

**Advocacy Brief:**  
**Assessing the impact of the three Gender Acts in Sierra Leone**

Globally women and children in countries with domestic violence laws have a lower chance of experiencing violence than those in countries without such laws. As a signatory to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 1988, and numerous other international conventions that protect the rights of women and children, the Government of Sierra Leone (GoSL) has taken a number of steps to domesticate the provisions of CEDAW through the passage of a range of laws protecting women and children in Sierra Leone. One of the main achievements among these has been the passage of the three “Gender Acts” (Laws) in 2007-09, and the Sexual Offences Act in 2012.

**The three Gender Laws collectively are:**

- **Domestic Violence Act:** addresses all types of violence in a domestic setting
- **Devolution of Estates Act** [also known as the ‘Intestate Succession Act’]: provides protection for women in terms of land and estate inheritance in the event that her spouse dies intestate (without a will).
- **Registration of Customary Marriages and Divorces Act:** Outlines a framework for registering customary marriages and divorces, which provides further economic and legal protection for women.

In addition to the 2007-08 Gender Laws, the **Sexual Offences Act** was also passed in 2012, which provides a clear framework for addressing sexual violence crimes.

However, the passage of national laws and policies is one thing, while ensuring that they are fully implemented, publicly understood, and effectively enforced is quite another. This is particularly the case when such laws tend to challenge informal social norms that are deeply embedded in culture, and which normally take time to change.

In 2017, members of the Irish Working Group on Gender-Based Violence (GBV) in Sierra Leone<sup>1</sup> jointly commissioned a qualitative research study to learn more about how the three ‘Gender Laws’ of Sierra Leone have been implemented, applied, and disseminated, ten years after their passage into law in 2007. The Gender Laws collectively aimed to improve the legislative framework for empowering women and girls socially and economically, and for reducing violence against women and girls in the home and community.

The **overall objective** of the Gender Laws research 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 research consisted of a series of consultations with 350 stakeholders across the Western Northern, Southern, and Eastern Regions of Sierra Leone, using ‘Roundtable’ and ‘Community Conversation’ approach, as well as individual and small group key informant interviews.<sup>2</sup> Consultations were held with government agencies, traditional leaders, civil society and humanitarian organizations, families, and GBV survivors. This brief presents a summary of the key findings and recommendations of the research.

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<sup>1</sup> 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 comprised of organisations that receive Irish Government funding through the Irish Embassy in Sierra Leone or Irish Aid Headquarters in Ireland.

<sup>2</sup> Roundtable and Community Conversations differ from the more usual consultation tool of Focus Group Discussions in that they are explicitly moderated in ways to ensure that each person sitting around the table or in a community circle contributes to the conversation.

## **Domestic Violence Act (DVA)**

### **Successes**

- A wide range of public information campaigns have helped to raise public awareness about various forms of Gender Based Violence, including domestic or Intimate Partner Violence (IPV), sexual violence, and harmful traditional practices, such as child marriage and Female Genital Mutilation (FGM).
- There is an increase in public recognition of domestic violence (for example, wife beating) as a crime that is punishable by law.
- Economic crimes, such as withholding economic support to wives and children, is also being reported and enforced under the DVA.

### **Challenges**

- Customary law, normally enforced by traditional leaders, plays a central role in Sierra Leone society, and for many women and children, it is more accessible than formal justice institutions. But none of the three Gender Laws provides guidance on the roles of Customary and Traditional Leaders, or of the Local Courts.
- Unless there is evidence of broken bones and/ or wounding with bleeding, the usual response to survivors of Intimate Partner Violence (IPV) is to automatically engage in Alternative Dispute Resolution (ADR)/ mediation. This is contrary to the provisions of the DVA. Although many IPV survivors may not wish to pursue prosecution, they may not be given the relevant information and advice to exercise their “right to choose”.
- No risk assessment is made concerning the personal safety of IPV survivors; this increases the risks of further violence from the same alleged perpetrator.
- The DVA makes provisions for a **Restraining Order** preventing the perpetrator from making contact with

the survivor, or a **Protection Order** for the survivor to access safe accommodation. But in many cases, survivors are never provided the option of applying for a Protection Order. Dominant social norms perpetuate the belief that IPV is a private “family matter” best left to families to sort out.

- The dismissive attitudes and practices of Duty Bearers, as well as doubts about the local relevance of Protection Orders and the lack of training for police and judicial personnel, results in virtually no applications made to the courts for DVA Protection and Restraining Orders. This means that IPV survivors are largely forced to remain in abusive relationships that endanger their health and that of their children.
- Women recognise that various interventions and programmes that increase their economic empowerment through interventions such as micro-finance, can provoke negative backlash from men in their homes and wider communities, placing them at further risk of violence and abuse.

*“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 woman and her children are booted back into abusive homes.” – Informant interviewed in the study*

### **Recommendations**

- It is recommended that the process of using ADR for domestic violence cases be reviewed by the relevant government agencies in collaboration with civil society, and clear procedures, roles and responsibilities are agreed.
- It is also recommended that the relevant agencies agree on procedures for addressing the issue of Protection Orders; these should include gender transformative approaches aimed at

changing dominant social norms that limits survivors' options.

- Provide training for police, preferably integrated into the Police Academy training, on how to undertake a rapid but robust risk assessment in SGBV cases.
- Scale up civil society interventions to increase male engagement in SGBV issues; this will help reduce negative backlash from men and boys that undermines the increased attention women and girls are receiving in development programming.

### **Sexual Offences Act (SOA):**

#### **Successes**

- Since its enactment in 2012, the SOA has simplified the prosecution of sexual offences, making it easier to address the needs of sexual violence survivors and to gradually reduce the existing culture of impunity.
- A significant amount of public legal education and sensitization has been conducted on the sexual offences act, which has increased reporting of sexual violence cases.
- Initiatives such as dedicated court sittings (special court and Saturday courts) have eased the backlog of sexual offence cases.
- The National Referral Protocols on SGBV and the Sierra Leone Police (SLP) Standard Operational Procedures for investigating SGBV crimes have provided guidance on roles and responsibilities and procedures for each agency.

#### **Challenges**

- A greater number of reported sexual violence cases are said to be entering the criminal justice system. But survivors continue to encounter numerous challenges in accessing services and justice, including protection, health care, and psychosocial support.

- For example, despite instructions in the 2007 DVA and the 2012 SOA that medical care and exams will be provided free of charge to survivors, charges are regularly levied at most government health centres, ranging from Le 25,000 in Freetown to Le 80,000 in Matru Jong.
- The slow judicial process remains a challenge; and there is significant 'attrition' of sexual violence cases in the criminal justice system (i.e. a large difference between the number of sexual crimes that are investigated, and the number that end with a final court decision.) However, the lack of accurate data on cases moving through the system makes it difficult to determine the specific challenges.
- Qualitative evidence suggests that attrition results from a combination of the following factors: family pressure for "out of court settlements"; the corrupt "compromise" of cases by police and judicial officers; direct and indirect costs to the survivor of accessing services; and the slow speed of judicial travel.
- Despite the existence of the SGBV Referral Protocols and SLP Standard Operational Procedures, these documents are not generally being followed or monitored.

#### **Recommendations**

- Review existing procedures, protocols and guidelines, such as the National Referral Protocols on GBV through a participatory process; and consider different protocols for different types of GBV offences, such as sexual violence, domestic violence, etc.
- Ensure that any new protocols developed receive full commitment and funding allocations from all relevant government agencies, and are implemented through a coordination mechanism that is fully functional and accountable.
- While government resources are currently challenged, more support can

be provided to local women's (and men's) groups to provide support and advice to SGBV survivors. These local initiatives can be further supported to ensure that SGBV survivors have access to the support and information they need to make informed decisions.

### **Registration of Customary Marriages and Divorce Act (RCMDA)**

#### **Successes**

- As a result of public awareness-raising, women identify various benefits of customary marriage registration, such as increased security in the home and greater protection for themselves and their children on the death of a husband. This includes access to land entitlements and NASSIT benefits for example.

*“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.” – Tombo Resident.*

- Some examples of successful approaches to expanding access to registration include:
  - Devolving the registration process using the local district councillors to link with communities, or to do the process directly in the communities.
  - Conducting ‘free mass registration exercises’ as a promotional exercise to raise awareness during key international days, such as International Women’s Day.

#### **Challenges**

- Registration rates continue to be abysmally low: for example, from 2009 to 2017, the Freetown City Council recorded only **259** customary marriage registrations and **130** divorce registrations. In addition, data collection systems are not always functional.
- There is no policy setting out clearly what procedures are to be followed and

at what costs. This means that processes and fees can vary considerably between districts, ranging from Le 40,000 in Bo District to Le 500,000 in Western Rural District.

- Furthermore, many districts have other requirements, such as an additional ceremony in the presence of witnesses, which also pose barriers.
- While the rules governing civil marriage registration are limited to monogamous unions, the **customary** marriage registration process recognises the registration of polygamous marriages. But this is not always well understood.
- Customary marriages and divorce proceedings are often undertaken in the presence of chiefs, and Local Courts. But they have no official role in the RCMDA.
- Social norms encouraging the preservation of marriage mean that many local authorities use fees and other hurdles to deter the registration of divorce, or use mediation to try to restore the marriage, which constrains a women’s right to choose.
- The RCMDA states that the legal age for marriage is 18 years of age; but marriages can be arranged for ages less than 18 if the parents or a Magistrate gives consent. This is in direct contradiction to the 2007 Child Rights Act.

#### **Recommendations**

- The Government should provide clear directives on the various mandates of different local duty bearers (Local Councils, Chiefs, and Local Courts) in the registration of customary marriages, so that roles and responsibilities are clear and applied.
- The Government should harmonise the processes involved in the registration of customary marriages and divorces, so this is clear and consistent across districts, with clear accurate public education and communication.

- Consider the possibility of devolving registration to communities and using key national events, such as International Women’s Day to conduct mass registration drives.
- The inter-relationships between child marriage, FGM/C and adolescent pregnancies is complex and best addressed through multi-faceted programming.
- The current process of harmonising the various ages of consent for marriage across the different laws through a new bill should be completed and passed into law.

### **Devolution of Estates Act (DEA)**

#### **Successes**

- There has been some success in the implementation of the DEA to ensure that women (and their children) have access to a fair share of their deceased husband’s property.
- While the DEA specifically refers to land that is privately owned, there have been instances in which DEA rights on the division of property [on the death of a man who dies without a will] are being observed even on family and customary land.
- Women see the relationship between the DEA and the RCMDA as important, since registration of their marriages will enable them to benefit from the DEA provisions.

*“The inheritance of wives by the male members of a deceased husband as a means for men to stay on the property has reduced significantly in Kono [as a result of the DEA]. Women can now handle their own business and are quick to take legal action when someone tries taking advantage on them.” — Research Respondent in Kono*

#### **Challenges**

- Traditional social practices continue to pose challenges to the DEA provisions, as male relatives and other family

members frequently attempt to take over the property of a deceased man and dominate the decision-making processes.

#### **Recommendations**

- Continue to provide accurate information and legal education on the DEA and its provisions through various public information campaigns; and ensure that roles and responsibilities are well clarified between the different Duty Bearers.

#### **General Recommendations from the Research**

The Constitution of Sierra Leone represents the ultimate authority and there are currently various matters which are seen to be discriminatory of women and children’s rights that are under review. These include the provisions stated in Section 27(4) (d) and (e) which protect discriminatory practices against women and children under customary law. Still in the law reform and development pipeline is a Gender Equality Bill designed to instate into domestic law the full provisions of CEDAW.

The three Gender Acts form part of a series of legislation that reflects CEDAW provisions in domestic law. They are also integral to combatting sexual and gender-based violence (SGBV), along with the 2012 Sexual Offenses Act. To date, however, none of the Gender Acts have statutory instruments or implementing regulations to aid their implementation even though each of them makes provision for this. Furthermore, commitments made in the various national policies and strategies to address gender inequality and gender-based violence have not been fully realised. In particular, government budget lines dedicated to SGBV/VAWC prevention and response are insufficient to ensure the protection of women and children in Sierra Leone.

- This study recommends continued advocacy for the GoSL to increase its budgets for SGBV prevention and

response. But given limited resources, it may be helpful to define priority needs, or implement provisions through a phased approach. At the same time, continue to engage donors to provide supplementary funding to ensure a basic level of services, until the government can assume full responsibility.

- Develop one or more Statutory Instrument/s or Implementing Regulations that will provide further guidance on the implementation of either or all of the Gender Laws.
- If and when the Constitution is reviewed, this study recommends that particular consideration be given to the removal of the provisions in section 27 (4) (d) and (e).
- Regularly engage customary or traditional and religious authorities as critical leaders to raise awareness on the Gender Laws and to understand and fulfil their respective roles in implementation and enforcement, using approaches that appropriately challenge traditional gender norms that discriminate against women and girls.
- Regularly engage the Local Courts to ensure they understand their roles and responsibilities in the implementation of the GA, and that communities understand the different roles of the Local Courts, Traditional Leaders, and formal justice system.
- Integrate training on the three GA and related legislation into existing government training programmes to ensure all Government Duty Bearers know how to apply them: for example, the Sierra Leone Police training school and the Law School.
- Support the revision of the previous National Action Plan on GBV (NAP) or

develop a new comprehensive multi-sectoral implementation plan to address GBV/VAWC, bringing together the many different policies and strategies that currently exist.

- Strengthen the National Coordinating Committee on GBV (Nac-GBV) to provide effective coordination; and ensure participation of all relevant agencies and stakeholders. The GBV/VAWG Community of Practice (CoP) can play a complementary role to this government-led coordination mechanism.
- Establish a common information management system that will enable the collection and analysis of relevant statistical data on GBV and implementation of the GA, which can guide further actions, budgeting and planning at all levels.
- Poverty remains a significant barrier to justice and human rights attainment. Support, strengthen and expand existing initiatives to ensure that all women have access to information and services in order to claim their entitlements and rights to justice.
- Ensure that the needs of women and girls with **disabilities** are integrated into implementation and enforcement, while also supporting civil society groups that are led by or representing People with Disabilities (PWD).
- Encourage civil society at all levels to participate in joint monitoring and implementation of the GA and related laws in order to hold duty bearers accountable for: stronger accountability. Help ensure that Women's Rights Organizations play a central role in advocacy and awareness-raising, but with

the active participation and support of men.

- Continue to provide accurate information on the Gender Acts and related legislation/ policies through a range of legal education and community sensitisation activities. The Ministry of Justice (MoJ) should help make sure that accurate legal information and messages are transmitted; and that government agencies and duty bearers are held accountable for non-compliance with the provisions of the GA.

### **Brief Note on the Irish Working Group on Gender Based Violence**

The Irish Working Group on Gender-Based Violence was formed in 2005 to address the high levels of sexual and gender-based violence perpetrated during international conflicts and crises around the world. The global office is based in Ireland with representation in key partner countries, including Sierra Leone. In Sierra Leone, members include: Action Aid, Child Fund, Concern, Christian Aid, GOAL, Irish Aid, International Rescue Committee, Plan International, World Vision, and Save the Children. Funding from the Irish Government supports the Working Group's aim to promote the adoption of a coherent and coordinated response to GBV in Sierra Leone. In October 2017, the working group commissioned a research on the implementation of the Gender Acts. The objective of the research was to undertake and deliver a national study examining the extent to which the three Gender Acts have contributed to improving the protection of women and girls in Sierra Leone. Evidence-based findings and key lessons from the assessment will be used to advocate for increased government commitment to reduce levels of GBV and improve response measures.



***Photos of Consultations During the Gender Laws Research, Sierra Leone 2017***