law. A broader tool that is also relevant for monitoring and influencing purposes is the Oxfam “How To’ Guide to Measuring Women’s Empowerment: Sharing experience from Oxfam’s Impact Evaluations”.¹⁰⁴ This can be adapted and used as a framework for tracking the impact of the law on the lived realities of women at community level.

5.3 Sustainability: Realising benefits over the longer term

In this section of the report we consider some factors that are necessary to ensure that the long term benefits of GA implementation are realised.

From the IWGGBV-SL member documents, government policies and strategies and findings on the ground, Sierra Leone still

remains a patriarchal country and its cultural beliefs and practices will not change overnight despite enacted legislation. To maintain the gains and achievements that have been highlighted above, there need to be some major changes in policy direction and funding, and these are detailed below.

5.3.1 Sustaining community ownership and participation

Customary or traditional and religious authorities need to be supported to continue enforcing bylaws, and invited to participate in strategy formulation meetings for their communities. NGOs have tended to shy away from working with the traditional authorities because they perceive them to be the custodians of draconian customary law which is in conflict with modern, formal law and international human rights standards. This is an assumption because there have been very few studies looking at the diversity of customary law and its evolution over time.

A majority of the population are subject to Chiefs and many willingly adhere to or follow their directives and guidance. There has been recent interest in looking more closely at the various chieftain bylaws, given the positive role these are seen to have played during the Ebola epidemic. In light of other countries’ experiences, we recommend that a specific piece of work is commissioned to consider carefully the relative costs and benefits of codification. Such work might include convening a Learning Forum to bring together customary law experts and Chiefs/ Traditional leaders from other African countries to share learning in this regard.

- **Prevent:** States are required to create effective policies, systems and structures to address the root cause of violence against women.
- **Protect:** States are required to develop appropriate legislative frameworks, policing systems and judicial procedures to protect women and create a safe environment. This includes safe reporting, and ensuring legal assistance, medical care and support services.
- **Investigate:** the State has a duty to investigate any credible claim of serious violence, torture, inhuman or degrading treatment at the hands of a private individual. The duty is not conditional upon state actors being guilty, directly or indirectly, of misconduct.
- **Punish:** States are required to prosecute and punish perpetrators effectively and promptly.
- **Remedy and repair:** States are required to provide access to criminal and civil remedies, effective rehabilitation and support services, and compensation for physical and psychological injuries.

The IWGGBV-SL member organisations all work at community level and many have an established presence and developed relations of trust in their different focal communities. Existing community groups which they have helped to train in GBV prevention and response should be empowered to continue providing services even where donor funding and other support is unavailable. Ongoing Community Conversations need to include discussion of the rights and entitlements conferred by the GA, and broadened to include at minimum the SOA and the CRA.

5.3.2 Sustained funding

Overall, international donor funding to GBV / VAW prevention and response has not been consistent over the GA implementation period to date and this has hindered impact. Where feasible, donor funding alongside government funding, should be for a guaranteed period and support the key institutions and services required in a holistic way.

Decentralisation: as emphasised above, Local Councils need to be allowed to take up the service provision required for their areas and leave the Line Ministries to provide policy direction at the national level. FSUs need to be operational throughout the country. The judiciary will need to have resident Magistrates in each district and work towards having resident Judges in each district also.

GA training integrated into existing training or learning programmes: to ensure all Government Duty Bearers have the requisite knowledge, GA training needs to be included in the Sierra Leone Police training school curriculum, made a

compulsory module for university law students or law school students, and included in the school curriculum.

Feed into existing monitoring initiatives: GA beneficiaries need to be made aware of complementary monitoring initiatives so that the justice system is strengthened. It should be a goal to develop and harmonize monitoring initiatives aimed to assist GA beneficiaries such as the “Pay No Bribe campaign”, which encourages citizens to report acts of bribery.

Encourage leadership positions for women and girls within their local communities, so that they can drive agenda and policies ensuring human rights protections for their communities.

NEXT STEPS

6.1 National policy and coordination

GoSL national, multi-sectoral implementation plan: Global evidence suggests that legislation to combat GBV and promote gender equality is most likely to be implemented effectively when supported by a national action plan. This is most easily achieved in countries where the law itself makes the development of a national action plan mandatory. For example, article 46 of Kenya's Sexual offences Act requires the relevant Minister to prepare a national policy framework to guide implementation and administration of the Act, including undertaking a review of the policy framework at minimum every five years (UN, 2010). Previous Sierra Leone national action plans have not been effective in coordinating GA implementation and pushing for the standardisation of processes and procedures across Government Ministries, Departments, and Agencies (MDA). This is possibly because there are multiple action plans and strategies addressing different aspects of GBV, including harmful traditional practices, but none that specifically focuses on the implementation of legislation.

A new comprehensive action plan therefore needs to be developed, and this could be required by law if stipulated in the Implementing Regulations/ Statutory Instruments recommended below.

The plan would need to include sub-sections dealing with each Act, given the differences in

approach each Act demands and differences in the roles and responsibilities mandated for different institutions and Duty Bearers. The comprehensive plan as a whole would take into account interlinkages between the GA. It would be accompanied by realistic budget lines, robust systems for data collection, and M&E systems for each Duty Bearing implementing agency (MOHS, MSWGCA, SLP, MOLGRD, MoJ and Judiciary). Effective implementation demands greater involvement of Chiefs, traditional and religious authorities at all stages. The Implementation Plan should build upon previous action plans, and incorporate the learning from this study and donor evaluation reports on GA implementation in Sierra Leone. Key staff would need to be trained. It would need to be widely disseminated after publication to ensure continuity even when key personnel within the Ministries leave their posts and move on.

One of the key implementers said: "We need an implementation plan for the next 10 years, aiming at gradual realisation of the Acts. Because we cannot implement everything immediately, we get discouraged".¹⁰⁵ Action Points to incorporate into statutory instruments could be identified collaboratively by the MSWGCA in partnership with MoJ, including those relating to data collection, unified procedures for customary marriage and divorce registration, mediation guidelines, and accompanying training.

GoSL national multi-sectoral

mechanism: As global best practice, the UN Handbook for Legislation on VAWG recommends that domestic legislation should make provision for the creation of a specific, multi-sectoral mechanism to oversee implementation of the laws and report back to Parliament on a regular basis. Furthermore, it recommends that the functions of this body or mechanism should include: information gathering and analysis; interviews with key stakeholders; and proposals concerning amendments as necessary. It notes that the most effective mechanisms engage different Government agencies as well as civil society, and seek survivor and service provider inputs (UN, 2010).

There is a need to establish a multi-sectoral national institution in Sierra Leone that is funded and tasked with monitoring and reporting on implementation of the three GA and other relevant legislation (i.e. the SOA and CRC) in force. In addition, given the amount of new or revised legislation in the pipeline it would be sensible for this body to advise on, and contribute to, the law reform process. Although as discussed above, the NAC-GBV was established by the MSWGCA and the SLP to coordinate GBV prevention and response in the country, it has arguably never been either sufficiently multi-sectoral or adequately funded, although significant support was invested in it by the IRC and others. Although representatives from across the international development agency and civil society partners participated in

the committee, it did not enjoy sufficient buy-in from Government Ministries, Departments, and Agencies (MDA). In particular, the national multi-sectoral body would require significant inputs from the MLGRD, the judiciary, the Law Commission, the TP Secretariat and arguably also from the National Council of Paramount Chiefs and the Inter-Religious Council of Sierra Leone, as well as from both Directorates of the MSWGCA and the SLP, including the FSU Directorate.

One of the first tasks of this multi-sectoral mechanism will be to assess how best to ensure that Government Ministries, Departments, and Agencies (MDA) collect, analyse and present the relevant statistical data of relevance to GA implementation, especially that pertaining to the DVA and SOA. Additional priorities will be to discuss and agree: a) the whole issue of Alternative Dispute Resolution and mediation in domestic violence cases (especially those which are or start off as being less grave/non-aggravated); and b) the way forward in terms of developing Statutory instruments or Implementing Regulations for the three GA.

6.2 Statutory Instrument/s or Implementing Regulations

There is a pressing need for one or more Statutory Instrument/s or Implementing Regulations: to be developed taking into consideration each of the three GA.

- DVA: the instrument should detail procedures for the sequencing and provision of the DVA specified free medical care and report;

guidelines on out-of-court mediation; requirements and plans for the specialist training of Duty Bearers with implementing responsibilities; the use of Protection and Restraining Orders vis a vis the institutionalisation of survivors in “safe houses”; clarification about “places of safety” and mandatory risk assessment of individual survivors; and a description of rehabilitation and counselling services for survivors and offenders.

- RCMDA: the regulations should detail the registration process for the registration of both marriages and divorces, state the statutory fees, and incorporate chiefs and traditional leaders as implementers in their communities to ensure marriages within their chiefdoms are registered.
- DEA: the regulations should outline the procedures for obtaining the necessary letters of administration and statutory fees, and specify which matters can be handled by the Local Courts.

6.3 Popular mobilisation

6.3.1 Monitoring of GA implementation by civil society: Due Diligence

One of the most important roles civil society can play, given its presence at all levels (national, regional and community), is that of monitoring implementation of the GA and related law in force or in the pipeline. The purpose of such monitoring would be:

- To collect robust data and evidence to use in advocacy and influencing with

Government and international development partners for greater compliance with international standards;

- Stronger accountability;
- Improvements in service delivery;
- Adequate budgets and financial resources. (See “sisters for change due diligence framework” discussed above.)

6.3.2 Legal education and community sensitisation

There is a continuing need to legal education and community sensitisation on the three GA and related legislation, in particular the SOA and CRC. To date, the Ministry of Justice (MoJ) has not taken the lead in explaining the laws accurately to Sierra Leoneans (both Duty Bearers and citizens) and therefore misleading information has gone out to the public from Government implementers and civil society. The low level of literacy and the number of different languages spoken in the country means that misunderstandings/misinterpretations frequently occur when the messaging is confined to English or Krio. Based on the findings of this study, it is important that messages are coordinated and streamlined to ensure coherence and accuracy. Efforts to develop such messages would best be spearheaded by the MOJ, since this Ministry has the necessary, and arguably essential, technical legal understanding of the Acts, in partnership with the Ministry of Information. Women’s organisations could also play a key role since they understand best the daily realities of women

and children at community level. Any communications strategy needs to use the correct legal information and different communication forms, including social media. Posters, jingles or voice messages in 4 or 5 of the major local languages, radio discussion programmes, as well as targeted and well organised Community Conversations could be used as mechanisms. The possibility of a national campaign should also be considered.

6.3.3 Strategic litigation

Organisations with specialist legal personnel or members of the Bar Association could be supported to bring cases to hold to account Government institutions or individual Duty Bearers who fail to comply with the provisions of the GA. Such cases may relate to failure to provide free medical treatment in sexual offence cases, failure to register a divorce, or undue delay in investigating a domestic violence case. These cases need to be popularised through broad based publicity so that people become empowered to consider bringing similar actions to court. Bring together the men and women to discuss the violence that happens within the home, this might change the behaviour of our men.

6.4 Advocacy for law reform and development

Despite key legislative reform and development, there are several legislative gaps that need to be addressed through concerted, joined up advocacy and influencing work:

- Advocacy for the development of Statutory Instruments/ Implementing Regulations for the three GA to aid implementation and secure more uniformity of process.

The Statutory Instruments/ Implementing Regulations need to incorporate and specify clearly the roles of Chiefs/ Traditional Leaders. Chiefs are the custodians of customary law and play key roles in marriage registration and divorce, as well as settling inheritance and domestic disputes.

- Advocacy for enactment of the Gender Equality Bill to ensure that the provisions of CEDAW are fully reflected in domestic Sierra Leone law.
- Advocacy for a review of the Constitutional Bill following the March 2018 elections having decided a position to take on whether or not the Bill should be re-submitted or the recommendations revisited. In particular consideration needs to be given to removal of the Constitutional proviso in section 27(4) (d) & (e) which protect discriminatory practices under customary law and hinder the full enjoyment of GA provisions.
- Advocacy for the consolidation of all laws concerning the registration of marriages to ensure coherence.
- Advocacy for finalisation of the draft Abolition of Child Marriage Bill (currently being reviewed by the Law Reform Commission) especially the harmonization of marriage age provisions (i.e. to raise the minimum age bar to 18 years).
- Advocacy for amendment of the Registration of Customary Marriage and Divorce Act (currently being reviewed by the Law Commission) to remove the proviso that allows for underage marriage; and to address issues such as the lack of provision for those

wishing to register multiple wives; and the requirement that the other party be notified directly of the registration of the marriage or divorce when done by one party; the issue of dowry payments; and improved access to District Council registration. Also, to clearly state what will happen once a divorce is granted and has been registered, with particular regard to property division, custody of children and rights to communally held property.

SUMMARY OF RECOMMENDATIONS

7.1 Relevance

A recurrent recommendation is continuing civil society work with customary justice mechanisms using gender transformative approaches where possible. Increased engagement with Local Courts is also recommended.

Going forward a priority is to lobby the SLP and Ministry of Justice for consolidated data collection and analysis to evidence the attrition of sexual violence cases in the criminal justice system. At the same time an IWGGBV-SL member organisation/s could invest in a case study to track the trajectories of a sample of sexual violence cases through the criminal justice system (from first report) possibly in collaboration with the Law Society or LAWYERS.

Another recurrent recommendation in this report is to review the whole question of Alternative Dispute Resolution in physical IPV cases. This should be undertaken collaboratively with key Duty Bearers funded by an international development agency or NGO.

More emphasis could be given in civil society programming to supporting the development of a movement of People with Disabilities (PWD) led by PWD and able to advocate and lobby for their rights in law reform processes.

Civil society interventions towards increased male engagement need to be up-scaled to avoid negative

backlash from men and boys that undermines the increased attention women and girl's needs and expectations are commanding in development programming.

7.2 Effectiveness

Civil society has contributed to the development of relevant policy and it will be important for it to ensure that those that the out-going Government left in "Draft" form (e.g. FGM/C Strategy and strategy to address child marriage) are signed off by the new Government following the March 2018 elections.

A good practice example from another African country, Tanzania, demonstrates the value of consolidating Government commitments to the protection of women and children into a single multi-sectoral National Plan of Action.

7.2.1 The DVA

Existing protocols, procedures and guidelines need to be reviewed through a participatory process involving key Duty Bearers, implementing partners and civil society; and if necessary new or additional ones developed. It may be necessary to develop tailor-made protocols for different types of GBV offence since trajectories and obstacles in justice system are not uniform for these.

Civil society support to community women's organisations needs to be up-scaled so that the survivors of

sexual and domestic violence have ready access to support and advice to allow them to make informed decisions.

There is a pressing need to review current policy and practice on the diversion of IPV cases out of the criminal justice system and actions to ensure compliance with mandatory legal provisions to protect the rights of vulnerable women and children.

Police training, preferably that delivered through the Police Academy, on how to undertake a rapid but robust risk assessment in sexual and IPV cases is clearly a priority.

How best to address the issue of Protection Orders in terms of protocol, procedure and Duty Bearers practice demands urgent attention and requires consideration of gender transformative approaches aimed at changing dominant social norms.

Whilst civil society could, and indeed should, advocate for increased GoSL budgets dedicated to services for SGBV and IPV survivors, given limited resources it is necessary to define priority needs and how these can be met cost-effectively and with most value for money in the context of post Ebola Sierra Leone. Factors to consider include numbers of women and girls affected and programmes that are most likely to contribute to VAWG/VAWC prevention. Phased implementation of DVA provisions with large budgetary implications,

as set out in a Statutory Instrument/ Implementing Regulations or another form of Government Directive, is advised.

7.2.2 The RCMDA

A Government Directive from the responsible Line Ministries is required to ensure Duty Bearers comply with the clear procedures set out in the RCMDA for the registration of customary marriages. This should include clear specification of the mandates and responsibilities of the Local Councils vis a vis the Local Courts and those of Chiefs and other customary leaders.

Good practice examples that warrant consideration for replication and upscaling include devolving registration to communities (Bonthe DC and Bombali implementing partners); the use of key events such as International Women's Day or the 16 days of activism, for mass registration (Bo City Council).

7.3 Coordination and collaboration

A good practice Africa country level example is that of the Tanzania National Plan of Action to combat Violence Against Women and Children, the delivery of which is supported by a unified coordination and accountability mechanism that stretches from national to sub-village level.

To promote learning and information sharing going forward key documents (reports, policy documents and evaluation reports) concerning GA implementation should be put into the public domain so that they can be shared across organisations nationally and at district level. One idea to consider might be for the new COP VAWG to establish a shared website for the purpose of information sharing.

7.4 Sustainability

To sustain community ownership and participation in GA implementation going forward we recommend that a specific piece of work is commissioned to consider carefully the relative costs and benefits of codification. Such work might include convening a Learning Forum to bring together customary law experts and Chiefs/ Traditional leaders from other African countries to share learning in this regard.

To maintain the gains and achievements that have been highlighted in this study, there need to be some major changes in policy direction and funding, including:

- Given their centrality in the everyday lives of many community members, customary/ traditional and religious authorities need to be supported to continue enforcing byelaws and invited to participate in strategy formulation meetings for their communities.
- More consistent and holistic international donor funding for GBV/VAWC prevention and response is needed.
- Influencing work to encourage the process of decentralisation, so that Local Councils are allowed to take up service provision in their areas and leave the Line Ministries to provide policy direction at the national level.
- Integrate training on the three GA and related legislation into existing training or learning programmes to ensure all Government Duty Bearers have the requisite knowledge (e.g. SLP training school curriculum and law school

curriculum).

- Feed into existing monitoring initiatives so that GA beneficiaries are aware of complementary monitoring initiatives such as the "Pay No Bribe campaign", which encourages citizens to report acts of bribery.
- Encourage women and girls to take leadership positions within their local communities, so that they can drive the agenda of others and ground policies ensuring human rights protection for all.

7.5 Recommended next steps

- Support the development of a comprehensive GoSL national, multi-sectoral implementation plan to address GBV/VAWC, bringing together into one costed action plan the many different inter-related policies, strategies and plans that currently exist along the lines of the Tanzania National Plan of Action on VAWC.
- Establish a coordination mechanism at national and decentralised levels to support and monitor implementation of the national plan. In particular, the multi-sectoral body requires significant inputs from the MLGRD, the judiciary, the Law Commission, the TP Secretariat and arguably also from the National Council of Paramount Chiefs and the Inter-Religious Council of Sierra Leone, as well as from both Directorates of the MSWGCA and the SLP, including the FSU Directorate.
- One of the first tasks of this multi-sectoral mechanism will be to assess how best to ensure that Government

Ministries, Departments, and Agencies (MDA) collect, analyse and present statistical data of relevance to GA implementation, especially that pertaining to the DVA and SOA.

- There is a pressing need for one or more Statutory Instrument/s or Implementing Regulations to be developed taking into consideration the specific areas requiring attention as identified and analysed in this study for each of the three GA.
- Encourage civil society at all levels (national, regional and community) to participate in jointly monitoring implementation of the GA and related law in force or in the pipeline using the “due diligence model”. The purpose of such monitoring would be to collect robust data and evidence to use in advocacy and influencing with Government and international development partners for greater compliance with international standards; stronger accountability; improvements in service delivery; and last but not least adequate budgets and financial resources.
- Continued support for legal education and community sensitisation on the three GA and related legislation, in particular the SOA and CRC, bringing the Ministry of Justice (MoJ) in to play a more central role to ensure that accurate legal information and messages are transmitted to communities and indeed to Duty Bearers. This will help to ensure that messages are coordinated and streamlined to ensure coherence.
- Support organisations with

specialist legal personnel or members of the Bar Association to bring strategic litigation cases to hold to account Government institutions or individual Duty Bearers who fail to comply with the provisions of the GA.

- Contribute to ongoing legislative reform and development, by identifying gaps and ways these could be addressed through concerted, joined up advocacy and influencing work using the VAWG Community of Practice as a key mechanism.

ENDNOTES

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23. CC Community women Bump
24. GI-EKO Group Interview Bike riders Jaima Nimikoro
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 44. Cavanagh, R. (2016) Gender Analysis – Gender Equality Assessment in Sierra Leone: EU Service Contract No. HUM/2016/375-985, 22nd June – November 2016, P22
 45. Consultation notes 10.RC-NK; 13.RC-EKO
 46. GI-EKE-Group Interview -Kema Polytechnic Students
 47. This project has culminated in two publications the latest of which is: Manfred O. Hinz (2016) Customary Law Ascertained Volume 3. The Customary Law of the Nama, Ovaherero, Ovambanderu, and San Communities of Namibia, University of Namibia Press, Windhoek.
 48. 3.KII-F
 49. Consultation notes 1.RC-S&J Freetown Roundtable
 50. Sierra Leone Police, Minutes of Meeting to finalize SOPs for the Sierra Leone Police held Thursday 17th February, 2011 at the Sierra Leone Police Headquarters Conference Room, Freetown, internal mimeo.
 51. Sierra Leone Police, Minute of the EMB Meeting for the SOP approval, 23rd February 2011, internal mimeo.
 52. S.20 (1): Where in a criminal trial in respect of domestic violence which is not aggravated - (a) the complainant expresses the desire to have the matter settled out of court, the court shall refer the case for settlement by any alternative dispute resolution method; or (b) the court is of the opinion that the case can be amicably settled, it may, with the consent of the

- complainant refer the case for settlement by any alternative dispute resolution method.
S.20 (4): In any criminal trial in respect of domestic violence which is aggravated, the court shall not consider or approve any settlement of the matter out of court.
53. Consultation notes 11.RC-NM Makeni Roundtable
 54. Tombo Beneficiary
 55. 21.RC-SB
 56. Government of the Republic of Sierra Leone, Constitutional Instrument: The Police (Discipline) Regulations, 2001, section 31(e).
 57. Consultation notes 9.KPI-EKO
 58. S.19(1)- (3) where an alleged offender contravenes a Protection Order, i.e. fails to comply with any of the provisions stipulated by it, s/he will be prosecuted and liable on conviction to the more stringent penalty comprising a fine not exceeding Le5,000,000 and/ or a term of imprisonment not exceeding 3 years.
 59. 10.KII-EKE Judiciary staff
 60. Consultation notes 3.KPI-F, 1.KPI-F, 9.KPI-EKO & 10.KPI-EKE
 61. GBV-NK 3 survivors-Kambia
 62. 10.RC-NK Community Men Kambia
 63. 1. RC-F S& J
 64. Kambia survivor
 65. 4.GBV-SB Mattru Jong survivor
 66. CC-WA Women Beneficiaries John Thorpe
 67. SLP KII
 68. Consultation notes 3.RC-F
 69. S.20 (2)(b) Where any case is referred by the Court for ADR “the court shall, in addition where necessary, require the offender to receive psychiatric help”.
 70. S. 20(2)(a) Where the Court diverts a domestic violence case to ADR, it is obliged to refer the victim and offender for counselling. S. 20(2) (c) -S.20(3) after consultation with the Ministry, the Court is also obliged to: “appoint a probation officer to observe and report on the subsequent conduct of the offender to the court”.
 71. S.10(1) On receipt of an application (from one or both parties to a customary marriage) register the marriage in the register set out in the First Schedule; Using the form set out in the Second Schedule notify by notice the public of the registration of the marriage. S.10(2) Display the notice on a public notice board in the office of the local council within twenty-eight days after the registration of the marriage.
 72. S.12 Upon receipt of a notification (by one or both parties), record the dissolution of any marriage registered under this Act in the register of divorce set out in the Third Schedule. S.13(3) By notice in the form set out in the Second Schedule notify the public of the registration of the dissolution of the marriage. S.13(4) Display the notice on a public notice board in the office of the local council within twenty-eight days after the receipt of such notification.
 73. Consultation notes 4.KPI-F,
 - 6.KPI-NK
 74. Consultation notes 12.KPI-SB, 14.KPI-F
 75. Consultation notes 20.KPI-F
 76. S.19 a) applies to a local council for the registration of any customary marriage or divorce which he knows has not been lawfully contracted or dissolved, as the case may be, under the applicable customary law; b) knowingly makes any false entry in the register or a certified copy thereof; c) with intent to defraud, alters any entry in the register or certified copy thereof.
 77. 4.KII-F
 78. Consultation notes 12.KPI-SB
 79. Consultation notes 19.KPI-F
 80. Consultation notes 17.KPI-F
 81. The Office of the Administrator and Registrar-General takes note of any claims of customary marriage when a person wants to undertake a civil marriage in their registry office. Consultation notes 20.KPI-F
 82. GBV-WA Interview Beneficiary Waterloo
 83. RC-SB Roundtable Community Elders (Men)
 84. GI-EKO Group interview bike riders
 85. Tombo beneficiary
 86. CC-SB Roundtable Community Elders, Bumpe; RC Implementers, Bonthe
 87. RC-SB 19
 88. CC-Eke community Women Kangama
 89. S.5(1)-(2) Court to decide what amount is to be apportioned

from the deceased's estate to meet the entitlement to maintenance and education of his/her child/ren until the age of 18 years. S.6(1)-(2) Court to apportion share/s of the deceased's estate to his/her spouse/s. S. 7(1) Court to apportion share/s of the deceased's estate to his/her child or children.

90. 8.RC-NK

91. Consultation notes 6.KPI-NK

92. Consultation notes 4.RC-WA; Informal conversation with LAB staff.

93. Roundtable Community Women in Bumpe, Kangama and Luawa

94. Roundtable Community Women in Bumpe

95. Roundtable Community Elders Kangama

96. 2. KII-F

97. GI-F Group Interview Free-town

98. 8.RC-NK

99. MSWGCA- 2.RC-F

100. Terms of Reference, Community of Practice 5th August 2017

101. This is certainly true of DFID. See, for example, Jones, E., and Roseveare, C. (2014) Violence Against Women and Girls: Map of DFID programmes, Oxford Policy Management Ltd, Oxford 2014. At: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/368932/Map-DFID-VAWG-prog-2014b.pdf (accessed March 2018). See also: Independent Commission for Aid Impact (2016) DFID's Efforts to Eliminate

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102. The Mission is operating with a two-year (2016-2017) Transitional Strategy which was extended for a further year to allow for the Sierra Leone Presidential and Parliamentary elections. It will be developing its 5 year Country Strategy Paper during the course of 2018.

103. Fraser, E and Wood, S (2018) VAWG Legislation, Helpdesk Research Report No. 156. London, UK: VAWG Helpdesk P4

104. Lombardini, S, et al (2017) How To' Guide to Measuring Women's Empowerment: Sharing experience from Oxfam's impact evaluations, Oxfam, Oxford, May 2017. At: <https://policy-practice.oxfam.org.uk/publications/a-how-to-guide-to-measuring-womens-empowerment-sharing-experience-from-oxfams-i-620271> (accessed March 2018)

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