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The Implementation of the Convention on the
Elimination of Discrimination against Women and the
Convention on the Rights of the Child Regarding Female
Genital Cutting in Sierra Leone

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Summary

This thesis addresses the implementation of the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) with regard to the practice of female genital cutting (FGC) in Sierra Leone. The study is partly based upon a field study carried out in Sierra Leone and on further research in Sweden.

There are no rare or isolated incidents, FGC represent one of the innumerable cruelties inflicted on girls and women every day, in numerous countries of the world. The thesis outlines issues interrelated with the practice of FGC within the Sierra Leonean society.

In Sierra Leone there is no law prohibiting FGC nor any policy statement from the government regarding the continuation of the practice. Customary laws affects and are often discriminatory against women in the country. The legal recourse is practically difficult to receive for women and this is also of concern regarding the possibilities for protection for those who refuse to undergo the practice of FGC. These issues must be recognized if FGC shall be a part of the implementation process of the CEDAW and CRC. To recognize and emphasise the culture and traditions governing the Sierra Leonean society and include these in the implementation of the two international conventions in Sierra Leone is crucial. If the culture and traditions are disregarded and no analysis is made concerning Sierra Leone, the implementation of the international conventions is deemed to fail.

Realizing women and children's rights must be wrested from bellow and are primarily a matter of internal social change, however, the international human rights instruments plays a fundamental role providing peoples' with notions of their rights and freedoms. Human rights must therefore be implemented in order for the people to be able to demand their rights. In the case of Sierra Leone, a country devastated by a civil war, the implementation of human rights conventions has to be carefully monitored and it is therefore of special concern to pursue a well constructed strategy, where all factors has been included, fitting the implementation in Sierra Leone. The thesis investigates the current post-war situation of the country regarding human rights in general and examine the practice of FGC, the health consequences, reasons for the practice and the actors involved. It further outlines the international law in relation to FGC and the responsibility of the state of Sierra Leone to include FGC in the implementation process of CRC and CEDAW. Suggestions of ways to initiate change is provided in the end of the thesis after the assessment of the international obligations the state of Sierra Leone has as a party to the conventions.

Abbreviations

AFRC	Armed Forces Revolutionary Front
AIDS	Acquired Immune Deficiency Syndrome
APC	All People's Congress
BAFROW	The Foundation for Research on Women's Health, Productivity and Environment
CEDAW	Convention on the Elimination of Discrimination against Women
CDF	Civil Defense Force
CRC	Convention on the Rights of the Child
ECOMOG	The Economic Community of West African States monitoring Group
FC	Female Circumcision
FGC	Female Genital Cutting
FGM	Female Genital Mutilation
FIGO	The International Federation of Gynecology and Obstetrics
FSU	Family Support Unit
HIV	Human Immunodeficiency Virus
IAC	The Inter-African Committee on Traditional Practices Affecting the Health of Women and Children.
INGO	International Non-Governmental Organization
LAWCLA	Lawyers Center for Legal Assistance
MFS	Minor Field Study
NGO	Non-Governmental Organization
NPRC	National Provisional Ruling Council
RAINBO	Research Action and Information Network for the Bodily Integrity of Women
RUF	The Revolutionary United Front
SIDA	Swedish International Development Cooperation Agency
SLA	Sierra Leone Army
SLPP	Sierra Leone People's Party
UN	United Nations
UNAMSIL	United Nations Assistance Missions to Sierra Leone
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNOMSIL	United Nations Observer Mission in Sierra Leone
UNPFA	United Nations Population Fund
WHO	World Health Organization

CHAPTER ONE: Introduction

The practice of FGC is part of a ceremony and rite of passage for millions of women in different countries in the world.

Sierra Leone is one of the countries where the percentage of women who have undergone FGC is high, estimated to be 90 percent.¹

The procedure of FGC is a painful one, causing grave health effects and severe pain for those girls and women who are exposed to it. The practice has increasingly caused intense international scrutiny from feminist and human rights organisations, the international legal perspective of the practice has been debated and the weight of international human rights law has been questioned.

Human rights treaties are tools that might be used by states in order to ensure fundamental human rights and freedoms for its inhabitants and to ensure that legal recourse is available when violations of fundamental human right norms occur. States are by ratification of such treaties obliged to implement these norms into their domestic legal system and to ensure the enjoyment of these rights to all individuals under their jurisdiction. This means that the state should provide for special measures to enable individuals to enjoy their rights.²

It is not easy to imagine the implementation of human rights treaties in the abstract, without considering the concrete daily experience of those who are supposed to implement the norms.³ The reason for this is that human rights norms are not always the obvious solution for the people in a country.

In order to receive an understanding of this, a field study has been included in the thesis with findings from a two and a half months–long study in Sierra Leone. The study investigated the implementation CRC and CEDAW, ratified by the government of Sierra Leone. Even though the government face complex issues when implementing human right conventions, such as CRC and CEDAW, the government must in the implementation process also consider harmful cultural practices such as FGC, prevalent in the country.

The process of implementation of these two conventions has been and is still slow, partly because the country is in a rebuilding stage after several years of civil war. Concern about sensitive issues such as female genital cutting is not presently focused on in Sierra Leone and this far the government has shown little interest in putting an end to this harmful

¹ See Koso Thomas research results

² See General Comment No. 03: *‘Implementation at the National Level’*, 1981, CCPR 29/07/81

³ See Forsythe, David P and Macmahon, Patrice C, *Human Rights and Diversity Area Studies Revisited* Para., 3, University of Nebraska Press (2003)

practice. Neither INGO's, nor UN Agencies present in the country and only very few NGO's are working with strategies to put an end to FGC⁴.

To incorporate FGC in the implementation process of CEDAW and CRC has been and is a major challenge for many states around the world as traditional practices are often seen as a cultural fundaments for the inhabitants of a country. Hence, it is not an obvious step for a government to prohibit the deep- rooted and deeply imbedded traditional practice of FGC, without first investigating the prevalence of the practice, identify the justification for the practice, the opinion and outline measures suitable for the case of Sierra Leone.

There is a great need for additional studies on FGC in Sierra Leone and this thesis might contribute to the start of further research from the year 2004 and forward which could fill the existing gap.

1.1 Presentation of the Problem

In order to receive a picture of the situation in regard to FGC in Sierra Leone one need to encounter and investigate a number of problems which is the cause of the complexity of the implementation process. The questions concerning FGC are not easy and when dimensions of international human rights law are considered⁵, issues with regard to the practice becomes even more complex.

The collision between cultural and traditional beliefs existing in the Sierra Leonean society and norms of human rights often becomes issue difficult to resolve. These questions are sensitive and the government of Sierra Leone prefer not to include the questions surrounding the continuation of FGC in the implementation process of CEDAW and CRC. Girls and women who do not agree to become exposed to the practice are not cared for and even though the practice have health effects on the female population of the country, no action is taken against the continuation of the practice.

Neither the government of Sierra Leone nor other actors included in the performance of realising Human Rights⁶ present in Sierra Leone look upon the practice of FGC as a subject important to include in the implementation process of human rights treaties. UNICEF in Sierra Leone does, for example, not look upon the prevalence of FGC in Sierra Leone as an issue

⁴ One local NGO's is called Kantanya Women's Development Association, working with violence against women and provides assistance for girls and women who is in need of protection in order for them not to be forcibly exposed to FGC.

⁵ See Shell-Duncan and Hedlund (eds.) *'Female Circumcision in Africa Culture, Controversy and Change'* Para., 1 Lynne Reinner Publishers, Inc (2000)

⁶ Such as International INGO's and UN Agencies.

to put upon their agenda the coming four years.⁷ The issue of FGC has been used as a political tool in elections in Sierra Leone. This has made the issue very sensitive and if a politically active person wants to take a stand against the practice it is believed that the person will lose public support.⁸

The fact that human rights are not always seen as applicable on the practice of FGC (as the practice is not seen as a human right violation by a majority of the people in Sierra Leone), is a huge problem, aggravated by the taboos the practice enhances and very few open discussions take place in Sierra Leone concerning the practice.

There is neither a law providing women and girls with a possibility to legal recourse nor any policy statement taken by the government concerning the continuation of FGC. On the contrary, the practice is protected by institutions such as the Bundo society and legalised by the state through licenses.

The fact that women most often are treated as minors in the customary legal system effects and aggravates the overall situation of women and girls and the protection for women and girls against the exposure to FGC.

1. 2 Aims and Purpose

The primary purpose in this study is to focus on FGC practised in Sierra Leone and the complexities the Government of Sierra Leone face when the government is to implement and enforce the international treaties the state is bound by due to ratification. The thesis further intends to provide arguments for why FGC must be a part of the existing implementation process of CRC and CEDAW with regard to FGC in Sierra Leone.

The aims are to:

- I) Investigate the practice of FGC in Sierra Leone.
- II) Outline the existing national law and practice of Sierra Leone concerning FGC and the reasons for the fact that there is no existing law and no stand taken in Sierra Leone against the practice.
- III) The intention has been to look upon the implementation process of CEDAW and CRC regarding FGC in Sierra Leone and to clarify the government's obligation, as a party to CRC and CEDAW, to include FGC in the implementation of the conventions and if so, what strategies that may be used in the initiating phase.

⁷ For example UNICEF, in a personal communication with Donald Robertshaw, Child Protection Officer at UNICEF, Freetown July 2004.

⁸ See 3.4.1.2 "Female Genital Cutting and the Law in Practice"

1.3 Methods and Sources

This thesis is based on information obtained both in Sweden and Sierra Leone. The main part of the thesis has been written at the Raul Wallenberg Institute in Lund. I have as well collected data relevant to the thesis on different libraries in Sweden.

I had the possibility to travel to Sierra Leone after receiving a scholarship from the Raul Wallenberg Institute. In Sierra Leone I performed interviews⁹ and parts of the thesis therefore includes such empirical material and other findings and conclusions I could draw from my study in the country. The ambition has been to combine the findings in Sierra Leone with the literature research and review I have conducted in Sweden.

1.3.1 Documentary Sources

Literature sources have mainly been collected in Sweden, however some were gathered in Freetown, Sierra Leone. Literature by scholars has been reviewed and their different impressions and theories concerning FGC has been considered throughout the writing of this thesis as it is important to take in account the experiences of other scholars. The intention has, however, not been to provide an outline of their findings, theories and reports, but to focus on Sierra Leone, the practice of FGC and the implementation of CEDAW and CRC.

1.3.2 Field Work

When carrying out interviews in Sierra Leone I chose to give the study an qualitative approach. Interviews were conducted with women and girls between 15 to 70 years of age in Kabala, Kenema, Bo and Freetown. In addition to the interviews carried out with women I targeted paramount-chiefs, town-chiefs, judges, initiators, lawyers, police at the Family Support Unit, prosecutors, representatives for NGO's and state officials such as the Attorney General, the Ombudsman and Ministers. Approximately 90 persons have been interviewed.

A female interpreter translated from Krio to English. She was herself a member of the Bundo Society¹⁰, and the fact that she was a native and member of the Bundo Society facilitated for the women to connect and speak to me through her.¹¹

⁹ See Under 1.3.2 "Field Work".

¹⁰ Bundo Society is the term used locally in Sierra Leone for the initiation, where FGC is performed.

¹¹ Interpreter; Anne Marie Caulker, Coordinator Kantanya Women's Development Association .

Women targeted for the interviews were chosen at random, by large, in suburbs to the cities. As the issues the interviews covered are sensitive and normally out of bounds for a stranger, the interviews were performed in a room inside the houses where the women lived. To speak about FGC with more than one woman at a time was not possible as many women reacted as soon as I touched upon the issue of FGC or the Bundo Society and would no longer continue the interview. Names of the women were not taken in order for the women to feel free to talk and to protect the confidentiality. This was as well essential to ensure the woman's safety and the quality of the data. The women were identified by age, education, where they lived and their work, if any.

A questionnaire was used with approximately 40 questions and an interview normally lasted approximately one hour. The women could stop or not answer questions and were free to discontinue the interview as soon as they felt uncomfortable.

When carrying out interviews with the other groups a tape recorder and a questionnaire was used. Certain state officials wanted the questions in advance, and when demanded, I gave them the questions. But the purpose was to receive spontaneous answers in order to catch the level of interest, concern and level of knowledge if any, about the human rights conventions and the implementation and enforcement of these.

Through the interviews I received both the social and legal context of the issues. The approaches gave a wide perspective of the implementing process in Sierra Leone.

1.4 Outline of the Study

This thesis is divided into five chapters. The first chapter is an exposition of the thesis. The chapter describes the outline of the study, introduces the study and gives a description of the problems that I have intended to deal with. The chapter enhances as well the aim and objectives of the study and describes the methods I have used to accomplish this work.

Chapter two aims to outline the human rights of women in Sierra Leone and the practice of FGC. The civil war in Sierra Leone during the past 14 years has affected the judicial system and the female population severely. The current and general human rights situation of women and children in Sierra Leone affects the continuation and prevalence of FGC and the practice adds to the burden of the women in the country. Hence it is essential to provide for an overview and background information to the situation before reviewing FGC in Sierra Leone. Chapter two goes on with describing the practice of FGC and the importance of the practice in the Sierra Leone society as a whole.

Chapter three emphasise the national gender discriminatory laws and practices that further aggravate the rights of women and children and their possibility to receive protection and recourse from the law and legal institutions in the country. The chapter further outlines the responsibility of identified actors in regard to FGC in Sierra Leone. The chapter outline as well in what way FGC has influenced the political arena in Sierra Leone.

Chapter four explores CEDAW and CRC in regard to FGC in the country. As the country has ratified both CEDAW and CRC the government is obliged to implement the conventions.

The status of international law in Sierra Leone is significant to the implementation of international treaties and with that the issue of the universality of human rights, which is essential when human rights in Africa are discussed. An illustration of current legislation in other West African countries is provided. It further discusses whether legislations prohibiting the practice of FGC have had effect in practice.

In chapter five I have sketched on possible strategies to be employed in Sierra Leone for the initiating of the gradual process of abolishing FGC. The thesis is ended with a few concluding remarks embodying the contents of the thesis.

1.5 Limitations and Scope of the Study

Information, reliable data and statistics specifically focusing on the practice of FGC in Sierra Leone is to a large extent not available, in contrast to the sub-region where most countries have taken steps towards the abolishment of FGC and outlined laws prohibiting the practice. One of very few reliable, general case- studies on FGC in Sierra Leone, is a research conducted by Dr Olayinka Koso-Thomas in 1985. It is important to keep in mind that this study was not conducted through out the country but only in the western part of Sierra Leone involving three hundred women, in an area with a total population of 500 000.¹²

When reading this thesis it is essential to take into account that the Sierra Leone society is not homogenous and culture varies between districts and consequently women's rights and status under traditional law varies depending on the ethnic group to which they belong.¹³ This paper will nevertheless provide for a general overview of the situation of women, their human rights and the practice of FGC.

This thesis is focusing on the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against

¹² See Koso-Thomas, Olayinka, *The circumcision of women: A strategy for eradication*, Para., 44 London: Zed Books (1987)

¹³ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-warrape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

Women. I have not included other international instruments even if these are relevant, as both CRC and CEDAW is currently at the stage of being implemented by the government of Sierra Leone and therefore of relevance. This thesis is a thesis in law and I therefore did not see it necessary to conduct a deeper analysis on the Bundo Society, a more suitable issue reserved to anthropologists.

1.6 Terminology in Regard to the Practice of Female Genital Cutting

The terminology “Female Genital Mutilation” (FGM) is used by most legal scholars when describing the practice.¹⁴ The practice might also be described as Female circumcision (FC) and Excision. Other terms such as “Genital Surgeries”, “Clitoridectomy” and Female Genital Cutting (FGC) might also been used to describe these practice.

The CEDAW Committee has in two General recommendations used the euphemistic term “Female Circumcision”.¹⁵ According to Eufa Dorkenoo the correct medical term should be “Female Genital Mutilation” rather than the soft concept of circumcision.¹⁶

Both the International Federation of Gynecology and Obstetrics (FIGO)¹⁷ and the World Health Organization uses “Female Genital Mutilation” to describe the traditional practice. The High Commissioner for Human Rights has in Fact Sheet No. 23 on Traditional Practices Affecting the Health of Women and Children, also used the terminology “Female Genital Mutilation” and so has also the Human Rights Committee.

Even though these bodies has used the term “mutilation” it is an act of cutting which might be looked upon and described as an act of “Mutilation”. I find it important to emphasis that mothers initiate their daughters often with the best intention and do not look upon the cutting as an act of “mutilation”. The term “mutilation” may also offend women who have undergone the procedure and do not consider themselves as mutilated or their families as mutilators,¹⁸ especially in Sierra Leone were mutilation of civilians has been one of the most widespread and horrific atrocities committed during the war. For this reason I do not find it proper to use the terminology “Female Genital Mutilation” in this thesis and will therefore

¹⁴ Female circumcision is seen as an act of mutilation as it involves cutting of a healthy genital organ for non-medical reasons and “Female Genital Mutilation” (FGM) is therefore a term possible to use when writing about the practice.

¹⁵ See The Committee on the Elimination of Discrimination against Women General Recommendation No. 14 (ninth session, 1990) on Female Circumcision and General Recommendation No. 19 (11th session, 1992) on Violence Against Women

¹⁶ See Dorkenoo, Efu, *Cutting the Rose Female Genital Mutilation ,the Practice and its Prevention*, p 4, London: Minority Rights Publications (1994)

¹⁷ See Cook, Rebecca J, *Reproductive health and human rights integrating medicine, ethics and law*, Para., 266, Oxford, Oxford University Press (2003)

¹⁸ Ibid. Para., 262

use the terminology Female Genital Cutting (FGC)

CHAPTER TWO: Human Rights of Women and Children in Sierra Leone in the Post-war era with focus on the Practice of Female Genital Cutting

2.1 Introduction

This chapter aims to outline FGC in Sierra Leone. Statistics, data and the general human rights situation of women and children in Sierra Leone has been added, to provide a broader picture on the general situation of the country. A brief description of the war has been outlined in order to grasp a small part of the history of Sierra Leone and the experience the inhabitants has undergone.¹⁹

Sierra Leone is a small country in West Africa, divided into three provinces, southern, eastern and northern. The population of Sierra Leone is according to the latest population projection approximately five million people of which women constitute 52,2 percent.²⁰

There is neither law explicitly prohibiting the practice of FGC in Sierra Leone, nor any policy-statement taking a stand against the practice.²¹ The government of Sierra Leone has so far shown little interest in putting an end to FGC. A reason for this is that the practice, according to a majority of Sierra Leoneans is of high cultural value, worth preserving. Another cause is that few people on influential positions in Sierra Leone fail to recognise the practice as creating negative harmful effects on the health of women and the girl child, and they do not consider the issue of FGC as a human rights issue.

The issue of FGC is consequently not included in the implementation process and the discussions concerning CRC and CEDAW in Sierra Leone.

Nevertheless, it is not to disregard the fact that Sierra Leone still is in a process where the rebuilding of a democratic state is taking place and therefore measures are taken which might receive the confidence of

¹⁹ For deeper investigations and interpretations on the causes of the war and the war in general see for example Paul Richards' *Fighting in the Rain Forest* and Michel Jackson's book *In Sierra Leone*

²⁰ See A unofficial project proposal on the theme 'A nation wide sensitization for local authorities, initiators and communities on harmful traditional practices' Ministry of Social Welfare and Children's Affairs (Gender and Children Affairs Division) Handed over to me September 2004, Freetown, Sierra Leone.

²¹ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, 'Situation of Human Rights in Sierra Leone' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

population.²² While the government is very careful not to offend the population.

Although FGC still remains rampant in Sierra Leone community-based organizations are beginning to tackle the issue and raise awareness about its dangers. Their activities are low and hampered by lack of resource and capacity,²³ but the fact that there is an interest, nevertheless not clearly stated, of addressing the issue of FGC makes it crucial not to ignore the practice. The High Commissioner of Human Rights mentions for example, in a report from 2004, the need of public education and sanctuaries for girls who flee from the practice of FGC, something rarely existing in Sierra Leone today, and conclude that '*it is imperative that the government take action by enacting statutory instruments to outlaw Female Genital Mutilation and other harmful practices*'.²⁴ Only very few local NGO's are brave enough to discuss FGC publicly and provide refuge for victims of threats of initiation into the Secret Society.²⁵

2.1.1 Statistics and data

Sierra Leone has been struck by a decade long civil war from 1991 ending 2002. The country has still not recovered and human rights are far from being realized for women and children today, in 2005. Due to the effects and devastation caused by the civil war, Sierra Leone has been ranked at the bottom of the UNDP Human Development Index 2004 the last few years. According to the High Commissioner's report to the Economic and Social Council in 2004, children and women in Sierra Leone are subjected to widespread human rights abuses.²⁶

It is relevant to form a picture of the situation the government of Sierra Leone is facing, and to be aware that almost all factors play a role in a society when a country is implementing and striving to realise human rights.

²² See Report of the Sierra Leone National Consultation Freetown, Sierra Leone, '*Women and men in Partnership for Post Conflict Reconstruction*', para., 31.

²³ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixty-First Session), 2 February 2005, E/CN.4/2005/113

²⁴ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

²⁵ One of these NGO's is Kantanya Women's Development Association based in Freetown

²⁶ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

Statistics show a striking picture of Sierra Leone but it is important to know that the data only shows estimates, and present pictures the data give of the situation is incomplete to illustrate the magnitude of the problems.²⁷ It is however important to keep in mind that what is only incompletely known should not be completely ignored.²⁸

Sierra Leone has the lowest life expectancy rate of Sub-Saharan Africa where the average age is 48.7 years and the life expectancy is, according to the latest report by the International Red Cross and Red Crescent, estimated to be 35.6 for females and 33.1 for males.²⁹

The fertility rate or the average of children per woman is in Sierra Leone 6.5, compared to the general number of children per woman in Sub-Saharan Africa, where the total fertility rate is 5.8, children per woman.³⁰

No more than 40 percent of the population have access to health facilities and especially women confront health problems arising mainly from their reproductive role.

The estimated maternal mortality for Sierra Leone year 2000 was per 100 000 live births; 2000. This is the highest in the world.³¹ The lack of access to reproductive health care facilities is a major cause for the high maternal mortality.³²

According to the report by the High Commissioner for Human Rights on the situation of Human Rights in Sierra Leone to the Economic and Social Council in February 2004 the adult illiteracy rate is 80 per cent and female illiteracy is 89 percent .

81.6 percent of the population lives below the poverty line of one US Dollar per day³³ .

2.1.2 Background of the War

Sierra Leone became a colony under the King of Great Britain in 1787³⁴ and

²⁷ Ibid.

²⁸ See Cook, Rebecca J. *'Ethics Medicine and Human Rights: Integrating medicine, ethics and Law'* (2003) Para., 405

²⁹ See International Committee of the Red Cross *'Appeal 2005'* No. 05AA023.

³⁰ See Human Development Report 2004 *'Cultural Liberty in Today's diverse world see human development indicators'*, published for UNDP

³¹ Ibid.

³² See Government of Sierra Leone (2003); "Sierra Leone Vision 2025: *'Sweet-Salone'*", National Long Term Perspective Studies (NLTPS) (2003)

³³ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, *'Situation of Human Rights in Sierra Leone'* Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

³⁴ See Harrel-Bond, Barbara E. *'Community Leadership and Transformation of Freetown (1801-1976)'* Para., 2, The Hague, cop. (1978)

gained independence in 1961. The years following the independence were characterized by growing tensions between political parties, amongst major ethnic groups, corruption by the ruling elite and involvement of the military in politics.³⁵ Political violence has marked the history of Sierra Leone since the transition from colonial status to sovereign statehood became a reality.

The civil war started in 1991. The war would claim approximately 75 000 lives and make half of the population internally displaced or refugees in neighbouring countries before the end of 2002. The war has been characterised as a “rebel war,”³⁶ known to most as a war targeting children and made formed many children to become rebel combatants. The rebels used terrifying tactics towards the civilian population and a culture of violence of the most terrifying kind developed.

The fighting in Sierra Leone started in March 1991 when a small and lightly armed rebel force fought in the eastern and southern district of Sierra Leone.³⁷ The rebel force called itself “The Revolutionary United Front” (RUF), assisted by the Liberian troops of Charles Taylor’s National patriotic Front. RUF was a movement claiming to be political, with the aim of saving the country from oppression and corruption that the All People’s Congress (APC) and president Joseph Saidu Momoh was seen as responsible for. The RUF’s campaign was throughout the war full of terror targeting the civilian population with widespread human rights abuses³⁸ such as the burning of houses, cutting off villagers’ hands and fingers and using widespread sexual violence against women.

The APC and president Momoh was overthrown in 1992 by a group of junior officers. They appointed Captain E.M. Strasser, Chairman of the National Provisional Ruling Council (NPRC) as head of state and as commander of the Armed Forces and Secretary of Defense. Strasser organized the Sierra Leone Army (SLA) with the aim to dislodge the RUF, but did not succeed. Soldiers from SLA, dissatisfied with their conditions in the army, joined the RUF and became “rebels by night and soldiers by day” called “Sobels”, soldier-rebels³⁹.

³⁵ See Alie, Joe A.D. ‘*A new History of Sierra Leone*’, Para., 224, London: Macmillian Overseas (1990)

³⁶ See Kamarah, Umar I. ‘*Sustainable Rural Development: Semantics or Substance? :The study of rural projects in North western Sierra Leone*’, Para., 238, Lanham, MD: University Press of America (2001)

³⁷ See Richards, Paul. ‘*Fighting for the Rain Forest War Youth & Resources in Sierra Leone*’, Para., xviii, London: International African Institute: Heinemann (1996)

³⁸ It is important to know that not only RUF committed human rights abuses, but that also SDF, CDF, AFRC and ECOMOG committed cruel abuses against civilians and international humanitarian law. See Homepage of Special Court in Sierra Leone about those detained responsible for violations of international humanitarian law, <http://www.sc-sl.org>

³⁹ See “We Kill You if You Cry” Sexual Violence in the Sierra Conflict, Human Rights Watch Publications, Vol. 15, No. 1 (A), (2003) <http://www.hrw.org/reports/2003/sierraleone/sierleon0103-05.htm> p.9. Last visited 2004-10-20

Between 1995-1996 a movement called the Civil Defense Force (CDF) was established as a pro-government militia under Ahmed Tejan Kabbah, strengthened to be used against RUF forces. Ahmed Tejan Kabbah was installed as President with a newly elected civilian government as a result of international pressure in 1996 in Sierra Leone.⁴⁰ In 1997 president Kabbah was overthrown, by Major Johnny Paul Koroma, who formed a new government called the Armed Forces Revolutionary Council (AFRC) who joined forces with the RUF. The Economic Community of West African States Monitoring Group (ECOMOG) came to protect Freetown after a request from president Kabbah who was in exile in Guinea. ECOMOG could in 1998 establish control over a big part of the country and president Kabbah was reinstated. It was thought that Sierra Leone entered a post-conflict reconstruction phase in which the focus would be on the consolidation of peace and restoration of normality.⁴¹ This belief prompted the initiation of an ambitious program for disarmament, demobilization, and reintegration of former combatants and the establishment of a small UN mission, the 'United Nations Observer Mission in Sierra Leone' (UNOMSIL), in which the only military element was a modest team of unarmed officer level observers.⁴²

In 1999 RUF and AFRC gained control over half of the country and the diamond district, Kono. The RUF fight against ECOMOG and the battle for Freetown, in 1999, is still in memory for those who were present. Dead bodies were lying in the streets as many civilians were killed, mutilated, raped and used as human shields. The conflict could after international pressure cease and the Lomé Peace Agreement was signed, sharing the power between the government and the RUF in 1999. However the rebels were not very cooperative and the process towards peace not succeeding as fighting continued in many locations.

A new UN mission, 'United Nations Assistance Missions to Sierra Leone' (UNAMSIL). UNAMSIL was established in October 1999, but the force was under-manned and poorly led.⁴³ In year 2000 the RUF took 500 United Nations Peacekeepers hostage and the peace process collapsed.⁴⁴ The conflict erupted throughout the country and many of the combatants who had been disarmed and demobilized were re-conscripted. In 2001 the

⁴⁰ See Tomasevski, Katarina. *Responding to Human Rights Violations 1946-1999*, Para., 283, The Hague: Martin Nijhoff Publishers (2000)

⁴¹ See O'Flaherty, Michael, 'Sierra Leone's Peace Process: The Role of the Human Rights Community', *Human Rights Quarterly* (2004) Vol. 26 No. 1

⁴² Ibid.

⁴³ Ibid.

⁴⁴ See Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswamy *Integration of the Human Rights of Women and the Gender Perspective*, 'Para., 12, Commission of Human Rights (fifty-eight Session) 11 February 2002, E/CN.4/2002/83/Add.2

Security Council authorized UNAMSIL with 17, 500 military personnel,⁴⁵ the largest peacekeeping mission in the world. Human rights abuses continued in 2001 but improved in 2002 when the disarmament and demobilization phases was declared completed,⁴⁶ and on the 18 of January Ahmed Tejan kabbah declared the war to be officially over. Elections were also held in 2002 and President Kabbah's SLPP was re-elected for a second term and is at the moment of writing the President of Sierra Leone leading the country in the rebuilding process. Human rights abuses are common in Sierra Leone, and a lot has to be done for the country to be rebuild and reconstructed.

2.1.3 Human Rights of Women and Children in Post War Sierra Leone

The substantial progress in the restoration of peace and stability in Sierra Leone is continuously being consolidated,⁴⁷ but the loss of life, psychological trauma, economic setback are consequences of the war that continue to shape the country today.⁴⁸

Today children engaged in the war has been disarmed and many women has returned to their place of origin, faced with hardship, trying to heal the huge wounds they have due to the conflict. Sierra Leone currently enjoys relative stability. The post-conflict reconstruction is going on but many challenges are yet to be tackled. The Security Council has extended the mandate for UNAMSIL in Sierra Leone and even if great reductions of the force has been made a residual UNAMSIL will remain in the country for an initial period of six months from 1 January 2005 as the general security situation in Sierra Leone has remained stable.⁴⁹

2.1.3.1 Children's Rights in Sierra Leone

Children in Sierra Leone is the most vulnerable group. They are exposed to domestic violence, gross neglect and often used as labor, exacerbated by extreme poverty. The socio-economic context and economic hardship,

⁴⁵ See United Nations Security Council Resolution 1346 (March 2001), S/RES/1346

⁴⁶ See "We Kill You if You Cry" Sexual Violence in the Sierra Conflict, Human Rights Watch Publications, Vol. 15, No. 1 (A), (2003)
<http://www.hrw.org/reports/2003/sierraleone/sierleon0103-05.htm> p.9. Last visited 2004-10-20

⁴⁷ See Report of the Office of the United Nations High Commissioner for Human Rights on the Human Rights situation in Sierra Leone to the General Assembly A/58/379, (2003)

⁴⁸ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-warrape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

⁴⁹ See United Nations Security Council S/2004/724 twenty-third report of the Secretary-General on the United Nations Mission in Sierra Leone

coupled with inadequate child-care programs are some reasons for this.⁵⁰ An issue of great importance in the implementation of the Convention on the Rights of the Child is that there is a need to specify what a 'child' means as this is not completely clear within the different laws of Sierra Leone.

According to the latest report on human rights from the United Nations High Commissioner for Human Rights on the human rights situation in the country there are no available data on health indicators for children.⁵¹ This affects the knowledge of how many children that dies and also how many children who have received health effects from undergoing female genital cutting. The health system in the country is extremely poor and affects children's right to health. Children in need of emergency care do not have access to it in many parts of the country as there is a lack of doctors, nurses and medical clinics throughout the country.

Girls in Sierra Leone are, especially in the north, are forced into early and polygamous marriages and exposed to FGC.⁵² The problem of FGC is one of the most prevalent forms of violence against women still remaining '*rampant and continues to be seen as enhancing fertility and is a necessary process for womanhood*' in Sierra Leone.⁵³ The practice is mainly targeting children and it is important to recognize that it is a children's right's issue.

Cultural norms existing in the Sierra Leone society impede girls enrollment in school which is devastating for young girls as they are already underrepresented in school enrollment. The norms infringe upon the rights of children and often result in discrimination, especially against the girl child.⁵⁴

2.1.3.2 Women's Rights in Sierra Leone

Women in the Sierra Leonean society are traditionally seen as inferior to men and a woman's typecast is as a mother and homemaker⁵⁵. The position of women in Sierra Leone changed during the war and many women became the head of the household. Women were forced to become the sole breadwinner and the person who had to make the major decisions in order to

⁵⁰ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ See Report of the Sierra Leone National Consultation Freetown, Sierra Leone '*Women and Men in Partnership for Post Conflict-Reconstruction*', Para., 59

protect her family.⁵⁶ But according to the Evaluation of Post-War Rape and the Response to Rape in the Provinces in Sierra Leone, carried out by the campaign for Good Governance in 2004 the fact that the women became heads of the households has lead some women to agitate for leadership positions within the family and community that have traditionally been denied them.⁵⁷ Others seek leadership and free expression within traditional systems of women groups, Secret Societies and in their roles within their families or professional circles.⁵⁸

Today the war is over and the men who survived has returned. Unfortunately women are continuously being discriminated against and are often victims of various forms of violence such as psychological abuse and physical assault. The most prevalent forms of violence against women are domestic violence, sexual assault including rape, FGC and denial of economic rights, such as the right to inherit land and property.⁵⁹ These practices are '*not perceived in the society as violence*' and '*it is this perception and the cultural values that justify it*', that should be the focus of collective effort when addressing violence and discrimination against women.⁶⁰

The rate of women who have undergone FGC in Sierra Leone is estimated to be 90 percent. This is a number accepted by the World Health Organisation (WHO)⁶¹ deriving from a rate based on a study conducted in 1985 by Dr Koso- Thomas in Sierra Leone. The survey found that almost 90 percent of the 300 women participating in the survey had undergone the practice.⁶² The survey was confined in the western area of the country, therefore not showing the real situation for the whole country. Other data existing is collected from reports of IAC National Committees and research findings up to 1997.⁶³ These reports show that 60 percent of women in Sierra Leone has been exposed to FGC, however no information on what these reports are based on are available and the credibility therefore diminishes.

⁵⁶ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

⁵⁷ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-warrape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

⁵⁸ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

⁵⁹ Ibid.

⁶⁰ Ibid

⁶¹ See WHO, *Female Genital Mutilation Fact Sheet*, Para., 2.

⁶² See Koso Thomas, '*The circumcision of women: a strategy for eradication*', Paras., 44-45 (1987)

⁶³ See Inter African Committee <http://www.iac-ciaf.ch> Last visited 2005-01-12

Today it is unclear how many girls that have been exposed to FGC in Sierra Leone and there is an extensive need of further research on the topic. According to my own findings the prevalence of the practice differed depending on the different areas in Sierra Leone. For example in Kenema and Bo, cities in the southern and the eastern provinces of Sierra Leone, I could estimate that approximately 60 percent of the women I have meet had been initiated. More women in Bo and Kenema, seemed to have been exposed to education and electricity was available, which mean that they were more exposed to media and information. However only in Kenema, the town chief informed me that 1800 girls were registered as initiated year 2003⁶⁴. In Kabala in the Kailahun district in northern Sierra Leone, where electricity is not available, except for those who have afford with a generator, it was clear that more women had been exposed FGC. In Kabala every woman I spoke to had undergone the practice, and no one knew of anyone who had not been initiated.

2.2 Female Genital Cutting and the Bundo Society in Sierra Leone

The Secret Societies in Sierra Leone are described in a project proposal on '*a nation wide sensitization on harmful traditional practices*' by the Ministry of Social Welfare, Gender and Children's Affairs; as a place where;

*"Men and women meet in their respective Society and discuss issues affecting them and the way forward within their own context"*⁶⁵. In these Societies gender is emphasized, with a final view that the complementary of the two Societies constitutes human societies and the full cultural unity.⁶⁶

It is the "Secret Societies" called "The Bundo"⁶⁷ or "Sande" and "Poro"-Societies that enhance the cultural aura of FGC and strongly protect and preserves practice of FGC. These Societies have been and are still today of great importance to many Sierra Leoneans and have played an important role in the self-understanding of the Sierra Leonean society as a whole. FGC is therefore a highly complex socio-cultural issue that in times of modernization and globalization continues to exist.

The "Poro Society" is the Secret Society for men and boys enter the Society when it is time for them to become circumcised.

⁶⁴ Interview with Chief Jottor, Town Chief Kenema, August 2004.

⁶⁵ See A unofficial project proposal on the theme '*A nation wide sensitization for local authorities, initiators and communities on harmful traditional practices*' Ministry of Social Welfare and Children's Affairs (Gender and Children Affairs Division) Handed over to me by the Deputy Minister Memunata Koroma, September 2004, Freetown, Sierra Leone.

⁶⁶ See MacCormack, Carol, P. and Strathern Marilyn, '*Nature, Culture and Gender*', Para., 97, Cambridge University Press (1980)

⁶⁷ Bundo might also be spelled "Bondo", See Joe A.D Alie '*A New History in Sierra Leone*', para 24

The “Bundo Society” is the society where girls are initiated inside the “Bundo Bush” and where they are exposed to female genital cutting. The cultural aura that surrounds the Bundo Society hence FGC, along with the absence of a law expressly prohibiting the practice, has stalled efforts at sensitizing the population against it. The government of Sierra Leone fails to recognize the true nature of FGC with its far-reaching harmful effects on the health of women.⁶⁸

The Societies have today still a powerful position amongst the population and according to Joe A.D. Alie the practice of FGC has a strong ritual context in Sierra Leone. Alie means that the Societies create a sense of comradeship amongst members irrespective of family, clan or ethnic affiliation⁶⁹ on the basis of tradition existing before colonial times when the Societies were foundations of Sierra Leone society, as a whole, and elections of Kings were planned in the Poro Bush.⁷⁰ The Societies also preserved law and order and still today the Societies may remedy members. The Secret Societies have served as schools where girls and boys learned the secret mysteries known only to members and where boys and girls spent a period of time before being initiated and circumcised.⁷¹

The Bundo Society is an integral part of the initiation of young girls and has traditionally been seen as a final transition for girls to enter full womanhood and womanly responsibility. During the initiation the girls were taught skills and practices of Sierra Leone culture,⁷² to cook, take care of the household and are being prepared to take care of their future husband as well as sex matters and child care.⁷³ The aim has been and still is today to educate girls into an accepted pattern of life and to teach them to use herbal medicine and the “secrets” of the female society.⁷⁴ Girls are thought to be hard working and modest in their behavior, and disrespect towards elders is severely punished.⁷⁵

Girls normally stay in the bush a certain time, but the length has been reduced lately and nowadays girls most often do not stay in the bush more

⁶⁸ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, ‘*Situation of Human Rights in Sierra Leone*’ Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

⁶⁹ Ibid

⁷⁰ See Daramy, Sheik Batu, ‘*Constitutional developments in the post-colonial state of Sierra Leone 1961-1984*’ Para., 100, Lweiston, N.Y; Lampeter: Edwin Mellen Press, cop (1993)

⁷¹ See Fyfe, Christopher, ‘*A short History of Sierra Leone*’, Para., 4, London (1975)

⁷² See Koso-Thomas, ‘*The circumcision of women: a strategy for eradication*’, Para., 19, (1987)

⁷³ See Alie, Joe, A.D. ‘*A New History of Sierra Leone*’, Para., 24

⁷⁴ See High Commissioner for Human Rights Fact Sheet No.23, ‘*Harmful Traditional Practices Affecting the Health of Women and Children*’, Para., 6.

⁷⁵ See Little, Kenneth, ‘*The Mende of Sierra Leone: A West African People in transition*’, London: Routledge & K. Paul, (1967)

than a few days, in contrast to the older generation who could stay in the bush for some months up to two years. The society has become more and more focused on the practice of FGC as the time in the bush needed to be reduced. The society is no longer a preparatory school for marriage as most of the initiates are school girls and return to school after initiation.⁷⁶ The women I interviewed also meant that the reason may be that a larger number of girls start to attend school and do not have the same spare time as before. A young girl in Kenema told me:

“It is not forceful, I heard in school that it is only practiced in villages, as I went to school I understood by reading it is not good, so I did not join, for me no one forced me”⁷⁷.

The age of initiation also differ from very young girls to adult women.⁷⁸ Normally groups of girls of 12- 13 years of age undergo the initiation rite conducted by the initiator.⁷⁹ According to Koso Thomas’ survey, nowadays girls often enter the Bundo Society as young children. Young girls are being exposed to FGC at an early age as younger girls are more easy to control and unaware of what is going to happen to them, and as a result not so likely to refuse.⁸⁰ Women I interviewed could say:

“I was very small when they did it, there was nothing sweet about it, but I had no choice, I was to small”⁸¹

Because of the war it was not always possible to hold ceremonies and therefore initiation rites are now often practiced on adults, young mothers and pregnant girls.⁸² Women might against their will be abducted and exposed to FGC by members of the Bundo Society.⁸³

Two women in Freetown told me:

“for my own case I did not want to go but they forced me, I was small”

“They capture some girls, put them in a place, the head of the ceremony lay you down, takes a blade and cut you”.

⁷⁶ See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 23, (1987)

⁷⁷ Interview conducted in Kenema August 2004

⁷⁸ See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 23, (1987)

⁷⁹ See High Commissioner for Human Rights Fact Sheet No.23, *Harmful Traditional Practices Affecting the Health of Women and Children*, Para., 6.

⁸⁰ Ibid

⁸¹ Woman in Freetown August 2004

⁸² See Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswamy *Integration of the Human Rights of Women and the Gender Perspective*,’ Para., 12, Commission of Human Rights (fifty-eight Session) 11 February 2002, E/CN.4/2002/83/Add.2

⁸³ See the Annexed “Tokeh Case”

In January, 17 1997, it was reported that 700 women and girls at the Clay Factory Camp for displaced people in Kissy, East Freetown, had been exposed to FGC, something that had sparked around a debate over the continued practice of FGC in Sierra Leone in 1997. Media reported that the ceremony was conducted for free which enticed many women to take their daughters. The ritual was described as a 'Mass Ritual' and aid workers said it had had serious complications. As a result of the ceremony about 100 young girls were reported hospitalized, a nurse said ' *some of the girls were badly mutilated and I think it will take them a considerable period to heal*'.⁸⁴ The Medicines Sans Frontiers admitted the most serious cases to intensive care.⁸⁵

In the American case; M.K., A, from United States Department of Justice Executive Office for Immigration Review the respondent, a woman from Sierra Leone applied and was granted asylum. Among others, one argument was based on persecution related to her resistance to, and her subsequent forcibly imposed, FGC. The woman described that she had been abducted from her parents house while asleep. She had been blind-folded, and her hands and legs had been bound to prevent her to escape. She was taken against her will to the "Bundo Bush" and the cutting had been performed in the night by a Digba⁸⁶ using an unsterilized razor. The respondents clothes had been removed, but she remained bound and was held down while the Digba cut away the clitoris and her labia minora. She was given no anesthesia, intoxicants or medication to reduce the pain. Other women sang to disguise her screams and the screams of six others also exposed to FGC at that time.⁸⁷

A woman I conducted an interview with in Bo told me that:

"People are doing it even more now, during the war they did not have a chance, so the children grew up, so now they do it later on girls"

This illustrates that the argument commonly used; that society is an integral part of the initiation of young girls and a final transition for girls to enter and be educated into full womanhood and womanly responsibility,⁸⁸ can no longer be seen as marking the rites of passage as adult women as well must undergo the procedure and younger and younger girls undergo FGC. The idea that initiation marks an important step into adulthood, can therefore be dispelled.⁸⁹

⁸⁴ See Inter Press Service English wire, Freetown 17 January

⁸⁵ See Sierra Leone News Archives January 1997 <http://www.sierra-leone.org/slnews0197.html>

⁸⁶ See 2.2.1 'Initiators'

⁸⁷ See Matter of M.B. (A#Redacted)(Baltimore, MD, Immigration Court, Apr. 28,1995) See <http://sierra.Uchastings.edu/cgrs/law/ij/41.html>

⁸⁸ Ibid.

⁸⁹ See Koso-Thomas, 'The circumcision of women: a strategy for eradication', Para., 24, (1987)

It is however important not to disregard the fact that young girls often enter the society willingly.⁹⁰ This is however often because of the strong social pressure. Many girls I met in the provinces, who had not yet been initiated, had no idea what would happen to them in the bush but was just waiting for their parents to collect enough money to initiate them to the Secret Bundo Society. It is very important to many of the girls to enter the Secret Society but no one tells them what will happen as it is a secret.⁹¹

In addition one must not to forget the positive aspects of the Secret Bundo Society were members of the Societies might offer each-other moral and financial support in times of difficulty, and Secret Society membership is said to bestow a sense of pride on members and a feeling of being a member of an important community network.⁹² In my own findings very few women found that the Secret Society had been any support to them after the initiation rite.

Women told me:⁹³

“After they cut you they do not have no business with you”

“The parents only spend money to the initiator, than the initiator will never do anything for you again”

“Can come to your aid (meaning the Bundo Society) if your husband insult you, if men abuse a Bundo woman it means that he have insulted them all, so all will take a step to help you”

“I do not know if they helped someone, me they did not do nothing for”

A woman in Bo told me:

“If you give money they help, if not they do nothing”⁹⁴

Even though these attitudes are negative towards the society, the society might for other women have an importance as a social network which is natural within the community, and that power should not be disregarded.

2.2.1 Initiators

The initiator of the Secret Society is called “Digba” in Temne, “Sowei” in

⁹⁰ See 2.6 “Consenting to Female Genital Cutting”

⁹¹ See 2.5 “A Practice Shrouded in Taboos”

⁹² See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-warrape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

⁹³ Women interviewed in Kenema in August 2004

⁹⁴ Woman interviewed in Bo August 2004

Susu, “Majo” in Mende and “High Priestess” by other ethnic groups.⁹⁵ She is the woman who is the head of the Secret Society and is normally also the person who performs FGC. To achieve the status of an initiator a woman receives a higher rank by training in the mysterious of the Secret Society. The initiators are highly respected in the Sierra Leonean society, especially in the rural provinces of Sierra Leone.

The Sierra Leonean society is strongly influenced by witchcraft and medicines, this is accepted by virtually all sectors of society, it provide compelling mechanisms for social control, this control remain in the hands of the women as the female initiator and has the knowledge.

It is the initiators who lead the fight of continuation of the practice and they are feared by all parts of the society. An influential factor behind the reason for the initiators to preserve the continuation of the initiation rites is the economical factor. The initiators rely on the income gained from initiates and their families and from other fees and fines required by the offices of the Society.⁹⁶ When a girl is to be initiated her family must give food, cloths and money to the Bundo Society and the initiator. Initiators are well aware of the threat to their power, authority and to their way of life and valued traditions. When I meet a group of Bundo women in Kenema, I did however not get this impression. One of them said:

“If we all come together with the elders and decided to stop we would stop. We want to come together but do not know how. It is not one person that makes a society. It is in the heart of everybody, brings us together. That is why it is our society and culture.

*It is for a long time we have seen white come and educate on women. Educate on violence etc we have listened, put a stop on it, so it is possible to stop this also. We learn, are ready, since we have also been educated on sexual harassment. We know now that it is not right so we do not accept it”.*⁹⁷

In addition to the initiation of the girls into the Secret Bundo Society the initiators commonly act as mediators. A initiator in Kenema called herself the “*Customary lawyer to her people*”.⁹⁸

She told me that people come and discuss problems with her and she is there to solve them. The Soweï is often the only woman consulted by the Paramount Chief concerning important questions for the community, and seen as a prominent member of the community.⁹⁹ This makes her very influential but also important for women as she is one of very few women passing the voices of the women to the paramount chief. She is also most

⁹⁵ See Koso-Thomas, ‘*The circumcision of women: a strategy for eradication*’, Para., 21, (1987)

⁹⁶ See Little, Kenneth, “*The Mende of Sierra Leone: A West African people in transition*”, (1967)

⁹⁷ Interview Kenema August 2004

⁹⁸ Ibid.

⁹⁹ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-war rape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

often the local traditional birth attendant and has considerable knowledge and experience of in FGC, other minor operations and local herbs.¹⁰⁰ She is supposed to have mystical powers and can evoke ancestral spirits, using medicines and sacred objects placed in the Bundo Bush that is believed to harm the community. This is believed by many, and the Soweis are therefore respected and feared.¹⁰¹

2.3.1 Health Consequences of Female Genital Cutting

The practice of FGC cause grave damage and when carried out, if no anesthetics are used, FGC cause extreme pain, on women and children. FGC results in many cases in serious health consequences and sometimes death. The World Health Organization (WHO) has in order to facilitate the collection and monitoring process defined FGM as:

"Constituting all procedures which involves partial or total removal of the external genitalia or other injury to the female genital organs whether for cultural or any other non-therapeutic reasons".¹⁰²

2.3.2 Classification of Female Genital Cutting

Female Genital Cutting might be classified into four categories;¹⁰³

Type I Removal of the prepuce or the hood of the clitoris with or without excision of part or all of the clitoris, often called "circumcision". This is the mildest form of mutilation and is only performed on a small proportion of the millions of women concerned and could be described as equivalent to male circumcision.¹⁰⁴

Type II Cutting of the prepuce and clitoris together with partial or total excision of the labia minora. Excision is the most widespread type of mutilation and according to Efua Dorkenoo approximately 80 percent of those affected undergo excision.¹⁰⁵

Type III Excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening also called infibulation.

¹⁰⁰See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 21, (1987)

¹⁰¹ Ibid.

¹⁰²See WHO, *Female Genital Mutilation Fact Sheet*, Para., 2.

¹⁰³ Ibid.

¹⁰⁴ See Dorkenoo, Efua, *Cutting the rose: female genital mutilation: the practice and its prevention*, Para., 5 (1994)

¹⁰⁵ Ibid.

Type IV Unclassified, includes all other procedures that involve partial or total removal of the female genitalia and or/ injury to the female genital organs for cultural or any other non-therapeutic reason. Type IV refers to numerous other procedures that have been documented, such as picking, piercing, stretching or burning of the clitoris and /or surrounding tissues.

Sunna means tradition for muslims¹⁰⁶ and is the term used when referring to female circumcision, partial clitoridectomy or total clitoridectomy and cuts into the clitoris and/or even intermediate infibultation.

In Sierra Leone Sunna is performed by the Krio Muslims, which is only a very small part of those who undergo FGC, while excision is practised by all the other groups in the country.¹⁰⁷

2.3.3 Immediate Health Consequences

The first description women in Sierra Leone gave me about the experience of FGC was that it caused them severe pain. The reason for this is that anesthetics generally are not used.¹⁰⁸

The cutting is often performed with non sterilized instruments such as; razor blades, traditional knives, broken bottle or surgical scalpel¹⁰⁹ and causes intense bleeding.

One woman said;

*“I was very small when they did it, I was bleeding a lot and the scar was hard to heal, they took me to a hiding place when I was bleeding, I nearly died”.*¹¹⁰

Hemorrhage is a common and an almost unavoidable immediate result of the cutting as the cutting of the clitoris and the inner and/or outer labia involves cutting of arteries and veins and across the high-pressure clitoral artery. Hemorrhage, may also occur after the first week as a result of sloughing of the crust over artery, usually because of infection. As a result of the severe bleeding, serious collapse or sudden death may occur. Major blood loss can also result in long-term anemia.¹¹¹ As a result of the unimaginable pain and the sudden blood loss the girl or woman might receive something called a post-operative shock. The bad eye sight of the operator or the resistance of the child or woman may cause damage to other

¹⁰⁶ Ibid.

¹⁰⁷ See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 19, (1987)

¹⁰⁸ See WHO, *Female Genital Mutilation Fact Sheet*, Para., 3.

¹⁰⁹ See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 52, (1987)

¹¹⁰ Interview Freetown August 2004

¹¹¹ See WHO, *Female Genital Mutilation Fact Sheet*, Para.,8.

organs: the urethra, the anal sphincter or vaginal walls.¹¹² Another common complication of FGC is infection and tetanus caused by using instruments which are not sterilized. Such infection may also occur within a few days after the procedure. Infection may lead to septicemia a clinical syndrome characterized by severe bacteremic infection, generally involving the significant invasion by microorganisms of the bloodstream. Acute urine retention can result from swelling and inflammation around the wound.¹¹³ In addition, it is possible for the initiated to develop cysts and abscesses when edges of incision are being turned inwards and causes damage to Bartholin's duct,¹¹⁴ the duct of a major gland at the vaginal introitus.

2.3.4 Long term Health Consequences

Long term complications because of FGC are common. FGC result in narrowing of the vaginal opening, which can occur as a result of shrinkage of scar tissue formed following accidental cuts into the vaginal wall which leads to painful menstrual (dysmenorrhoea) as menstrual blood cannot flow freely.¹¹⁵

Infertility can occur if there is a undiagnosed and untreated chronic pelvic infection, blocking both Fallopian tubes.¹¹⁶ Vaginal or rectal fistulae cause frequent miscarriages which makes it difficult for the woman to give birth. Recurrent urinary tract infections, incontinence, and difficulty in urinating is also a complication that women might suffer from because of the cutting. There is also a risk of hypersensitivity and of the developing of that the neuroma (any tumour of the nervous system) of the dorsal nerve in the clitoris.¹¹⁷

Another major health risk that girls and women who undergo this procedure are exposed to is the risk of HIV/AIDS.¹¹⁸ Most often groups of girls and women are exposed to FGC on the same occasion in Sierra Leone and often there are not enough instruments for individual use. Therefore the same instrument is used on more than one girl or woman which might lead to the transmission of HIV/AIDS and other diseases. The court chair man of the

¹¹² See Dorkenoo, Efua, "Cutting the rose: female genital mutilation: the practice and its prevention", Para., 14 (1994)

¹¹³ See Rahman, Anika and Toubia, Nahid (eds.), "Female Genital Mutilation: a guide to laws and policies worldwide" para., 8, London: ZED, (2000)

¹¹⁴ See Koso-Thomas, 'The circumcision of women: a strategy for eradication', Para., 26, (1987)

¹¹⁵ See Dorkenoo, Efua, "Cutting the rose: female genital mutilation: the practice and its prevention", Para., 15 (1994)

¹¹⁶ See Koso-Thomas, 'The circumcision of women: a strategy for eradication', Para., 26, (1987)

¹¹⁷ Ibid.

¹¹⁸ See WHO, *Female Genital Mutilation Fact Sheet*, Para., 8ff

customary court in Kabala gave me an example;

“You, the white have one needle for one person, but here one needle is used on many, one single knife can be used on many girls, even one hundred girls, it is all about money.”¹¹⁹

He continued and said:

“It (the cutting, ath. rem.) affects them in a bad way, cause some of them are receiving tetanus through that process”

The International Federation of Red Cross and Red Crescent in Sierra Leone mean that FGC and gender inequalities are expected to have contributed to a dramatic growth in the HIV/AIDS prevalence. In 2002 4.9 percent of the Sierra Leoneans were carrying HIV or AIDS.

Juliana Junisa, a nurse and center manager for RAINBO¹²⁰ center at Kenema Government hospital in Sierra Leone, explained the most common consequences of FGC on women she had met in Sierra Leone, to me;

“When the clitoris is cut of there is an exposure for infections, some of these infections may lead to infertility. There is also severe bleeding. In Sierra Leone they normally cut the clitoris and the lips down to the opening¹²¹, there is risk of tetanus and when giving birth, due to the scar, the woman will suffer more as the scars will tear again. The first blood that one will see when a woman gives birth is coming from the scar deriving from the circumcision. As the woman is pushing, the scar opens again. Normally the women here do not stitch the area, with the scar, but leave the scar open. After delivery the women who are not circumcised will not have any problems, normally. It is so easy to deliver a girl who has not been circumcised.”¹²²

A problem in the Sierra Leonean society is that the women do not see the link between FGC and infections and other health problems they might suffer as a result of FGC. It is therefore of great importance to provide women and initiators with this information. According to the International Federation of Red Cross and Red Crescent in Sierra Leone 46 percent of females between 15 and 49 had for example not heard of HIV/AIDS (56 percent in the rural areas).¹²³

¹¹⁹ Court chairman of the customary court in Kabala, Mohammed Sisse, interview August 2004

¹²⁰ RAINBO (*Research Action and Information Network for the Bodily Integrity of Women*)

¹²¹ This type of circumcision is defined as number II and signify “*Excision of the prepuce and clitoris together with partial or total removal of the labia minora.*” and is the most common way of circumcision in Sierra Leone also according to WHO, see *Female Genital Mutilation, fact sheets*, p. 6.

¹²² Kenema August 2004

¹²³ See International Committee of the Red Cross ‘*Appeal 2003/2004*’ No. 01.28/2003

2.3.5 Complication During Pregnancy

According to WHO, problems in pregnancy and childbirth are common with women who have undergone FGC.¹²⁴ During pregnancy and childbirth there is an increased risk of mortality and morbidity from complications deriving from FGC.¹²⁵ The circumcised mother may face prolonged and obstructed labour due to tough, unyielding circumcision scar and tearing of the scar tissue or the uterine cervix. A woman in Kenema told me:

“It can be tight when a women give birth, because of the circumcision, some can not give pikin (child, ath. rem.)”

The head of the baby might be pushed through the perineum and excessive blood loss and pain during the second stage of labour.¹²⁶

The child may be stillborn or suffer from brain damage as a result of the prolonged and obstructed labour and consequently mentally handicapped,¹²⁷ and damage to the head or face of the baby might occur during delivery as a result of untrained local midwives or a Traditional Birth Attendant.¹²⁸

2.3.6 Female Genital Cutting and Sexuality

Cultural values and ambiguities makes women’s sexuality very complex. Sexuality remains for many an obscure area, mined with cultural taboos and loaded with anxiety and fear.¹²⁹ It is argued that FGC is performed to control women’s sexuality and according to Efua Dorkenoo the practice of

¹²⁴ See detailed information at: http://www.who.int/docstore/frh-whd/FGM/infopack/English/fgm_infopack.htm

¹²⁵ See Rushwan, H, “Female genital mutilation (FGM) management during pregnancy, childbirth and the postpartum period”, Para’s., 99-104, *International Journal of Gynaecology and Obstetrics*, Vol 70, Issue 1

¹²⁶ See Koso-Thomas, *‘The circumcision of women: a strategy for eradication’*, Para., 27, (1987)

¹²⁷ See Report of the Special Raporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswamy *‘Integration of the Human Rights of Women and the Gender Perspective’* Para., 12, Commission of Human Rights (fifty-eight Session) Item 12 (a) of the provisional Agenda, 11 February 2002, E/CN.4/2002/83/Add.2

¹²⁸ See Koso-Thomas, *‘The circumcision of women: a strategy for eradication’*, Para., 27, (1987)

¹²⁹ See Dorkenoo, Efua, *“Cutting the rose: female genital mutilation: the practice and its prevention”*, Para., 2 (1994)

FGC is intended to reduce women's sexual desire. The clitoris is the main sexual organ and sexual dysfunction may be the result of painful intercourse and reduced sexual sensitivity because of the narrowing of the vaginal opening.¹³⁰ FGC damages or destroys the organ for sexual pleasure in the woman,¹³¹ and the physical complications from FGC destroys much of the vulval nerve endings which might delay arousal or impair orgasm which makes it much more likely that FGC impede sexual enjoyment.¹³²

The clitoris plays an important role in sexual arousal and female orgasm,¹³³ and FGC comprises, in contrast to male circumcision, partial or total removal of the external female genitalia and can cause loss or total loss of stimulation and sexual desire, even in the mildest form according to Dr Haseena Lockhart.¹³⁴ Women might feel a sense of inadequacy to effectively satisfy their husbands emotional needs and depression owing to recurring episodes of frigidity and anxiety caused by the exposure to FGC.¹³⁵ According to the authors to the book "Women and Law in Sub-Saharan Africa" symptoms of depression and anxiety might be a result of female genital cutting but do often appear at a later stage in life, therefore difficult to link with FGC.¹³⁶

It is, however, difficult to verify reports on women's sexual experiences, as women are different and orgasm does not only depend upon the clitoris but also of a woman's confidence and what is seen as "allowed" cultural behaviour for a woman in her environment. It may for example be completely unacceptable for women to decide over their sex life. According to Koso-Thomas it is argued that the man's pleasure is most important and that the woman is acting as a facilitator.¹³⁷ Women in Sierra Leone are often living in polygamous marriages which makes the argument that FGC is said to reduce a wife's demands on her husband and as a result facilitate for men to have several wife's applicable on the case of Sierra Leone.¹³⁸

¹³⁰ See WHO, *Female Genital Mutilation Fact Sheet*, Para., 9,

¹³¹ See Dorkenoo, Efua, "Cutting the rose: female genital mutilation: the practice and its prevention", Para., 52 (1994)

¹³² See Rushwan H "Female genital mutilation: overview and framework for the integration of activities into UNFPA; three core program areas" UNFPA Technical Consultation on FGM.

¹³³ See Cook, Rebecca J. 'Ethics Medicine and Human Rights: Integrating medicine, ethics and Law' (2003) Para., 267

¹³⁴ See Lockhat, Haseena, "Female genital mutilation: treating the tears", Para., 19, London, Middlesex University Press (2004)

¹³⁵ See Koso-Thomas, 'The circumcision of women: a strategy for eradication', Para., 28, (1987)

¹³⁶ See Bowman, Cynthia Grant, "Women and law in the Sub Saharan Africa", Para., 430, Accra, Sedco (2003)

¹³⁷ Ibid. Page 9

¹³⁸ See Harrell-Bond, Barbara E, "Modern marriage in Sierra Leone: a study of the professional group", Para., 92, the Hague, cop. (1975)

2.4 Reasons of Female Genital Cutting in Sierra Leone

Female genital cutting is usually performed for socio-cultural reasons, predominantly by female actors.¹³⁹ The initiation of girls and women in Sierra Leone can be seen both as a ritual where solidarity and procreation of the social continuity amongst women is embraced but also as a practice reserved to women and their inferior role in general in the society of Sierra Leone. Caroline Bledsoe writes in her paper on the Sande Secret Society that husbands see the Sande as exerting control on their behalf over the sexuality of their wives.¹⁴⁰ She also points out that some analysts have suggested that the clitoris is removed to tame the sexual desires of young women, thus quelling their adulterous tendencies and helping to ensure fidelity to husbands.¹⁴¹

In Kabala in the north of Sierra Leone one woman told me:

*“The circumcision helps for the husband to penetrate and gives way for the baby”.*¹⁴²

and the Paramount Chief in Kabala told me:

*“According to our tradition, if you are not circumcised you are seen as an unclean woman”.*¹⁴³

The practice is performed by both Christians, Muslims and by people having other traditional beliefs. Nevertheless, the practice has erroneously been linked to Islamic beliefs as Imams have made different interpretations of the Koran. When one considers that the practice does not prevail and is much condemned in countries such as Saudi Arabia, the center of the Islamic world¹⁴⁴ the link between Islam and female genital cutting do not seem logic. But even though there is no link to any particular religion, people in Sierra Leone argue that they perform female genital cutting because of religion, most often by those of the Islamic faith.

The survey carried out in Sierra Leone in 1985 by Dr Koso-Thomas found that women undergo the practice with the following arguments:

‘Maintenance of cleanliness, pursuance of aesthetics, prevention of still births in primigravida, promotion of social and political cohesion, prevention of promiscuity, improvement of male sexual performance and

¹³⁹ See Bowman, Cynthia Grant, “Women and law in the Sub Saharan Africa”, Para., 438 (1975)

¹⁴⁰ Bledsoe Caroline ”The Political use of Sande ideology and symbolism”, Para., 460 *American Ethnologist*, Aug, 1984, Vol. 11, No. 3

¹⁴¹ Ibid. Para., 463

¹⁴² Interview Kabala August 2004

¹⁴³ Ali Marah Kabala August 2004

¹⁴⁴ See Lockhat, Haseena, ”Female genital mutilation: treating the tears”, Para., 16, London, Middlesex University Press (2004)

*pleasure, increase in matrimonial opportunities, maintenance of good health, preservation of virginity and enhancement of fertility’.*¹⁴⁵

Another reason for the performance of the practice is that it is a necessary process for woman hood’.¹⁴⁶

Carrying out the study in Sierra Leone in 2004 the reasons women had for performing FGC was most often tradition, societal acceptance and religion. The most common answer on the question why FGC is performed was according to the women;

“Because of tradition, we met it that is why we do it!”

“It is a tradition deriving from our grate grate grand parents, my mother did it, her mother did it so why should I not have done it”

“I felt happy that day, but after I felt pain, cannot say if it is good or bad, it is maybe good because we met it when we were born, it came from our ancestors therefore it is good”

Mamy Queen “Massa”, 58 years old, at Masako street in Kenema, told me that the reason to circumcise girls is because:

“There is a big thing hanging so that the baby cannot come out, that is why we cut it of, I saw it in a Nigerian movie!”

She also told me about the practice, that:

”Some like it! They like to go to the culture. Comes from our great great granny. It is also written in the Koran that is why I do it. When a girl enter into the society she becomes a full-grown woman, strong, decent. There is a great difference between a woman who have gone through the initiation and one who has not. Nothing will happen to her but certain of us like the, Fula’s and Mandingo’s they do it.”

According to most of the women I interviewed other reasons than that they do it because of culture and tradition were commonly not seen. But certain women told me that they have to be circumcised because “*it is itching*”.

¹⁴⁵ See Koso-Thomas, ‘*The circumcision of women: a strategy for eradication*’, Para., 5, (1987)

¹⁴⁶ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, ‘*Situation of Human Rights in Sierra Leone*’ Commission of Human Rights (sixty-first Session), Item 19 of the Provisional Agenda, 2 February 2005, E/CN.4/2005/113

When conducting an interview with the Minister of Social Welfare, Gender and Children's Affairs of Sierra Leone, Shirley Gbujama, she said:

" Some people rush to the bush because that thing irritates them, in those days one said that before it gets to the point that people suffer like this, lets do it when they are young, not to young you know. Four my area, the southern province, it is done on girls between 12 and 16 and there is no problem, it is when the girls are young, three years, five years. It is not that it is not painful but than (when the girls are older) you know exactly what you are getting, but when the child is young you do it in such a way that you are going beyond what you should be doing"

2.5 A Practice Shrouded in Taboos

The practice of FGC is performed inside the Secret Bundo or "Sande" Societies. The tradition of FGC and the Secret Bundo Societies is shrouded in taboo. What happens inside "The Bundo Bush" is not to be known to anyone who is not a member of the Society or who is not initiated. In the Secret Bundo Society only women may enter. It is completely forbidden for a man to enter the Bundo Bush or to know anything about what is happens inside. FGC is a tradition questioned by very few in Sierra Leone and if questioned, often quietly so.

The girls who have passed through the initiation are during the initiation often told that if they speak their stomach will swell and as a cause they will die, or the initiators may fine them to pay with example rise or money. As a consequence the women are afraid to speak about what they experienced. Some girls told me:

" I do not know why it is a secret, but if they catch you talking they(the initiators, ath, Rem.) will take palm oil, money and rise from you, that is why it is not good to talk"

"If you are a member and talk about it they say you will die"

"They give the children a flower to eat, they say that the flower will affect them if they say anything about the Bundo Society, their bellies will swell up and they will die if they talk"

A reason for why the societies are secret and what makes them secret is very clearly explained by a woman interviewed in Bo, she said:

"Those who have joined shall not tell those who have not joined because they will fear to join"

For a deeper investigation concerning the reasons for the secrecy of the “Secret Societies” in Sierra Leone see Hans Christian Öster’s study “A Contemporary Study in Mende”.¹⁴⁷

In the American case of M.K., A, from the United States Department of Justice Executive Office for Immigration Review, in the case concerning FGC in Sierra Leone, the respondent explained that when she was initiated she bled profusely and lost consciousness. But she was not taken to the hospital because that would reveal the Bundo Society “secret”.¹⁴⁸

A reason for girls wanting to become initiated in the society and as a result become exposed to FGC is the risk of stigmatization and marginalization of girls who are not initiated. A 16 years old girl I interviewed in Freetown told me that she had not been initiated but if anyone asked her, she would say that she is a member of the society, because if she did not say so there would be a risk that her friends would stigmatize her.

In the matter of M. K., A an expert on Female Genital Mutilation in Sierra Leone and in West Africa, Ms. Susan Rich, testified about the implications any resistance to the practice will have in Sierra Leone. She explained; *To resist Female Genital Mutilation or to go against the Bundo Society is to risk becoming an outcast in Sierra Leone society. If it is known that a woman has not undergone initiation, she may be treated as a non-adult or shunned by society. There is a social stigma attached to women who resist female genital mutilation and to their families who do not have it performed.*¹⁴⁹

Other reasons to why many young girls might want to become initiated is materialistic and symbolic. The girl who join the Bundo Society will receive clothes, money and be at the center of attention and the day the girls come from the bush might symbolically be a very important moment in a girl or woman’s life. In addition, unless young girls and women are exposed to education, radio or other media or are being told by someone from outside, many of these girls enters willingly the bush without knowing that they will be exposed to FGC. But because they expect happiness and acceptance.

2.6 Consenting to Female Genital Cutting

This part of the chapter includes the issue of consent. It might be looked upon from different angles and a broad discourse may be constructed. I intend to outline some parts of this discourse in regard to consent and

¹⁴⁷ See Öster, Hans, Christian, “*Ngwe, Allah and God: a study in contemporary Mende*”, Paras., 81-82 Lund 1981; (Malmö: Skog)

¹⁴⁸ See Matter of M.B. (A # Redacted) (Baltimore, MD, Immigration Court, Apr. 28, 1995)

See <http://sierra.Uchastings.edu/cgrs/law/ij/41.html>

¹⁴⁹ Ibid.

FGC.

To start by identifying the person consenting to FGC is meaningful as the person might be a girl child, an adolescent or a woman.

In certain countries a child is not considered a child until she or he has reached the age of eighteen but is considered an adult earlier.¹⁵⁰

In a practical guide made by the Centre for Reproductive Law and Policy it is described that the International community generally has regarded FC/FGM as a violation of children's rights because FC/FGM is commonly performed on girls between the ages of four and 12, who are not in a position to give informed consent.¹⁵¹ However, even if a girl child is over 12 years of age she is nevertheless often exposed to FGC and is still in a position where she is dependant on parents and guardians.¹⁵²

On the other hand if a child has the capability of deciding that the child do not want to have FGC performed it is significant to keep in mind that older women, in Sierra Leone, often do not look upon children as having a will themselves, instead children are supposed to obey the elders as they are considered to know what is best for the child. Even though a child consent to be exposed to FGC it should be the responsibility of the parents to prohibit a child to undergo FGC and explain why it is hazardous to the health of the child.

It is of fundamental importance that parents respect the physical integrity of the child as physical integrity is the subjection of non-protesting girls and women to FGC without their informed consent. Parents must regard as a primary consideration the best interests of the child.¹⁵³ Parents are, however, not always informed of FGC and the consequences of the practice. The awareness of parents would require profound social change by which equal access to for example educational and economic opportunities are ensured.¹⁵⁴ It is the positive duties of a state to provide such equality and access to health education information for parents.¹⁵⁵

The issue of secrecy of the Bundo Society in Sierra Leone add the difficulties concerning the issue of consenting to FGC. As the Bundo Society is a *Secret Society*, girls or women who do not have access to information via education or media or other sources, might not know what

¹⁵⁰ See According to CRC art 1 a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier, see last part of article 1 of CRC where an opening for discretion is made.

¹⁵¹ See "Female genital mutilation: a matter of human rights an advocate's guide to action", Para., 18, The Center for Reproductive Rights (2003), See www.reproductiverights.org

¹⁵² See Cook, Rebecca J. 'Ethics Medicine and Human Rights: Integrating medicine, ethics and Law', Para., 271, (2003)

¹⁵³ CRC Art 3

¹⁵⁴ See Rahman, Anika and Toubia, Nahid (eds.), "Female genital mutilation: a guide to laws and policies worldwide" para., 65, (2000)

page 65

¹⁵⁵ See regarding state's international legal obligations under chapter 4

happens inside the “Bundo Bush”, as they are not allowed to know the secrets until they are initiated.¹⁵⁶ In rural areas the secrecy is very strict and girls or women, who are not yet members, do not have any knowledge of what they are consenting to if they would be asked if they consent to initiation into the Bundo Society. A woman in Sierra Leone told me:

“I prefer that they stop it because it is very painful, if I would have been big I would not have gone there”¹⁵⁷

Many African women do consent to FGC. A hypothesis may be raised in relation to the fact that women do consent:

Young girls or women are victims of cultural norms and social perceptions and the gender system is substantially a product of culture rather than their divine will.¹⁵⁸ In this hypothesis lays the claim that cultural norms such as myths, customs and customary laws are not merely products of human will but also defines and limits the possibility for human identity.¹⁵⁹ If the hypothesis is valid, it raises another question; whether women are consenting without influence by this cultural and social stigmatization. When women admit that they decides to become exposed to FGC and deny any suggestion that they are being socially pressured and that there is no violation of their human rights,¹⁶⁰ the whole discourse concerning consent becomes even more complex. One has to recognize the stigma girls and women might be exposed to if they are not initiated into the Bundo Society. After initiation, women and girls in Sierra Leone no longer face the risk of stigmatization or marginalization and it might be of greater importance for women to live a life free from marginalization and stigmatization in their social sphere than refusing to become exposed to female genital cutting.

Women participating in the interviews I conducted explained;

“The women will laugh me if I do not join (the Bundo society, ath. rem), they will provoke me and say, do not touch me you are not circumcised”

“Women will not share food with you if you are not a member” (of the Bundo society, ath, rem)

“If a woman is not initiated people will talk bad about her until she leave the village or agrees to become initiated.”

“I regret that I went (to the Bundo Bush, ath. rem) but before I went, they laughed at me, I got vexed and I joined.”

¹⁵⁶ See regarding the reason for the secrecy in; Öster, Hans, Christian, *“Ngwe, Allah and God: a study in contemporary Mende”*, Paras., 81-82 Lund 1981; (Malmö: Skog)

¹⁵⁷ Woman in Kenema Interview August 2004

¹⁵⁸ See Steiner, Henry J *“International human rights in context: law politics and morals”* Para., 408, (2 ed.), Oxford: Oxford University Press, 2000

¹⁵⁹ Ibid.

¹⁶⁰ See Forsythe, David P. and MacMahon, Patrice C. (eds.) *“Human rights and diversity: area studies revisited”*, Para., 172, (2003)

2.6.1 The Issue of Informed Consent

It is of interest to describe voluntary informed consent as the principal of such consent protects the right of the individual to control her or his body and is fundamental to the discussion concerning informed consent to FGC. The initiation rite is most commonly performed by a traditional initiator and not a doctor in Sierra Leone. Informed consent given in accordance with ethical and medical standards and principles is therefore very rare.

Even though it is traditional initiators that perform the practice in Sierra Leone, this should not be an excuse not to apply standards and principles of voluntary informed consent. But initiators in Sierra Leone are often illiterate and do most commonly live in rural areas. It is for that reason not achievable to set the standard to high as it is not realistic to believe that the initiators will read, understand and inform women what they are about to consent to. It would also break the tradition, as the practice of FGC is not to be revealed before initiation.

The standards of voluntary informed consent would nevertheless, if applied, be in accordance with a standard of ethical behavior. An example of such a code, is a code, outlined at the war crimes tribunal at Nuremberg. The code might be used as an example to illustrate what informed consent mean. The code concerns permissible medical experiments and voluntary informed consent which shall protect the individual to control her or his own body.

In the Nuremberg Code it was agreed that certain basic principles must be observed in order to satisfy moral ethical and legal concepts:

1. A person should be situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him or her to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the "subject" there should be made known to him the nature, duration, and purpose of the "performance"; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his or her health or person which may possible come.....

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the "performance" ...¹⁶¹

If the conditions for voluntary informed consent would be fulfilled the question would be raised whether an adult women over 18 years of age, who

¹⁶¹See British Medical Journal, No. 7070 Vol. 313, Para., 1448, 7 December 1996, <http://www.cirp.org/library/ethics/nuremberg/> Last visited 2005-01-20

want to undergo FGC, has autonomy over her own body and therefore should be allowed to have FGC performed upon herself. To prohibit her to have FGC performed is not an obvious stand to take.

It is however necessary to keep in mind that women in labour are having the practice performed upon them in Sierra Leone, without consent and that cases occur where women do not consent to FGC but has to as a result of her social context. Women are often considered as minors and in the case of a father's, husband's or mother's decision¹⁶² that a woman shall have FGC performed she might not have any other choice than to consent. Women in Sierra Leone might also be forced to undergo FGC by the Bundo Society without their consent. Consequently to allow women over 18 to undergo FGC is not an obvious stand to take.

¹⁶²See Alie, Joe A.D. "A New History of Sierra Leone" , Para., 21, (1990)

CHAPTER THREE: National Law and Practice in Regard to Female Genital Cutting in Sierra Leone

3.1 Introduction

The question of FGC is not widely open for public discussions in Sierra Leone as the custom is highly respected and not many dare to question it as questioned legal recourse or legal remedies are, in practice, not available.¹⁶³

The judicial system is at the moment of writing in a post-conflict stage and is on its way to be rebuilt and reformed, as the country is relatively stable. As the legal system is damaged as a cause of the war there is now a significant need for the system to reintegrate in the society.

The rule of law remains weak and questions remain about the government's willingness to guarantee economic and social rights.¹⁶⁴ Problems acknowledged are for example that the judicial staff in the provinces has little or no knowledge of the international conventions ratified by the state of Sierra Leone and judges and other judicial staff do not have access to such material or any copy of these conventions. The last report of the High Commissioner for Human Rights on the human rights situation in Sierra Leone describes, however, that establishment of human rights resource and documentation centers with internet will be established in Kailahun, in Koidu, Kenema; Makeni, Magburaka, Bo, Pujehun and Port Loko.¹⁶⁵ Nevertheless the judge in the Magistrate Court in Kenema, informed me that he never cites human rights conventions since he does not have any access to international conventions ratified by Sierra Leone.¹⁶⁶

Judges and Magistrates and judicial authority is steadily being reinstated in the districts in Sierra Leone, however the lack of judicial staff prevails. An acute backlog in the number of cases pending before courts, prolonged pre-trial detention and frequent and arguably unwarranted adjournments remains a major cause of concern.¹⁶⁷ However by the end of 2004 magistrate' courts were functioning in all of Sierra Leone's fourteen provinces.¹⁶⁸ Other aspects that affects the rule of law and the right to remedy for victims of human rights violations is the absence of legal

¹⁶³ See 3.4.1.2 "Female Genital Cutting and the Law in Practice"

¹⁶⁴ See "*Human Rights Watch World Report 2005*", Paras., 155-160, See <http://hrw.org/wr2k5/wr2005.pdf> , Last visited 2005-02-05

¹⁶⁵ See E/CN.4/2004/106 Report of the High Commissioner for Human Rights on the situation of human rights in Sierra Leone

¹⁶⁶ Interview with Carew, D. P. Magistrate in Kenema, August 2004

¹⁶⁷ See Report of the High Commissioner for Human Rights, Advisory Services and Technical Cooperation in the Field of Human Rights, '*Situation of Human Rights in Sierra Leone*' Commission of Human Rights (Sixtieth Session), 19 February 2004, E/CN.4/2004/106

¹⁶⁸ See "*Human Rights Watch World Report 2005*", Paras., 155-160, See <http://hrw.org/wr2k5/wr2005.pdf> , Last visited 2005-02-05

councils and the lack of relevant training of members of the judiciary on gender issues.¹⁶⁹

3.2 FGC on the Political Arena in Sierra Leone

The Secret Societies are as shown above sacred institutions to many people in Sierra Leone. Opponents to FGC, hence opponents to the Bundo Society, might face harsh repercussions from supporters of the Secret Societies. The issue of FGC has been used as a political tool in elections in Sierra Leone. This has made the issue very sensitive and if a politically active person wants to take a stand against the practice it is believed that the person will lose public support. Any government which assumes power in Sierra Leone would be advised to recognise the societies pre-eminence.¹⁷⁰ Lawyers, subjects to my interviews, asked me not to cite their names and high ranked state officials were very careful not to mention any opinion on the issue of FGC and the Secret Societies. A Sierra Leonean diplomat has mentioned that *“if a male politician ever wanted to commit political suicide in his country, he need only to speak out against the Bundo and incur the wrath of its leaders, the Soweis, and masses of women in the society”*. This is the fear that men and women in high decision making positions have and, they could always excuse themselves by pointing out the events in 1996 in Freetown.

In 1996, shortly after the president Ahman Tejan Kabbah assumed office groups campaigned against FGC i.e. the Bundo Society. Discussions and seminars were held. This resulted in Bundo women and sympathizers demonstrating in Freetown. According to Afrolnews,¹⁷¹ the demonstrations were led by Shierley Gbujama who is presently the Minister of Social Welfare, Gender and Children’s Affairs. When meeting her she said that it is not true and at that time she was the Minister of Culture. She claimed that that the Bundo women led a delegation to the president who called her to talk to the women.

“I said that anybody who go talking about women’s parts I will tear their mouth, this was the first time in history that people were writing in the papers talking about women’s parts and for me it was embarrassing ”

Another article has described the News Paper ‘For Di People’ as *“challenging the Bundo Society not on the ethics of genital mutilation but on the serious health threat it poses women. However voices of opposition here are frequently stigmatized as wayward elements influenced by the west. During the presidential election earlier this year (1996), cultural*

¹⁶⁹ See Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Sierra Leone, fifty-eight session, 18 September 2003, A/58/379

¹⁷⁰ See Daramy, Sheikh, Batu, *“Constitutional developments in the post-colonial state of Sierra Leone, 1961-1984”*, Para 100, (1993)

¹⁷¹ See http://www.afrol.com/News/2002/sil010-fgm_elections.htm. Last visited 28/11 2004

*conservatists used the power of the Bundo Tradition to flay those regarded as timorous in support of the practice. President contender John Karefa Smart was portrayed as one of those. Married to an African-American, opponents suggested that his wife would use her influence to ban the practice”.*¹⁷²

In the election 2002 it was reported that the campaigning for this years elections, as has been the previous ones, politicians are being careful not to offend members of the Bundo.¹⁷³

During an interview with a nurse in Bo, I asked if she thought it would be good if the government would prohibit FGC. She said:

*“I do not see any reason to stop it (FGC) because it is not the government who pay the initiators, the dresses and the food, but the people. It is bad if the government stop it and the government came to initiate many girls here 2002, no one paid the Soweis, they said it was the government who paid, there was dancing because the government paid and spent money from the government fund, just before the election, so why should they now want to prohibit it? SLPP has come to Bo district and said that they do not want to take away our culture.”*¹⁷⁴

The Attorney General’s comment was that they, as politicians, are dependent on the women’s support as, according to him, they are the majority in votes;

*“If we do something against their will they will not vote on us”.*¹⁷⁵

International INGO’s and UNICEF,¹⁷⁶ present in Sierra Leone, does not look upon the prevalence of FGC in Sierra Leone as an issue to put upon their agendas,¹⁷⁷ and mean that the country is not ready for change yet. The Government of Sierra Leone has not taken any steps to provide information concerning the effects of FGC to the population. Caroline Bledsoe write that membership in ‘Sande’(the Bundo society) is said to make women a powerful political force in the national arena, and Sande leaders sometimes mobilize large female interest groups to provide support for candidates in local or national elections.

¹⁷² See Inter Press Service English News Wire, Freetown, May 13, 1996

¹⁷³ See Inter Press Service English News wire, Freetown, May 11, 2002

¹⁷⁴ Interview with a woman in Bo, August 2004

¹⁷⁵ Interview with Carew, F.M. at the Gouma Building, Freetown, September 2004

¹⁷⁶ A personal communication with Donald Robertshaw, Child Protection Officer at UNICEF, Freetown July 2004.

¹⁷⁷ Ibid.

3.2.1 Women, Politics and the Bundo Society in Sierra Leone

The women's Secret Societies are seen as an avenue for leadership that cannot be taken away or challenged by men.¹⁷⁸ The issue of FGC consequently plays a role at the political arena for women in Sierra Leone. In many areas of the country it is a prerequisite for a woman to be a member of the Bundo society and be exposed to FGC in order to be involved in politics. A female teacher, 42 years old, that I conducted an interview with in Bo and who was a member of the society said that:

"These things (meaning the Bundo society, ath. rem.) is very important, because if one is not a member one can not be a leader in the future".

Women who are already discriminated and looked upon with patriarchal attitudes have a status within the structure of the Bundo Society. If they should abandon this position, their strength within the society will be weakened. This could be an explanation for why women in Sierra Leone strongly support the continuation of the Bundo Society, and with that the continuation of FGC.

In a post-election review workshop female candidates identified intimidation by traditional rulers, gender-blind mechanisms of selection by political parties, traditional attitudes, illiteracy, apathy by women and lack of civic education as some of the barriers they faced.¹⁷⁹ The involvement of women in national politics has though increased, since the election in 1996, when there was only one female presidential candidate.¹⁸⁰

A total of 107 women contested in the local elections held in may 2004 and 54 of these women were successful.¹⁸¹ Unfortunately there are no statistics available showing if these elected women were members of the Bundo society.

A report publicised by "A National Forum for Human Rights, Sierra Leone, state that:

"Unless an individual is initiated (in the Bundo or Poro Society, ath. Rem), s/he is neither considered a true tribal member nor an adult ready to marriage responsibilities".

The leaders of the communities in the provinces must attain respect and leadership within the Secret Society in order to hold their positions", as certain leadership positions within the chieftaincy system is closely linked

¹⁷⁸ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-war rape and the response to rape in the provinces Of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

¹⁷⁹ See Report of the Sierra Leone National Consultation Freetown, Sierra Leone 'Women and Men in Partnership for Post Conflict-Reconstruction', Para., 62

¹⁸⁰ See Report of the United Nations High Commissioner for Human Rights on assistance to Sierra Leone in the Field of Human Rights, 9 September 2004, A/59/340

¹⁸¹ Ibid.

to attaining respected positions within the Secret Societies.¹⁸² In a process where the practice of FGC would be assessed at the political arena it is therefore difficult to imagine that, a politically active woman, member of the Bundo Society, would stand up against the practice. Women have in certain areas of the country the possibility to contest in the local elections and to become paramount chiefs and the Bundo Societies are central means of the community organization that is closely tied to the chieftom system of leadership.¹⁸³ According to Dr Koso Thomas, the Paramount Chief, especially if it is a newly elected female chief and important member of the Bundo society, will dance and be a part of the ceremonies of initiation,¹⁸⁴ and thereby support the continuation of the practice. However according to 'The Campaign for Good Governance report' some women have expressed dissatisfaction with the prerequisite for women to be members of the Bundo Society to be politically active.

It is therefore crucial that women in Sierra Leone are free to be involved in politics and elections even if they are not members of the Bundo society and inter alia, been exposed to FGC. If there is no woman or man at the political arena that dare to take a stand against the practice, the practice will continue to prevail and be accepted and neither questioned nor discussed. As stated in the Fact Sheet on Harmful Traditional Practices outlined by the Office of the High Commissioner for Human Rights; these "practices persist because they are not questioned and takes on an aura of morality in the eyes of those practising them".¹⁸⁵

3.2.2 The Paramount Chiefs

Local communities in the provinces are run and ruled by widely respected paramount chiefs and the basic unit of the local government generally is the chieftom, headed by a paramount chief and council of elders.¹⁸⁶ The system of indirect rule created by British colonial authorities attached great importance to the role of the local notables designed by the colonial government as "Paramount chiefs". The paramount chief has to be from the ruling houses, which were established during colonial times. This has concentrated power in a few families and marginalised much of the population since only tax paying community members are eligible to vote in each chieftom to elect the councillors who in turn elect the paramount chief

¹⁸² Ibid.

¹⁸³ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-warrape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

¹⁸⁴ See Koso-Thomas, 'The circumcision of women: a strategy for eradication', Para., 21, (1987)

¹⁸⁵ See Office of the High Commissioner for Human Rights Fact Sheet No. 23, "Harmful traditional practices affecting the health of women and children" Para., 2

¹⁸⁶ See <http://www.sierra.gov/r/pa/ei/bgn/5475.htm> Last visited 10 February 2005

for life term.¹⁸⁷ The elections in 2002-2003 achieved the goals of reinstating traditional authority nation wide and filling the gaps in local governance. The paramount chiefs provide a traditional form of administration but there is no consistency in how chiefs rule, the return of the paramount chiefs to the provinces initiated the process of re-establishing government authority throughout the country.¹⁸⁸ The paramount chiefs are responsible for interpreting government policies and reconciling traditional and common law, managing community recourses, and are also viewed as a source of mediation for problems in the community.¹⁸⁹

3.3 Responsibility in Regard to Female Genital Cutting

According to custom in Sierra Leone a girl normally has no right or status as far as marriage is concerned.¹⁹⁰ In most matters a girl is for many purposes treated as a minor under the guardianship of a father or a father's brother.¹⁹¹ However, in case of a girls initiation into the Secret Society the decisions are most often made for her by her mother.¹⁹²

3.3.1 The Responsibility of Initiators

The initiators practically perform the practice of FGC on girls and women. Hence they bear the direct responsibility for carrying out FGC. The initiators are not committing a criminal act contrary to the Sierra Leonean law, as there is no law specifically prohibiting the act of FGC,¹⁹³ instead they are supported by the paramount chiefs through the licenses to perform the practice. Through the license the state sanctions the practice and permit the initiators to continue to perform FGC.

3.3.2 The Responsibility of the State of Sierra Leone

The practice of FGC is encouraged by the state of Sierra Leone through

¹⁸⁷ See The International Crisis Group (ICG) Africa report no. 67, "Sierra Leone: The state of security and governance 2 September 2003", see: http://www.icg.org/library/documents/report_archive/A401113_02092003.pdf

¹⁸⁸ Ibid.

¹⁸⁹ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-war rape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

¹⁹⁰ See Ferme, Marianne C. "The underneath of things: violence history and the everyday Sierra Leone", Para., 88, Berkeley, University of California Press (2001)

¹⁹¹ Ibid.

¹⁹² See Report of the Sierra Leone National Consultation Freetown, Sierra Leone 'Women and Men in Partnership for Post Conflict-Reconstruction', Para., 62

¹⁹³ See 3.4.1.1 "Female Genital Cutting and the Law in Theory", resp. 3.4.1.2 Female Genital Cutting and the Law in Practice".

legal licenses issued by the local authorities, i.e. the paramount chiefs, who are the heads of the villages in the provinces. In exchange for a fee the Soweis/ initiators may buy a license to perform the practice during certain periods each year. The practice is given a legal status and the responsibility is attributed to the chief, if something happens to a girl inside the Bundo Bush as the Bundo Bush is situated within the chief's jurisdiction¹⁹⁴ and that is why the initiator pays the chief, for protecting the activities of the society.¹⁹⁵ Koso-Thomas have also stated that "*Paramount Chiefs are given a fee anytime these women want to practice their rights and it's an integral income generating activity. That is why most will resist abolition. Maybe if the government starts paying them they will change their minds*".¹⁹⁶

The paramount chief is the traditional ruler and it is part of his/her responsibility to preserve customs and traditions in the Sierra Leonean society. It is therefore not likely that s/he will intervene in a matter of death or injury inside the bush as s/he respects the tradition of the Secret Society.

The Paramount Chief in Kabala meant that the practice is a tradition that one has to respect but said that the practice deprives the women of their sexual desire. He also said;

"You have to take time and not go against the women. You need to give them some sense of reason because you cannot go against them. One need to request them and give them some sense so that they can reason with you, but this will be a gradual process, this is a practice that has been practiced by our people for a long time and some see reason with it".¹⁹⁷

One of my questions was if he knew, as it seemed from my findings in Kabala, as if all women in Kabala had been exposed to FGC, and I asked him if he saw any problem with this. He answered me;

"If it does not bother them, it does not bother me...but for me it is not good. According to our tradition, if you are not circumcised you are seen as an unclean woman".¹⁹⁸

3.3.3 The Responsibility of Parents or Other Careers of the Child

Cultural practices such as FGC endure because they make sense to people in society. Parents, are though perpetrators as they consent to the performance of FGC on their girl child. It is a mother's, female relatives or guardians in

¹⁹⁴ According to Chief Jottor, Town Chief Kenema, Interviewed in August 2004

¹⁹⁵ See Koso-Thomas, *The circumcision of women: a strategy for eradication*, Para., 21, (1987)

¹⁹⁶ See Inter Press Service English News wire Freetown, May 23, 1996

¹⁹⁷ Kabala August 2004

¹⁹⁸ Kabala August 2004

Sierra Leone who most frequently decide whether a girl shall become exposed to FGC or not, most often with the support from a man in the household. A mother, female relative or a guardian do not make the decision with the intent to make the child suffer. Most women who are letting girls undergo FGC have undergone the practice themselves, and are therefore aware of the pain FGC will cause. For them this is of second priority. It was also argued by women I met in Sierra Leone that women must undergo two great “pains” in life, the first when they are initiated and exposed to FGC and the second at labour.

Often mothers, fathers, relatives or guardians who make the decision to let a girl undergo FGC are not provided information on the harm and effects the practices has on the girl and might not see the link between health hazards and female genital cutting. It is therefore crucial that information is passed to women concerning FGC and its effects.

A mothers decision to let her daughter undergo FGC might be that the mother want to spare her daughter from the marginalization and stigmatization within the community that would occur if she is not initiated.¹⁹⁹ The fact that parents believe FGC to be in the immediate and long term interests of their young daughters illustrates parental subservience to harmful and life endangering customs which embody generations of acceptance of sex discrimination as normal or even desirable.²⁰⁰

Even though these people are not practically performing the practice of FGC they do consent to it and therefore bear an indirect responsibility for the performance of FGC when the decision is made on behalf of the child. It is however difficult to detect any intentions from the parents to harm the child.

3.4 National Law and Gender Discrimination with a Focus on Female Genital Cutting

Sierra Leone has a pluralistic legal system made up of statutory law, Customary law and Muslim law. The legal system is based on the Common law system inherited from Britain.²⁰¹ In 1961, when the country became

¹⁹⁹ See Steiner, Henry J. “*International human rights in context: law politics morals*”, Paras.,413, (2000)

²⁰⁰ See Cook, Rebecca J, *Reproductive health and human rights integrating medicine, ethics and law*, Para., 271, (2003)

²⁰¹ In 1791 the British House of Commons passed the Sierra Leone Company Act, setting up a government for Sierra Leone, colonial in form and content, and in 1808 the British Government declared Sierra Leone a Crown Colony, and extended its influence and rule to the rest of the country in 1896. See Heyes page 1475

independent, the Sierra Leone constitution contained an entrenched Bill of Rights.²⁰²

The Sierra Leone judiciary is comprised of a Supreme Court,²⁰³ dealing with the constitutional matters, the Court of Appeal,²⁰⁴ and a High Court²⁰⁵ with judges appointed by the president on the advice of the Judicial and Legal Service Commission with the approval of the Parliament.²⁰⁶

There is also Magistrate courts, magistrates' are the lowest kind of courts in common law jurisdictions. In Sierra Leone the lowest local courts are, however the "Customary Courts". From these appeals are brought to the superior court, the Magistrate court.

According to Valerie Nicole Barrister-at Law in Sierra Leone the system causes confusion amongst women in Sierra Leone, especially the customary legal system, as different regions in Sierra Leone are governed by different traditions and customs.²⁰⁷

The Government of Sierra Leone is obliged, as a matter of international law, to secure in domestic law the protected rights and freedoms stated in the ratified treaties and to provide effective remedies before national authorities for breaches of treaty provisions. However the status of domestic law in international human rights instruments has never been wholly clear.²⁰⁸

3.4.1. Non-Discrimination Under the 1991 Constitution

The women of Sierra Leone are not granted full equal rights to men under the 1991 constitution of Sierra Leone. Chapter II 6 (2) provides as one of the fundamental principles of state policy that:

²⁰² See Heyes, Christof (ed.), assistant editor Morne van der Linde, "*Human Rights in Africa*", Para., 1475, Leiden: Martin Nijhoff (2004)

²⁰³ See 1991 Constitution of Sierra Leone, Chapter XII Section 170.

²⁰⁴ See 1991 Constitution of Sierra Leone, Chapter VII Part III 129. (1) "The Court of Appeal shall have jurisdiction through-out Sierra Leone to hear and determine, subject to the provision of this section and of this constitution, appeals from any judgement, decree or order from the high court of justice or of any justice thereof and such other appellate jurisdiction as may be conferred upon it by this constitution or any other law"

²⁰⁵ See 1991 Constitution of Sierra Leone, Chapter VII Part IV 134 "The High Court of Justice shall have supervisory jurisdiction over all inferior and traditional courts in Sierra Leone and any adjudicating authority, and in the exercise of its supervisory jurisdiction shall have power to issue such directions, writs of *habeas corpus*, and *orders of certiorari*, *mandamus* and prohibition as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers"

²⁰⁶ See <http://jurist.law.pitt.edu/world/sierraleone.htm> Last visited 10 February 2005

²⁰⁷ See Report of the Sierra Leone National Consultation Freetown, Sierra Leone '*Women and Men in Partnership for Post Conflict-Reconstruction*', Para., 59

²⁰⁸ See Clayton, Richards (ed), "*The Law of Human Rights*", Vol. 1, Para., 72, Oxford: Oxford University Press (2000)

"... The state shall promote national integration and unity and *discourage* discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties..."

This clause provide a certain protection against discrimination towards women but there is no total prohibition of discrimination as the state only has an obligation to "*discourage* discrimination". The term "*discourage*" opens a path of possible discretion for legal practitioners and authorities to use in order to justify possible discrimination towards women.

The equal rights within the 1991 constitution are further underscored in Chapter III- where the recognition and protection of fundamental rights and freedoms of the individual are stated.

Under Subsection 27 (1) of Chapter III it is stated that

"...No law shall make provision which is discriminatory...."

However under subsection 27 (4) an exception to the provisions protecting from discrimination has been introduced stating that:

"Subsection (1) shall not apply to any law so far as that law makes provision

(4) (d)

With respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law;

(4) (e)

For the application in the case of members of a particular race or tribe or *customary law* with respect to that matter which is applicable in the case of other persons".

These provisions provide, *inter alia*, discrimination.

This important contradiction in the constitution legitimizes the application of discriminatory customary law. No protection against discriminatory customary law on the basis of sex can be found in the constitution.²⁰⁹ This in effect exempts and turns a blind eye to the root cause of the discrimination suffered by women in Sierra Leone.

Although customary law is not applied in the formal court system it is recognized and there is some interaction between the two systems. Local

²⁰⁹ See "We kill you if you cry" Sexual Violence in the Sierra Leone Conflict, Human Rights Watch Publications, Vol. 15, No. 1 (A), (2003) <http://www.hrw.org/reports/2003/sierraleone/sierleon0103-05.htm> p.9. Last visited 2004-10-20

customary laws and practices apply where national common law is not enforced. Therefore there are many laws out of reach for the constitution as the constitution itself opens the door for the customary courts to enforce laws discriminatory on women.

However, Chapter III Section 28 in 1991 Constitution of Sierra Leone provides for a possibility to try any case contrary to provisions 16 to 27 in Chapter III in the 1991 Constitution of Sierra Leone. Section 28 states:

- (1) Subject to the provisions of subsection (4), if any person alleges that any of the provisions 16 to 27 (inclusive) has been, is being or is likely to be contravened in relation to him by any person..., then without prejudice to any other action with respect to the same matter which is lawfully available, that person, (or that other person), may apply to the Supreme Court for redress.

Section (3) in the same section (28) provides that:

- (3) If in any proceedings in any court other than the Supreme Court, any question arises as to the contravention of any of the provisions 16 to 27 inclusive, that court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court.

Section (5) provides that:

- (5) The Parliament shall make provision of financial assistance to any indigent citizen of Sierra Leone, where his right under this Chapter has been infringed, or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim

Hence, a possibility exists to bring a test case to the Supreme Court, and try if a potential case concerning FGC would be in contravention to provisions 16 to 27.

3.4.1.1 Female Genital Cutting and the Law in Theory

The state of Sierra Leone has not adopted any law prohibiting FGC. In other African countries, such as Chad, lawyers claim that under the penal code, the practice of FGC, is prosecutable as an involuntary physical assault against a minor. This is of relevance, since a possible solution would be to use the laws of Sierra Leone, as these already exist, as a resort for women who are ready to bring a case regarding FGC to court. It must be emphasized that the law in both theory and in practice is not always a practically possible solution for a girl child or a woman in Sierra Leone.

Relevant legislation in a FGC case would be:

Prevention of cruelty to children 1960, Cap 31, part I art 4 which provides:

Art 4 (1) If any person over the age of sixteen years, who has the custody, charge or care of any child, willfully assaults, ill-treats, neglects or abandons, or exposes such child or causes or procures such child to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child unnecessary suffering or injury to his health (including injury to or loss of... organ of the body and any mental derangement), that person shall be guilty to misdemeanor and shall be liable-

- (a) on conviction before Supreme Court to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labor, for any period not exceeding two years; and
- (b) On summary conviction to a fine not exceeding twenty-five pounds, or alternatively, or in default of any payment of such fine, or in addition to thereto, to imprisonment, with or without hard labor, for any period not exceeding six months.

(2) A person may be convicted of an offence under this section notwithstanding that actual suffering or injury to health or likelihood of such suffering or injury to health, was obviated by the other person.

(3) A person may be convicted of an offence under this section notwithstanding the death of the child in respect of whom the offence is committed.

Other possible resorts could be:

Under the persons act: Wounding with intent or disfigure maim, as the wounding takes place in the Bundo Society, often with the consent of the parents, or the victim itself.

If somebody die, it is a fatal act and the person carried out the act could be charged with murder.

3.4.1.2 Female Genital Cutting and the Law in Practice

The process of bringing a FGC case to the court in Sierra Leone would be very harsh for the victim or those who bring the case to court and in reality not very likely to happen at the present time.

A lawyer in Kenema, who asked me not to write his name as he was afraid of repercussions said, on the question if he would take a case concerning death as a result of FGC to court:

“ For me professionally and personally I would be inclined to take such a test case, but practically I would not. I would be afraid to take such a case. The women here in the provinces where I work are still sentimental about the issue. In other African countries there are at least laws being passed by the governments in regard to FGC. Even if there are no laws there are at least statements made by way of policy. When such statements are made and if you

*are a campaigner of human rights, you will have something to hang on. But that is not the case for us here (in Sierra Leone), our politicians are not brave enough to comment on this issue. I am also sure that they are not prepared to protect any victim of any mob action (from Bundo supporters), they will not be brave enough to tell the women, instead you may be used as a sacrificial lam. I am just speculating”.*²¹⁰

This speculation illustrates the impression I got concerning this issue in Sierra Leone and I heard similar speculations from many other lawyers and state officials. Therefore I dare to say that this is a realistic picture of the situation for state agents, lawyers and human right activists in Sierra Leone.

The solidarity between the members of the Bundo Society is very strong and to betray the society is seen as a huge disgrace. A Family Support Unit (FSU) by the police has been established in all district police stations in Sierra Leone to bring additional protection to victims of sex and gender-based violence.²¹¹

But the willingness to take a case concerning anything that have a link to the Bundo Society does not seem to be stronger by the FSU than the police in general. A woman told me;

*“Do not forget that the authorities are the people, the police officer, the prosecutor and the lawyer have their mother and grand mother who are member of the society and to insult them by disrespecting the Bundo society would be a huge disgrace”.*²¹²

Simeon S Kamara at the FSU (at the police headquarters in Freetown,)²¹³ saw a problem even in investigating any case involving the Bundo Society. Since he did not expect anyone to testify in such a case or anyone to give any statements. Another reason not to investigate a case concerning FGC is, according to Simeon S Kamara, that most of the people working in authorities in Sierra Leone are afraid of the consequences that would happen if the police investigated such a case, he said:

*“Here in Sierra Leone we do not talk about it and no one reports it, there are certain cultural practices that can not be displayed, not even the UN can do anything, it is very difficult to change”.*²¹⁴

The most likely problems to be faced if investigating a FGC case would, according to Simeon S Kamara, be:

²¹⁰ Interview, Kenema, August 2004

²¹¹ United Nations Security Council, Twenty-third report of the Secretary-General on the United Nations Mission in Sierra Leone, 9 September 2004, S/2004/724

²¹² Interview Bo August 2004

²¹³ Interview in Freetown September 2004

²¹⁴ Interview in Freetown September 2004

- 1) Difficulty to find any doctor who willingly would issue a medical certificate to show what type and degree of wounding the victim has been exposed to, or make any medical report certifying the injure.
- 2) Who would investigate the case? It could only be a female police officer herself, and only a member of the Bundo Society.
- 3) Witness would not come and testify they would be afraid of the after math.
- 4) The law is silent on the issue
- 5) If such a case is brought to court the women will invade the court

As the practice is most commonly not seen as harmful to a girl child or to women by state agents in Sierra Leone, there are not many that would consider FGC as a crime, and as a result no investigations would be initiated. The FSU officers report that when cases of child abuse are investigated, parents often protest that their children are their business alone, and that the police should not be involved in such claims.²¹⁵

Another reason for resistance to investigate FGC cases is that no male is allowed to enter or have anything to do with the Bundo Society. As a result police, prosecutors and other authorities resist investigating cases of harm or death of girls and women occurring inside the Bundo Bush. The authorities have an enormous respect for the Bundo Society and according to my findings the only way the police would investigate a case is if a member of the bush, a woman, enters into the bush and investigates the case. The likelihood that this would happen in reality is very small as there are not many female polices in Sierra Leone.

The most common explanation state officials give, within the judiciary and the police, when asked why they do not interfere in order to prevent the practice, is that they respect the tradition of the Bundo Society and that they do not interfere in the “Business” of the women. The same attitude is prevalent when general domestic violence is addressed and the United States Department’s State Report have concluded that the police is unlikely to intervene in domestic disputes except in cases involving severe injury or death.²¹⁶

The public prosecutor, Patrick SB Smart, prosecutor at the Magistrate court in Kenema,²¹⁷ explained to me what he thought would happen if he investigated a case of female;

“We could not bring a case concerning FGC to the court, because it is the culture, there is no law prohibiting it and it is done in the secret society.”

²¹⁵ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-war rape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

²¹⁶ United States Department of State, Bureau of democracy, Human Rights and labour Country Reports on Human Rights practices-2003 Webpage Last visited 2005 02 05 <http://www.state.gov/g/drl/rls/hrrpt/2003/index.htm>

²¹⁷ Interview at the Prosecutor’s Office in Kenema, August 2004

No one will complain, if a person complain the society will punish you cause you are exposing the culture.

The international community needs to put pressure, as in Nigeria concerning the sharia law. Even if we make an approach to the women there is no way.

The women will fine you, they will explain to the authorities, the paramount chief, the elders, what a person has done against the society when exposing it, they will demonstrate, the man is not allowed to talk, all will be punished.

If there came a girl and reported the society, I as a prosecutor would not assist her because I would be in trouble! If a girl die in the bush, it will not be revealed. If there is a case in the bush, and they do not know what to do about the case they will send it to the state council, the attorney general for advice. But I have never experienced such a case. If a child die in the bush, a witch took it! As a law enforcement agent I can not do anything because we can not do anything above the law. If I see that there is not a case I will ask the Magistrate to discharge the case. When the case is heard by the magistrate and there is enough evidence to punish the accused the Magistrate will give a ruling, and than send the matter to the high court sitting by session.”

3.4.2 Customary Laws

Customary law affects 70 percent of the population of Sierra Leone, living in the rural areas, in issues not reserved by statute to the Magistrate’s Court or High Court.²¹⁸

The general law of Sierra Leone comprise beside the rules of general law , known as common law, the rules of customary law.²¹⁹

The system of local courts, presided over by traditional leaders or their officials, is the only form of legal system in the rural areas and customary law applied by the local courts is often discriminatory, particularly against women.²²⁰

Customary law is defined in the Constitution of Sierra Leone as:

“Rules of law which by custom are applicable to particular communities in Sierra Leone”.²²¹

Twelve ethnic groups exist in Sierra Leone. Each ethnic group has its own culture, practice and religion, most commonly Muslim or Christian. As a result customary law differs between the ethnic groups and no consistency exists. The customary law is not codified and the 1991 Constitution explicitly states that the existing law embodies both the written and unwritten laws of Sierra Leone.²²²

²¹⁸ “Human Rights Watch World Report 2005”, See <http://hrw.org/wr2k5/wr2005.pdf> , Last visited 2005-02-05

²¹⁹ 1991 Constitution of Sierra Leone Chapter XII 1 (2)

²²⁰ “Human Rights Watch World Report 2005”, See <http://hrw.org/wr2k5/wr2005.pdf> , Last visited 2005-02-05

²²¹ 1991 Constitution of Sierra Leone Chapter XII 1 (3)

²²² 1991 Constitution of Sierra Leone Chapter XII 1 (4)

Customary law affects women and children as many of the customs are based upon a patriarchal system. If any case concerning FGC would be brought before a customary court it would be judged according to the existing custom. The Secret Bundo Society is an integral part of the existing custom and therefore the customary court would rule according to this.²²³

As an exception from the non-discrimination rule in the 1991 Constitution Chapter III 27 (1) exists in 27 (4) (e) where customary law is exempted from the non-discrimination prohibition.

For customary law to be valid the law needs to be in conformity with; Equity, National Justice and Good Conscience.²²⁴ Any law which violate this 'is to the extent void'.

For a woman to bring a case to the police without the knowledge of her husband or her father would be unlikely in Sierra Leone, women in traditional law are treated as minors. Every lawyer, Paramount chief and police, subject to my interviews, explained that a woman need to have the consent of a male family member if she wants to report an issue to the police.

As a consequence women may be hesitant to report violations of human rights. A common procedure in Sierra Leone is that the police consults all parties before investigating a case reported by a woman. The reason for this is often that the police tries to find other possible solutions. When it comes to cases of violence against women, women often does not have the courage to report.

Corinne Packer describes this as a common course of events when she discusses cultural impediments to the use of law in her essay "*African Women, Tradition and Human Rights*". She confirms that a number of constraints affect women. One cultural constraint is that even if a woman manages to get to the police station, the woman is likely to be told that her complaint is a domestic affair in which the police cannot involve themselves, she will be advised to go back home and work it out with her family.²²⁵ This procedure is common in Sierra Leone, and in reality many women have difficulty of getting cases of violence reported, heard and determined.²²⁶ A reason for this is that the law enforcement officers and other people who make up the structures of the legal system at this level are as steeped in custom as the women themselves.²²⁷ Women or young girls

²²³ Court chairman of the customary court in Kabala, Mohammed Sisse, interview August 2004

²²⁴ See Local Courts Act 1963 Section 2

²²⁵ See Forsythe David P and Patrice C. McMahon "*Human Rights and Diversity Area Studies Revised*", Para., 167, (2003)

²²⁶ See Report of the Sierra Leone National Consultation Freetown, Sierra Leone '*Women and Men in Partnership for Post Conflict-Reconstruction*', Para., 71

²²⁷ Ibid.

might therefore be hesitant to use the legal system as a recourse when their rights have been violated. Corinne Packer point out that the safety net for these women disappear and the woman might not have any other choice than to return home and deal with the consequences of her escape to the police and according to Corinne Packer, experience shows that a woman likely will be forced to submit more quickly to for example circumcision, or other traditional practices. FSU in Makeni has, however, established a system which has the consequence that if a husband gets one warning that explains that domestic violence is not tolerated, FSU record the incident, after three warnings, or after any severe beating they investigate the matter for prosecution.²²⁸

All are examples of the fact that even if the legal system and law enforcement officials exists in practice the reality for women in Sierra Leone is not simple when it comes to enforcement of their human rights.

²²⁸ See Bambick, Kati, Edwin, Valnora, Creighton-Randal, Olayinka, *Silent victims, young girls at risk an evaluation of Post-war rape and the response to rape in the provinces of Sierra Leone*, Freetown Sierra Leone, A Campaign for Good Governance Publication (2004)

CHAPTER FOUR: The Convention on the Rights of the Child and The Convention on the Elimination of All Forms of Discrimination Against Women State Duties and implementation in Sierra Leone

4.1 Introduction

Chapter five assesses the international legal obligations the state of Sierra Leone has as a state party to CEDAW and CRC in regard to FGC. The chapter outlines as well the obligations the state has to include FGC in the implementation process and present relevant articles in CEDAW and CRC. The previous chapters and the descriptions made within these will be linked to the legal perspectives of FGC.

I will commence chapter five with a short discussion concerning the universality of human rights, as it is a discussion that constantly raises when one is touching on human rights and FGC in Sierra Leone and in Africa as a whole.

Thereafter I have covered the status of international law in Sierra Leone and of the state practice in Sierra Leone in regard to international treaties.

A brief overview of the hypothesis that a law is good means in regard to the abolishment of FGC is then provided. The hypothesis is investigated in connection with a few West African States which have criminalized the practice.

4.1.1 The Universality of Human Rights

*It is a deadly earnest conflict between an imagined world in which each person is free to pursue his or her individual potential and one in which persons must derive their identities and meanings exclusively in accordance with immutable factors: genetics, territoriality and culture.*²²⁹

The debate concerning the universality of human rights and that of cultural relativism is frequently touched upon when exploring human rights (in regard to FGC).

Those arguing for the *universality of human rights* mean that all humans should be ensured certain fundamental human rights and freedoms.²³⁰

²²⁹ See Franck, Thomas M, Bridging the Globalization Gap, Are Human Rights Universal? Para., 11, Foreign Affairs, 2001, 80 (1)

²³⁰ See Brems, Eva, "Human Rights: Universality and Diversity", the Hague; London: Martin Nijhoff (2001). Eva Brems describe that the list of meanings of the term "universal" is endless as that of human rights authors and therefore her own analysis in her book cannot be exhaustive. I dare to agree with her, and therefore I only, very briefly, will try to identify a possible description on what the "universality" of human rights may be.

The yardstick for those rights and freedoms has been established in the Universal Declaration of Human Rights (UDHR) which is a prototype for human rights today.²³¹ The *universality* of human rights, draw closer to all-inclusiveness within the human race and signifies the rejection of the notion of inferior human beings.²³² Hence, the principle of universality is strongly linked to that of equality and non-discrimination and the enunciation of equality and non-discrimination.

Cultural relativists argue that fundamental human rights established in the Universal Declaration of Human Rights is predominantly western in its approach and that these rights cannot be universal and cover all peoples perception of what are human rights.²³³

The tension between the two positions might nonetheless be seen as a part of a continued process of negotiating ever-changing and interrelated global and local norms.²³⁴ Local norms are not static and the field study carried out in Sierra Leone is an example on the different meanings communities and people have about the continuation of FGC. One must therefore not look upon culture as a set of fixed standards that are incompatible with those of human rights.²³⁵ The whole discourse becomes more interesting if one look upon culture as a field of interchange and continuous transformation.²³⁶ If the issue of FGC is looked upon with this approach the concern that FGC is a cultural practice impossible to change and doing so is to violate peoples' rights to preserve their culture, would make certain human rights meaningless.

Human rights norms influence people and human rights might be used as a tool for people who want to change patterns of culture. Human rights could help to formulate needs and demands from those people affected by human right violations. Abdullahi A. An-Na'im argues in his essay "*Area Expressions and the Universality of Human Rights*" that human rights are applicable equally within all countries in the world.²³⁷ An-Na'im want to point out that cultural or other differences between human societies should not be used as a pretext for justifying human rights violations, but that this view presupposes the existence of a clearly identified and accepted set of human rights. An-Na'im further refers to a declaration adopted by the American Anthropological Association in 1999, "*Declaration on*

²³¹ See Alfredsson, Gudmundur and Eide, Asbjörn, (eds.) "*The Universal Declaration of Human Rights: a common standard of achievement*", Para., xxx, The Hague: Nijhoff, (1999)

²³² See Brems, Eva, "*Human Rights: Universality and Diversity*", Para., 4 (2001)

²³³ See Alfredsson, Gudmundur and Eide, Asbjörn, (eds.) "*The Universal Declaration of Human Rights: a common standard of achievement*", Para., xxv, (1999)

²³⁴ See Cowan, Jane K. Dembour, Marie-Bénédicte and Wilson, Richard, A. (eds.), "*Culture and rights: anthropological perspectives*", Para., 6, Cambridge: Cambridge University Press (2001)

²³⁵ Ibid.

²³⁶ Ibid. Para., 5

²³⁷ See Forsythe, David P. and McMahon Patrice C.(eds.) "*Human rights and diversity: area studies revisited*", Paras., 1-21, (2003)

Anthropology and Human Rights” which states that there is a problem “whenever human difference is made the basis for a denial of basic human rights, where ‘human’ is understood in its full range of its cultural, social and linguistic, psychological and biological senses”.²³⁸ It is important to keep these ideas and perceptions in mind when international law and the obligations the government of Sierra Leone has in regard to discrimination against women and the continuation of FGC is looked upon.

4.2 The status of International Law in Sierra Leone

In Sierra Leone rules of international law and those of municipal law exist separately and cannot purport to have an effect on, or overrule, the other.²³⁹ A treaty only obligates the state of Sierra Leone after approval by the parliament. Thereafter the treaty has to be enacted into the law by virtue of section 170 of the Constitution of Sierra Leone.²⁴⁰ First at that stage a treaty becomes part of the national law. But even if international law is not directly applicable in Sierra Leone one must keep in mind that even if states do not directly apply international treaties in its domestic system, the government responsible of ratifying the treaty has due to the ratification itself undertaken certain obligations. The obligations might be that State Parties have to implement the treaty into its domestic legal system or take other steps to fulfil the duties. An example of this is CRC article 4 which provides that state parties shall:

...’undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present convention’...

4.2.1 The General Character of State Obligations

*“In international law, however, a state bears responsibility for its conduct in breach of international obligations. Such responsibility attaches to a state by virtue of its position as an international person. The sovereignty of the state affords it no basis for denying that responsibility”.*²⁴¹

The UN Charter states in the preamble the determination of the peoples’ of the United Nations to reaffirm faith in the equal rights of men and women and article 1(3) establishes the United Nations’ purpose to promote respect

²³⁸ Ibid.

²³⁹ See Shaw, Malcom, Nathan, “*International Law*”, (5 ed.), Para., 122, Cambridge: Cambridge University Press (2003)

²⁴⁰ See Christof Heys (ed), assistant editor Morne van der Linde, Human rights law in Africa, Para., 1476, (2004)

²⁴¹ See Goldman, Kogod, Robert...(et al) ; with contributions from Carrillo-Flórez Fernando, “*The international dimension of human rights: a guide for application in domestic law*”, Washington, D.C. : Inter-American Development Bank : American University (2001)

for human rights for all ‘*without distinction as to race, sex, language or religion*’. This statement is fundamental in regard to non-discrimination and state obligations, more specific are, however, those obligations within ratified treaties such as CEDAW and CRC. States’ are required to respect and adhere to implement and enforce the specific rights ensured therein. As states are responsible for bringing their domestic law and practice into conformity with their international obligations.

The responsibility applies not only to laws enacted by formal legislative organs of the state but also to those attributed to religious and customary sources or sanctions.²⁴²

If a conflict between domestic laws and an international obligation occurs, predominance shall be given to the international obligation, since a party to a treaty shall not invoke the provisions of its internal law as justification for its failure to perform a treaty.²⁴³

Civil and Political Rights, were originally devised to protect citizens *from* arbitrary oppressive treatment by the state; they were not conceived to be a ground of *action by* citizens *inter se*²⁴⁴. Since Human rights, Civil and Political Rights, were first established and out formed, international law and human rights has developed and evolved. State parties to international conventions has today certain responsibilities. A distinction of these responsibilities is made hereunder.

The responsibility might be “*Vicarious*” or “*Original*”.²⁴⁵ Today it is possible to distinguish a state’s responsibility with respect to its citizens.

“*Vicarious*” or “*indirect*” responsibility of a state may be explained as; ‘*A responsibility that arises out of certain internationally injurious acts of private individuals (whether nationals, or aliens in the state’s territory), and of officials acting without authorisation*’.²⁴⁶

In the case of *Vicarious* responsibility, the state’s responsibility entails that the state should take certain preventive measures and is required to secure, that as far as possible the wrongdoer makes suitable reparation, and if necessary punish him or her.²⁴⁷

²⁴² See Cook, Rebecca J. (ed.), “*Human Rights of Women National and International perspectives*”, Para.,167, Philadelphia: University of Pennsylvania press (1994) University of Pennsylvania Press (1994)

²⁴³ See Article 27 in the Vienna Convention of the Law of Treaties.

²⁴⁴ See Bennet T.W. “*Human rights and African customary law under the South African Constitution*”, Para., 29, Cape Town, Juta (1995)

²⁴⁵ See Goldman, Kogod, Robert...(et al) ; with contributions from Carrillo-Flórez Fernando, “*The international dimension of human rights: a guide for application in domestic law*”, Para., 55 (2001)

²⁴⁶ Ibid.

²⁴⁷ Ibid.

As described in the book “*The International Dimension of Human Rights A Guide for Application in Domestic Law*”; ‘ The preventive and remedial obligations of the state in the case of “*vicarious*” responsibility are themselves obligations for the breach of which (as by refusing to take the remedial action which is required) the state bears the direct responsibility’.²⁴⁸

The recognised standard used to illustrate and measure whether a government has been acting effective or not in regard to abuses by non-state actors is referred to as; “*Due Diligence*”. The standard of *Due diligence* was developed in the case of Velasquez-Rodriguez from the Inter-American Court of Human Rights. The court evaluated the state of Honduras responsibility under the American Convention on Human Rights, and stated that it is the responsibility of the state to take steps to prevent, investigate and identify human rights violations, punish those responsible for these violations, to use the means at its disposal to carry out serious investigation of violations committed within its jurisdiction and provide for compensation for the victims.²⁴⁹

This duty to prevent includes all those means of a legal, political, administrative and cultural nature that promote the safeguard of human rights.²⁵⁰ This means that the state shall with the help of these means ensure that any violations are considered as illegal acts which may lead to punishment of those responsible. Consequently, a government cannot excuse itself for not taking any action in regard to violations of human rights committed by non-state actors within the country but shall act in *due diligence* in the manner requested by the relevant convention.

4.3 CEDAW and CRC with Focus on Female Genital Cutting

CEDAW and CRC both create obligations, for state parties to implement human rights norms. CEDAW specifically with regard to women’s rights²⁵¹ and CRC specifically concerning children’s rights. The conventions are therefore of fundamental importance to include when FGC is discussed from an international legal perspective.

CEDAW contains a number of provisions and general obligations, (for state parties,) and provide for a general framework to be applied worldwide and adapted to changing circumstances.²⁵² The CEDAW Convention do not

²⁴⁸Ibid.

²⁴⁹See I/A Court H.R, Velásques Rodríguez Case, Judgment of July 1988. Serie C No. 4

²⁵⁰ See Steiner, Henry J. “*International human rights in context: law politics morals*”, (2ed.), Para., 213 (2000)

²⁵¹ The purpose of CEDAW is to realise and create conditions under which women might exercise their human rights and fundamental freedoms irrespective of their marital status and on a basis of equality between men and women.

²⁵² See Tomasevski, Katarina, “*A handbook on CEDAW: the convention on the elimination of all discrimination against women*”, Para., 12, Stockholm, SIDA (2000)

provide specific obligations for states in relation to FGC. It is therefore of primary weight to determine whether the practice of FGC falls within the scope of the CEDAW Convention.

CRC has a more or less universal acceptance in the world and represent the most significant commitment to children's rights ever made.²⁵³ The child is by state parties to CRC recognized as an individual with rights that are enforceable against the family, community and state.²⁵⁴

The practice of FGC is most often performed by women on young girls in Sierra Leone, the reasons are diverse, as we have seen above. The underlying reasons of the practice might also be argued from different perspectives depending on which perception one chooses to have when explaining the causes. It is for that reason imperative in a discussion on international law to be as objectively as possible when establishing the obligations of a state in regard to FGC.

In contrast to CEDAW, CRC does not have a limited perspective to the scope of "customary practices". CEDAW presuppose that those customary practices referred to in article 5 (a) '*are based upon the idea of the inferiority or superiority of either of the sexes or stereotyped roles of men and women*'. Since CRC simply refers to traditional practices prejudicial to the health of children in general terms there is no need for a specific perspective when interpreting CRC.²⁵⁵ Based on this it is possible to say that CRC provide a more unproblematic framework concerning the practice of FGC than CEDAW. Individuals, especially those practicing FGC, frequently argue that the practice of FGC has nothing to do with stereotyped roles of women and men. But their argument cannot be applied to restrict the applicability of CRC, since the language of CRC do not restrict the interpretation to one perspective but is general when describing '*traditional practices*', in contrast to CEDAW.

4.3.1 Specific Rights in Regard to FGC in CEDAW and CRC

Below I have focused on selected rights that are affected when the state permit the practice of FGC to continue without interference. I intend to outline the applicable articles in order to single out the protection existing for women and the girl child against FGC. This will specify the obligations imposed by the conventions on the state of Sierra Leone.

²⁵³ See Himes R. James (ed.) "*Implementing the convention on the rights of the child: resource mobilization in low-income countries*", Para., 223, The Hague: Martin Nijhoff, cop. 1995

²⁵⁴ See Welshman, Ncube, (ed.) "*Law, culture, tradition and children's rights in eastern and southern Africa*", Para., 251, Aldershot: Dartmouth (1998)

²⁵⁵ See CRC article 24 (3)

When FGC is to be illustrated from an international legal perspective it is essential to identify the specific rights in CEDAW and in CRC which the practice of FGC infringe upon. All these rights and duties, both in CEDAW and CRC interact dynamically with each other and give strength to the obligations upon states to ensure that rights are ensured and consequently the practice of FGC diminished and finally hindered.

4.3.1.1 Female Genital Cutting and Gender Based Violence

FGC is a form of gender based violence. CEDAW Committee's definition of '*Gender Based Violence*' is:

“violence directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”²⁵⁶

FGC is directed specifically against women and the girl child²⁵⁷ solely because of their gender. The practice of FGC affects women disproportionately as the cutting inflicts physical and mentally pain on women and causes suffering.²⁵⁸ The practice is an infringement on the physical and psychosexual integrity of women and girls.²⁵⁹ Hence, it is possible to conclude that the act of FGC and the consequences of the cutting cause harm that correspond with the definition of gender based violence.²⁶⁰ In 1992, the CEDAW Committee, at its eleventh session, took the important step of formally including under “gender-based *discrimination*”, “gender-based *violence*” and concluded that gender-based violence may breach specific provisions of the convention, regardless whether those provisions expressly mention violence.²⁶¹

It is consequently possible to look upon FGC, a form of gender based violence, as a form of discrimination against women, as FGC solely target and have harmful effects on women.

²⁵⁶ See CEDAW General recommendation No. 19, “*Violence against Women*”, (Eleventh session 1992) A/47/38

²⁵⁷ See CEDAW General recommendation No 24, “*Women and health*”, (Article 12), (Twentieth session, 1999) 02/02/99, A/54/38/Rev.1. The recommendation state that “*Women*” includes girls and adolescents as state parties are encouraged to address the issue of women's health through out their lifespan”.

²⁵⁸ See under 2.3.1 “Health Consequences of Female Genital Cutting.”

²⁵⁹ See Joint Statement of the WHO/UNICEF/UNFPA See

<http://www.who.int/docstore/frh-whd/publications/p-fgm1.htm> Last Visited 2005-02-05

²⁶⁰ Female genital cutting is also included in the Declaration on the Elimination of Violence against Women Art 1. The articles state that violence against women should be understood to encompass, amongst other kinds of violence ‘female genital mutilation’. This is however a declaration hence non-binding on states.

²⁶¹ See Commission on human rights, fiftieth session 1994, preliminary report submitted by the Special Raporteur on Violence against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights Resolution 1994/45

Discrimination against women is defined in article 1 in the CEDAW Convention as being:

‘Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.’

Parties to CEDAW are responsible for violations of the principles within the convention, i.e. discrimination of women,²⁶² and are consequently responsible for gender based violence/FGC, performed on women within the state. In order not to violate international law and the state should condemn discrimination in *all* its forms by all appropriate means and without delay.

The obligation not to discriminate in article 1 in CEDAW farley resembles the non-discrimination clause in CRC. According to CRC parties to CRC is obliged to ‘*respect and ensure the rights set forth in the convention to each child within their jurisdiction without discrimination of any kind*’.

The non-discrimination obligation in CRC requires states ‘*to actively identify individual children and groups of children the recognition and realization of whose rights may demand special measures*’.²⁶³

In Sierra Leone girls are exposed to FGC and may be identified as ‘a group’ as they are exposed to FGC solely on the basis of sex, and groups of girls commonly are exposed to CRC at the same time in the Bundo Bush.

A state party to CRC is also obliged to adhere to the general principle in article 3 which provides for an obligation upon state parties to ‘*in all actions concerning children*’ have as a primary consideration ‘*the best interest of the child*’. The principle refers to ‘*actions undertaken by public or social welfare institutions, courts of law, administrative authorities or legislative bodies*’. Customary practices such as FGC are preserved by local authorities and institutions in Sierra Leone and the Government is responsible for taking active measures so that every institution apply the ‘*best interest principle*’ in all decisions by state authorities. If a state allows violence harmful to the girl child without taking any measures to prevent such violence (and through licenses encourages the initiators to perform FGC,) the state is not adhering to the principle of the best interest of the child.

An unauthorized invasion of a person’s body represent a disregard of the fundamental right a the child to be protected against injury or violence. The

²⁶² See CEDAW Article 2(f)

²⁶³ See General Comment No. 5 “*General measures of implementation for the Convention on the Rights of the Child*” (Articles 4, 42 and 44 (6)), (Thirty-fourth session, 19 September-3 October 2003), CRC/GC/2003/5

right of all persons to the highest attainable standard of physical and mental health is a universal human right and shall be treated as such as it is also fundamental to each and everyone's right to life.

The risk of serious injury or death of the girl child as a result of the FGC is likely when FGC is performed. CRC article 6 establishes that the child have an inherent right to life and state parties' obligation to ensure to the maximum extent possible the survival and development of the child is also one of the general principles of CRC.²⁶⁴ States are expected to *'interpret "development" in its broadest sense as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development.'*²⁶⁵ If the state allows violence, such as FGC, harmful to the girl child to exist and continue without taking any measures to prevent such violence, the state is not adhering to the principle establishing that a child have a right to life, to survival and development.

Article 16 of CRC establishes that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family home or correspondence, nor to unlawful attack on his or her honour or reputation.

The state is not doing anything to protect or prevent that women and girls are exposed to the taboos and customary attitudes affecting their lives. The stigmatization and marginalization girls and women in Sierra Leone are exposed to, if they are not initiated in the Bundo Society is often a reason for them to undergo FGC. In certain cases a woman has chosen to undergo FGC merely to preserve her honour and reputation within the community. The state has an obligation to provide for positive measures that may prevent such attack upon the girls and women's reputation and honour.

4.3.1.2 Female Genital Cutting and Reproductive Rights

The internationally recognised definition of reproductive health was adopted at the International Conference on Population and Development (ICPD) held in Cairo 1994 and at the International Conference on Women, held in Beijing 1995. Even though this definition of reproductive rights is not binding upon states, the definition nevertheless assist, in the understanding of what reproductive rights includes;

“Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of

²⁶⁴ Ibid.

²⁶⁵ Ibid.

family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.²⁶⁶

The CEDAW Convention do not mention the word “reproductive health”, but when taking in regard the definition above, certain articles in the convention becomes relevant. The CEDAW Committee on Discrimination against Women has, in the General Recommendation No. 24 also included reproductive health as a basic right under the CEDAW Convention.²⁶⁷

The CEDAW Committee has also concluded that ‘female circumcision’/FGC refer to issues that are integral to the full compliance of article 12 of the CEDAW Convention.

CEDAW article 12 state:

1. State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions in paragraph 1 of this article, State Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

It has been estimated that Sierra Leone has the highest maternal mortality in the world and that approximately 40 percent of women in the country have no access to health services.²⁶⁸ The likelihood is high, that FGC and difficulties in child birth is linked . In addition, the procedure of FGC habitually causes severe health complications both immediate and in a long term perspective for women after the practice is performed.²⁶⁹ According to CEDAW article 12 (b), the state of Sierra Leone is obliged to provide for access to health care service and to specifically ensure appropriate services in connexion with pregnancy. The article aims to eliminate discrimination towards women in regard to health care and is central to the well-being of women and obliges governments to eliminate prejudices and customary practices, any of them directly and visibly affecting women’s health.²⁷⁰ Women interviewed in Sierra Leone, testified of the difficulties during child birth, and most frequently during the first labour and referred sometimes to

²⁶⁶ Cook, Rebecca J. “*Ethics, Medicine and human rights: integrating medicine, ethics and law*”, Para., 12, (2003).

²⁶⁷ See CEDAW General recommendation No 24, “*Women and health*”, (Article 12), (Twentieth session, 1999) 02/02/99, A/54/38/Rev.1

²⁶⁸ See 2.1.1 “*Statistics and Data*”

²⁶⁹ See 2.3.1 “*Health Consequences of Female Genital Cutting*”

²⁷⁰ Tomasevski, Katarina, “*A Handbook on CEDAW: the convention on the elimination of all discrimination against women*”, Para., 23, (2000)

the difficulties as a result of FGC but most often women, especially in the rural areas were not aware of this link.

The health consequences of FGC can be fundamental to the reproductive functions of women and may carry a high risk of death and disability.²⁷¹

Lynn P Freedman has in the book “*Health and Human Rights*” defined reproductive and sexual rights. She defines it as constellations of legal and ethical principles that relate to an individual woman’s ability to control what happens to her body by protecting and respecting her ability to make and implement decisions about her reproduction and sexuality.²⁷² Sex-discrimination, low social status and rural residence is a fact that frequently result in poor physical and mental health and a low level of control over the lives of women and young girls, particularly their sexual and reproductive lives.²⁷³ A goal should therefore be to create and make the right to reproductive health realistic and real for women, as the CEDAW convention do not only demand that women shall be accorded rights equal to those of men but also that they are enabled and/or empowered with the formally guaranteed rights.²⁷⁴ This indicates that if access to health care facilities are available, and women’s knowledge increases and mothers may refrain from cultural practices hazardous for the health of the child, such as FGC.

Women, in particular those living in rural areas, do not have the same opportunity to education and information or not access to health care to the same extent as women in urban areas. Therefore women and girls in rural areas are more exposed to FGC. Article 14 in the CEDAW Convention explicitly obliges states to ‘*take into account the particular problems faced by rural women*’.

In consideration of Freedman’s definition of reproductive and sexual rights, reproductive rights becomes highly relevant to the discussions of FGC and consent. Women living in rural areas are most vulnerable when it comes to the issue of consent as these women often do not have access to medical facilities or access to information, and the cultural norms affects the decisions in their daily life. It is therefore important to highlight article 16(1) (e) of CEDAW as the possibility for a woman to make an informed choice regarding herself and her child whether the child shall undergo FGC, is dependent on access to information, education and means enabling a woman to exercise these rights. CEDAW article 16 (1) (e) state that

²⁷¹ See CEDAW General recommendation No 24, “*Women and health*”, (Article 12), (Twentieth session, 1999) 02/02/99, A/54/38/Rev.1

²⁷² Gruskin, Sofia (ed.)...(et al.), “*Perspectives on health and human rights: a reader*”, Para., 149, New York : Routledge (2004)

²⁷³ Ibid. 150

²⁷⁴ Tomasevski, Katarina, “*A Handbook on CEDAW: the convention on the elimination of all discrimination against women*”, Para., 12, (2000)

State parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(e) The same rights to decide freely and responsibly on the number and spacing of children and to have access to information, education and means to enable them to exercise these rights

A measure possible to use to ensure that such information is accessible is, amongst other things, to provide family education. Family education could assist to guarantee a proper understanding of the health hazards the practice of FGC for a girl child or a woman. It is essential to the right to health of the child that information to women and men is ensured, as this is of crucial importance for the child's well being. If a mother has complications in labour as a result of FGC the right to health of the child is threatened. If parents have the right to access to information the likelihood that they will refrain from deciding to have the practice of FGC performed on their child is increased.

Article 24 (d) and (f) of CRC obligates state parties to CRC to ensure appropriate prenatal and postnatal care for mothers and to develop preventive health care, guidance for parents and family planning education and services. The Committee on the Rights of the Child recommends specifically that the state of Sierra Leone strengthen the existing mechanisms which provide guidance to parents and families, and that equal emphasis, in such efforts be placed on the roles of women and men.²⁷⁵

Article 24 of CRC imposes a number of positive obligations on states to ensure the welfare of the child. The Article specifically stipulate that '*State Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of the children*'.²⁷⁶ The issue of what is seen as a '*traditional practice prejudicial to the health of children*' has been widely discussed in the course of drafting of the Convention of the Rights of the child.²⁷⁷ The conclusion of the delegations, one of these the UN Working Group on Traditional Practices Affecting the Health of Women and Children, referred to female circumcision as one of three traditional practices adversely affecting the health of women and children.²⁷⁸

The Committee on the Rights of the Child has in regard to Sierra Leone, stated that the Committee is '*very concerned of the widespread practice of female genital mutilation*' in Sierra Leone.²⁷⁹ The Committee urges the

²⁷⁵ See Committee on the Rights of the Child, Report on the twenty-third session Geneva, 10-28 January 2000, CRC/C94 (3 March)

²⁷⁶ See article 24 (3)

²⁷⁷ See Detrick Sharon", *A Commentary on the United Nations Convention on the Rights of the Child*" Para., 416 See the reference to UN Doc. E/CN. 4/1987/25, para., 29

²⁷⁸ Ibid. 417

²⁷⁹ See Committee on the Rights of the Child, Report on the twenty-third session Geneva, 10-28 January 2000, CRC/C94 (3 March)

State Party to, in the light of article 24 (3), pass legislation prohibiting practices of FGC, hence, referring to the practice of female genital cutting as ‘*a traditional practices prejudicial to the health of the children*’.²⁸⁰ The committee continues in the same recommendation to establish that ‘*to ensure that such legislation is enforced in practice the state party shall undertake preventive information campaigns*’.

4.3.1.3 The Right to Equal Protection Under the Law

CEDAW Art 15 (1) establish that ‘*state parties shall accord to women equality with men before the law*’.

In the CEDAW Committee’s General Recommendation No. 21 the Committee state that such laws and customs that limit a woman’s right and diminish her standing as an independent, responsible and valued member of the community and when countries limit a woman’s legal capacity by their laws, or permit individuals or institutions to do the same, they are denying women their rights to be equal with men and restricting women’s ability to provide for themselves and their dependants’.²⁸¹

A woman’s right to bring litigation is limited in Sierra Leone. A woman is traditionally seen as a minor without full legal capacity. The constitution allow for customary discriminative law to be enforced in rural areas in the country as the constitution provides for an exception from the discrimination prohibition established in the constitution.²⁸² As a result women are not equally protected by the law in Sierra Leone. A woman might, for example, have difficulties of bringing a case to court if a male family member do not have the knowledge of it. This mean that her legal personality is not fully recognized and that she is prevented from the full protection from the law.

Cases of girls who die or get seriously injured in the Bundo Bush as a result of FGC is described above.²⁸³ Since the violence takes place in the Bundo Bush, the authorities commonly do not intervene, even though death occurs. The judicial staff and authorities, such as the Paramount Chief or the Customary Court, often base their decisions with regard to women upon discriminatory traditional attitudes towards women. The effect is that girls and women who are injured or die as a result of FGC, do not have the same equal opportunities as men to be recognized as a victim of violence and are not granted the same protection as men before the law. The rural populations’ lack of knowledge about the formally existing constitution in the rural areas of Sierra Leone also effects the population which continue to

²⁸⁰ Ibid.

²⁸¹ See CEDAW General Recommendation No. 21 “*Equality in marriage and family relations*”, (Thirtieth-session, 1994), A/47/38

²⁸² See 3.4.1 “*Non-Discrimination Under the 1991 Constitution*”

²⁸³ See 3.4.1.2 “*Female Genital Cutting and the Law in Practice*”

live under customary law administered by traditional authorities. According to article 14 of CEDAW *'State parties shall take into account the particular problems faced by rural women...'*

In the rural areas of Sierra Leone, a notable concern is that the traditional chiefs issue licenses for the initiators to carry out the practice of FGC. This indicates that the government of Sierra Leone allows and in fact encourages and promotes the continuation of FGC on girls and women in Sierra Leone. When tolerating this the state of Sierra Leone consequently denies the girl child and women the right to equal recognition before the law, and the right to equal protection by the law. As described above, the traditional chiefs are responsible for anything that happens in the Bundo Bush, but if a girl or a woman dies, they are not likely to intervene and the girl or woman will not be recognized as a victim, equally treated to anyone who died of a cut at the street.

Article 19 of CRC establishes that;

'State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation... while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.

The integrity of young girls, not protesting, who have the practice performed without their informed consent are not ensured corporal integrity and are exposed to violence causing injury. Art 16 (2) of CRC establishes the right of the child to be protected by the law from interference or attacks upon the child's privacy, honour and reputation.

The Committee on the Rights of the Child has in its latest general comment No. 5 specified that *'economic, social and cultural rights, as well as civil and political rights, should be regarded as justiciable'*. The Committee indicates that for rights to have meaning effective remedies must be available to redress violations.²⁸⁴ In Sierra Leone, as we have seen above, rights, even if they do exist theoretically in the law, are most often not justiciable, since rights breached are not properly redressed. Where rights are found to have been breached, there should be appropriate reparation, including compensation. Hence the government of Sierra Leone has both the duty to prevent violations of fundamental human rights and the duty to provide that domestic law sets out entitlements in sufficient detail to enable remedies for non-compliance to be effective.²⁸⁵

State parties to CEDAW shall take all legal and other measures that are necessary to provide effective protection of women against gender based violence.²⁸⁶ The measures include preventive measures, including public

²⁸⁴ See Committee on the Rights of the Child, Report on the twenty-third session Geneva, 10-28 January 2000, CRC/C/94 (3 March)

²⁸⁵ Ibid.

²⁸⁶ See CEDAW General recommendation No. 19, "Violence against Women", (Eleventh session 1992) A/47/38

information and education programmes to change attitudes concerning the roles and status of men and women.²⁸⁷ The government of Sierra Leone ought to incorporate universal human rights norms in their domestic systems, and make these norms applicable and reachable for the people in the country both through laws and state policy.²⁸⁸

The state has a responsibility to act with *due diligence* to prevent violations of human rights. If the state fails to act with *due diligence* and the act can be linked to a specific principle in the CEDAW Convention the state is responsible for such acts of violence. Applied on the case of Sierra Leone, acts of violence such as FGC, perpetrated by initiators in the Bundo Bush should be prevented by authorities. If the authorities, such as police and judiciary are negligent, and are not providing protection for girls and women solely because they are girls and women, they violate the non-discrimination principle.

4.3.1.4 Female Genital Cutting and Participation in Cultural Life in Sierra Leone

CEDAW Article 13 (c) and article 31 of CRC put a focus on cultural activities. In particular the right to participate in recreational activities, sports and *all aspects of cultural life*. This is important to recognize in regard to Sierra Leone and the practice of FGC as the practice is performed on girls in the Bundo Bush and in the Secret Society. The Bundo Society is valuable to women in Sierra Leone and the activities performed in the Bundo Bush are a part of cultural life. FGC causes harm to girls and women, and even though no complications occurs the practice causes severe pain on most girls who have had the practice performed upon them in Sierra Leone. To justify FGC based on the right to traditional/culture, would be to use culture as a pretext of justifying human rights violations which are not accepted by states parties to the international conventions and therein the set of human rights. An example with regard to FGC is CRC article 37 (a). The article provides for a prohibition of cruel, inhuman or degrading treatment or punishment. The Human Rights Committee has in its concluding observations from Sudan concluded that the practice of '*Female Genital Mutilation constitute cruel, inhuman and degrading treatment*'.²⁸⁹ An unauthorized invasion of a person's body further represents a disregard of the fundamental right of physical integrity of a person. Cutting of a part on a body endangers health and threatens life. Special measures in favour of women are necessary because of the heritage of discrimination against women. Discrimination is multi layered and so is also a government's obligation to prevent cultural harmful practices to continue.²⁹⁰

²⁸⁷ Ibid.

²⁸⁸ Ibid.

²⁸⁹ See Concluding Observations of the Human Rights Committee: Sudan. 19/11/97, CCPR/C/79/Add. 85 19 November 1997

²⁹⁰ Ibid.

Sierra Leone has not made any reservations to CEDAW and CRC with regard to cultural practices. If the state continues to allow FGC to prevail on the basis of culture it would violate a number of articles in CEDAW and CRC, emphasized above, and would mean that the state disregard those positive measures the state is obliged to undertake as a result of ratification of the conventions.

4. 4 Obligations under CEDAW and CRC and Compliance by the State of Sierra Leone

Sierra Leone has not taken any official measures neither legal nor other appropriate measures to abolish the practice of FGC, in contrary, it encourages the continuation of FGC.

The two conventions often contain ‘promotional’ provisions looking towards a particular end, such as expanding on certain economic, social and cultural rights for all, but without dictating the precise method of getting there,²⁹¹ namely do not explain how the state obligation shall be fulfilled. A state might not have resources enough to fulfil its obligations or might give priority to other duties under other conventions or because of other urgent needs.

In relation to resources Committees such as the CEDAW Committee, the Committee of the Rights of the Child and the Committee on Economic, Social and Cultural Rights have tried to clarify the position state parties to the conventions shall have.

The CEDAW Committee mentions in the 24th recommendation, that States have the obligation to take appropriate legislative, judicial, administrative, budgetary, economic and other measures ‘*to the maximum extent of their available resources to ensure that women realise their rights to health care*’.²⁹²

In CEDAW the concept of ‘*the maximum extent of their available resources to ensure that women realise their rights to health care*’ is to be applied in concern to economic, social and cultural rights.

The United Nations Committee on Economic, Social and Cultural Rights has in regard to the concept concluded that; ‘*In order for a state party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been*

²⁹¹ Pollis, Adamantia and Schwab (eds.) “Human rights: new perspectives, new realities”, Para., 185, Boulder, Colo.; London: Lynne Rienner Publishers (2000)

²⁹² See CEDAW General recommendation No 24, “*Women and health*”, (Article 12), (Twentieth session, 1999) 02/02/99.

*made to use all resources that are in its disposition in an effort to satisfy, as a matter of priority, those minimum obligations’.*²⁹³

This statement is bringing light on how available resources shall be interpreted. James R Himes write, however, in the introduction to the book *“Implementing the convention on the rights of the child Resource Mobilization in Low income countries”*; that; *‘the phrase in its disposition’ appears to be too vague to serve as a guide to an interpretation of ‘available resources’ and cannot maximize the opportunities to facilitate, but rather inhibit, the full and effective implementation of the CRC’.*²⁹⁴

The Committee of the Rights of the Child has remarked that that lack of resources can *‘hamper the full implementation of economic, social and cultural rights’*, but point out the fact that states that have ratified the convention have, due to the ratification, taken upon themselves *‘obligations not only to implement it within its jurisdiction, but also to contribute, through international cooperation, to global implementation.’*²⁹⁵

This means that state parties have, as a result, obligations to contribute to other state parties, in the global implementation of CRC. In addition, article 55 and 56 of the Charter of the United Nations establish the principles of international law where the object should be international cooperation for development, making the realisation of equal rights and of economic, social and cultural rights as an international obligation of all states.

When specifically looking upon the state of Sierra Leone one should keep in mind that the repeated changes of government, including through military action have made it difficult to develop and implement a concerted policy of implementation and enforcement of ratified conventions.²⁹⁶

Sierra Leone became a party to CEDAW the 11 of November 1988. Since ratification Sierra Leone has not once prepared one report to the CEDAW Committee. On question to the Minister of Social Welfare, Gender and Children’s Affairs, why no report has been prepared the minister said:

*“The reason is that we have not been able to have the right type of staff that can handle this. And what you need is a consultant of a sort. We have had consultants before but they have been very busy with evolving the policy itself that we want to stand the ministry on. We have a policy on gender matters, we have a policy on the advancement of women but as far as the CEDAW is concerned we need to get some assistance, and UNIFEM is helping us with that. We have now been in the position to have someone in my team to work with us to evolve the CEDAW report. It is on now. We hope we will have it by the end of the year. The law reform commission is also working with CEDAW.”*²⁹⁷

²⁹³ Himes R. James (ed.) *“Implementing the convention on the rights of the child: resource mobilization in low-income countries”*, Para., 5 (1995)

²⁹⁴ Ibid.

²⁹⁵ Committee on the Rights of the Child General Comment No. 5, *“General measures of implementation of the Convention on the rights of the Child”* CRC/GC/2003/5

²⁹⁶ Concluding Observations of the Committee on the Rights of the Child: Sierra Leone, (Thirty –third session, 24 February 2000) CRC/C/15/Add. 116

²⁹⁷ Interview with Shierly Gbjuama September 2004

Sierra Leone has in concern to CRC reported to the Committee on the Rights of the Child. In 1997 the Committee emphasised, in the eleventh session, issues regarding the implementation of the rights of the child, in connection with the consideration of the initial report of Sierra Leone (CRC/C/3/Add.43).²⁹⁸ FGC was recognized as an issue to address, and the Committee asked Sierra Leone to “*provide information on legal and other measures taken by Sierra Leone to prevent and combat traditional practices prejudicial to the health of children, in particular female genital mutilation*”.²⁹⁹

CRC embodies the fundamental principle of ‘*first call*’ which places an obligation upon state parties to the convention to ensure that the lives and normal development of children should have the first call on society’s concerns and capacities and children should be able to depend upon commitment at all times.³⁰⁰

The general measures of implementation identified by the Committee of the Rights of the Child are intended to promote the full enjoyment of all rights in the convention by all children, through legislation, the establishment of coordinating and monitoring bodies-governmental and independent-comprehensive data collection, awareness-raising and training and the development and implementation of appropriate policies, services and programmes.³⁰¹

Special measures in favour of women are necessary because of the heritage of discrimination against women and because discrimination is multi layered. This is also a government’s obligations.³⁰² State Parties to CEDAW shall implement a comprehensive national strategy to promote women’s health throughout their lifespan. The strategy shall include interventions aimed at both the prevention and treatment of diseases and conditions affecting women, as well as responding to violence against women, such as FGC.³⁰³

²⁹⁸ See Committee on the Rights of the Child, “*Implementation of the Convention of the Rights of the Child, list of issues to be taken up in connection with the initial report of Sierra Leone, CRC/C/3/Add.43*”, (Seventeenth session pre-session, working group 13-17 October 1997) CRC/C/Q/SIE.1

²⁹⁹ Ibid.

³⁰⁰ Welshman, Ncube, (ed.) “*Law, culture, tradition and children’s rights in eastern and southern Africa*”, Para., 251, (1998)

³⁰¹ Committee on the Rights of the Child General Comment No. 5, “*General measures of implementation of the Convention on the rights of the Child*” CRC/GC/2003/5

³⁰² Tomasevski, Katarina, “*A Handbook on CEDAW: the convention on the elimination of all discrimination against women*”, Para., 12, (2000)

³⁰³ See CEDAW General recommendation No 24, “*Women and health*”, (Article 12), (Twentieth session, 1999) 02/02/99, A/54/38/Rev.1

The CEDAW Committee has in a recommendation specified to State parties what appropriate measures to be taken ‘with a view of eradicating the practice of female circumcision’.³⁰⁴

The Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, conducted a fact-finding visit to Sierra Leone 2001. In the report the Special Rapporteur writes that she is ‘concerned about the widespread practice of female genital mutilation and its harmful effects on the health of girls, and urges the government to pass legislation banning female genital cutting and undertake preventive information campaigns’.³⁰⁵ In the final report the Special Rapporteur encourages the government of Sierra Leone to take the necessary steps to amend legislation so that all ratified instruments are incorporated in to domestic law to ensure that the legal standards created therein are fully respected and that those who violate those instruments are held accountable.³⁰⁶

4.4.1 Implementation of CEDAW in Sierra Leone, Information from the Field

Since the Special Rapporteur gave her recommendation to the government of Sierra Leone, no effective progress has occurred on the subject of female genital cutting and no real attempts of trying to comply with the Special Rapporteurs recommendations has been made. Both the Minister of Social Welfare, Gender and Children’s Affairs in Sierra Leone and the Ombudsman Mr Gabbidon confirmed this.³⁰⁷ The implementation of CEDAW is nevertheless advancing. The Deputy minister informed me that:

“A CEDAW work plan have been developed, committees has been set up and in due course consultations with stakeholders will commence to map out strategies for the CEDAW report. The Law reform commission is currently reviewing the laws of Sierra Leone with a view to reviewing some aspect of the laws discriminatory against women”

The Deputy Minister added that:

“Some aspects of the laws of Sierra Leone are customary based on deep-seated customs and long-standing practices. Reforming these laws to meet international standards will prove very difficult as the people will find it difficult to give up

³⁰⁴ See CEDAW General Recommendation No. 14, “Female circumcision”, (Ninth session, 1990,) A/45/38

³⁰⁵ See Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswamy ‘Integration of the Human Rights of Women and the Gender Perspective’ Para., 12, Commission of Human Rights (fifty-eight Session) 11 February 2002, E/CN.4/2002/83/Add.2

³⁰⁶ Ibid.

³⁰⁷ Interview with the Minister of Social Welfare, Gender and Children’s Affairs in Sierra Leone September 2004 and Interview with the Ombudsman in Sierra Leone Mr Gabbidon September 2004.

some of the practices which they cherish most. Thus, the most important barrier is ensuring people acceptance and conformity to some of these international obligations, which mostly conflict with their traditional norms and practice.”

The Ministry of Social Welfare, Gender and Children’s Affairs have developed a *National Policy on Gender Mainstreaming* where women’s efforts to assume policy and decision making responsibilities is focused on. The policy recognize that women’s possibilities in regard to decision making is impeded as a result of customary laws which hinder possibilities for women. The national policy include as well that the government shall support programs that are designed for gender sensitive policy makers, implementers and others. The government states that it will undertake awareness programs on gender issues and explore the possibility of harmonizing the laws of Sierra Leone to ensure the welfare of women and children.³⁰⁸ The issue of FGC is not included as a specific issue in the national policy on gender mainstreaming.

The ministry have in addition developed a *National Policy on the Advancement of Women*. The policy mention, as a medium term objective, that traditional practices and concepts which are harmful to the health and well being of women and girls should be ‘discouraged’. As a strategy to proceed in this issue the ministry suggest health education programs aimed at discouraging current harmful traditional concepts.³⁰⁹ The practice of FGC is not specifically mentioned in the policy and it is therefore not clear if the ministry officially include female genital cutting as a harmful traditional practice as a part of the national policy.

When discussing the issue of FGC with the Minister of Social Welfare, Gender and Children’s Affairs it was clear that she did not include female genital cutting as a harmful traditional practice. She said during an interview at her office the 22 of September 2004 that if both the child and the parents consent to have ‘female circumcision’ performed it is the right of the child to have it done. She further said:

“If the child is below 16 years the practice may affect the health of the girl child but if the child is above 16 years I do not think it shall affect them. Because I know especially when a child is 5-7 years old, some people have been doing it, than that is not good because it is hardly much to do and what you will do is something which eventually will affect the child when it grows up. But when the child is 15-16 years I do not think there is any problem. I do not see any health hazards”

³⁰⁸See “*The National Policy on Gender Mainstreaming*”, Ministry of Social Welfare, Gender and Children’s Affairs of Sierra Leone, Publication supported by UNICEF, Sierra Leone

³⁰⁹See “*The National Policy on the Advancement of Women*”, Ministry of Social Welfare, Gender and Children’s affairs of Sierra Leone, Publication supported by UNICEF, Sierra Leone

In an internal, project proposal, not published, but handed over to me, from the Ministry of Social Welfare, Gender and Children's Affairs of on the theme "A Nation-Wide sensitization for Local Authorities, Initiators and Communities on Harmful Traditional Practices" the Ministry nevertheless aim to create a sensitization campaign to sensitize "the initiators and the communities on harmful traditional practices and a way forward to addressing it". The project proposal refers to FGM and the Cairo Platform which calls for complete abandonment of the practice. The outcome is by the end of the program is suggested to be that:

1. *Traditional leaders, initiators, parents and communities in all chiefdoms in the country are fully educated and aware of these harmful traditional practices.*
2. *That these harmful traditional practices will be considerably reduced and be redressed.*

However the Ministry points, in the project proposal, out the lack of logistics and equipments in carrying out an "exercise of the nature", and explains the different needs for the project to be realized.³¹⁰

The issue of FGC has further been addressed at the Women's Law Reform Workshop 8-10 July 2003, once again by the Deputy Minister of Social Welfare, Gender and Children's Affairs. She concluded that:

*"Information has been disseminated about the Cairo Workshop for the preparations of legal tools for the removal of FGM, which was attended by a three man delegation including the deputy minister, the workshop will be followed by the enactment of laws for FGM and subsequent criminalization of the act. FGM is a sensitive issue in Sierra Leone and support is needed to eradicate the practice; Sierra Leoneans have already signed the declaration in support of its eradication"*³¹¹

The project proposal above and the Deputy Ministers willingness to address the issue is a great progress in the initiation phase of addressing FGC. The state of Sierra Leone is nevertheless obliged to address FGC officially and adhere to those duties of implementation.

³¹⁰ See A unofficial project proposal on the theme 'A nation wide sensitization for local authorities, initiators and communities on harmful traditional practices' Ministry of Social Welfare and Children's Affairs (Gender and Children Affairs Division) Handed over to me by the Deputy Minister Memunata Koroma, September 2004, Freetown, Sierra Leone.

³¹¹ See The Summary of the Women's Law Reform Workshop "Building a Women's Law Reform Agenda" 8-10 July 2003 Mamba Point Hotel Wilberforce, Freetown Sierra Leone

4.6.1 An Illustration of Current Legislation in West African Countries and the Meaning of a Law

“Legislation against female genital mutilation is important both because it represents a formal expression of public disapproval and because it is the means by which governments can establish official sanctions³¹².”

Beneath I intend to make a brief description of two countries in the West African region to illustrate how these countries has tackled the issue of FGC after passing laws prohibiting the practice, with various results as an outcome. The aim is to grasp the positive and negative aspects laws has lead to and create a basis for further discussion on the case of Sierra Leone.

In West African countries, the prevalence rates of girls and women who have undergone FGC is estimated to be between 20-98 percent.³¹³ Countries such as Senegal, Burkina Faso, Ghana, Guinea, Ivory Coast, Senegal, Togo has all outlawed the practice of FGC. It is not yet possible to properly conclude the success of these laws as many has been passed in recent years. It is however possible to look at what has been done to prepare the population on coming legislation and how the legislation has been used.

In **Burkina Faso** resistance and hostility from the population has been massive, similar to Sierra Leone when the issue of FGC first was opened up for debate. After attempts to campaign against the practice via media a focus has been put on the health effects, as attempts via media was not a success. After many years of campaigning and the construction of national awareness programmes the taboos surrounding the practice were broken and attitudes starting to change. An anti-excision committee has been active in the provinces of Burkina Faso and a few years ago the government of Burkina Faso made a firm commitment to stop the practice.³¹⁴

In 1996, FGC was outlaw in Burkina Faso. Since the adoption of the Law, 60 convictions of both excisors (initiators), and accomplices have resulted in sentences of imprisonment or fines.³¹⁵ However, the enforcement of the law was achievable since attempts to address the practice started already in 1975.³¹⁶ Chiefs in the provinces was reached and were setting examples for

³¹² See Patricia Wheeler “Eliminating FGM: The Role of the Law” page 262, *The International Journal of Children’s Rights*. 11 (2004) and The Joint statement by WHO/UNICEF/UNFPA on ‘FGM’, (1997)

³¹³ See WHO “Female Genital Mutilation: Prevalence and Distribution, See “*Estimated Prevalence of Female Genital Mutilation in Africa*”:
http://www.who.int/docstore/frhwhd/FGM/infopack/English/fgm_infopack.htm#PREVALENCE%20AND%20DISTRIBUTION, Last visited 2005-02-15

³¹⁴ See “*Millions left scarred by female mutilation*”, *Putting a stop to excision in Burkina Faso*, <http://mondediplo.com/1998/10/07burkina> , Last visited 2005-02-12

³¹⁵ See Lockhat, Haseena, *Female genital mutilation: treating the tears*, Para., 64 (2004)

³¹⁶ Ibid.

the people as some of the chiefs were not practicing FGC on their own daughters. The people in the rural areas of Burkina Faso are, as well as the people in Sierra Leone, governed by beliefs of mysterious powers, sorcerers and malevolent beings, which are believed to be the reasons for which girls die when exposed to FGC. When the traditional chiefs started to tell the people that if there is any punishment by the ancestors, for not performing FGC, they would take the responsibility the people could feel safer. This kind of assurance carries weight as it was the statement of the chiefs, coming from the same culture as the people.³¹⁷

In Guinea, a state neighbouring Sierra Leone, a law was passed in 1969 banning FGC and male circumcision. The law has nevertheless not been implemented, and no cases have ever been brought to trial. A reason might be that efforts to implement the law has not been made by the government, until 1989 when the government publicly condemned FGC, referring to the constitution. But neither the public condemnation nor the law has led to any behavioural changes.³¹⁸ A member of the Guinean Supreme court is currently working with a local NGO on inserting a clause into the Guinean constitution specifically prohibiting the practice.³¹⁹ Another attempt was made in 1999 when hundreds of initiators handed in their special ceremonial knives in Korosa. However, this was the result of 14 years of campaigning by NGO's, and I was told when I was in Conakry that the women were given a sack of rice in exchange. Hence, not very oddly they handed over their knives.

Laws banning FGC can not eradicate the practice over a night. A law would however have the effect that it is officially stated that the practice of FGC is not accepted by the state. The fact that a tool exists, in the shape of a law, enables women, resisting the practice, to reason in a perspective of such a law and makes it easier for law enforcement officials and lawyers to bring a case to trial. This means that they would not stand completely powerless to act.

Since the practice is strongly imbedded in the culture it is necessary for legal norms to be accepted and effective. The norms require social acceptance by the people who are the subjects for social change.³²⁰ Even though there is a need for new norms which might show people that new and different ways are valid and exist it is of highest relevance to

³¹⁷ See "Millions left scarred by female mutilation, Putting a stop to excision in Burkina Faso", <http://mondediplo.com/1998/10/07/burkina>, Last visited 2005-02-12

³¹⁸ See Malmegård Sofie and Rask Karin "Sensitisation-a new implementation approach? A case study concerning the eradication of female circumcision/Female Genital Mutilation in Guinea", Para., 14, Lund University Department of Political Science STV 003 Autumn 2001 Tutor: Håkan Magnusson.

³¹⁹ See Lockhat, Haseena, Female genital mutilation: treating the tears, Para., 64 (2004)

³²⁰ See Mwaipopo Sarah "The Law and Practice Relation to Female Genital Mutilation in Tanzania" Faculty of Law, Lund University/RWI, Masters Programme in Human Rights Law Prof. Katarina Tomasevski Fall 2004

encompass strategies for education, sensitization and information before a law is passed.

According to the Deputy Minister of the Ministry of Social Welfare Gender and Children's Affairs in Sierra Leone, the process of eradicating FGC through prohibition by law should be gradual as the practice for long has been a part of the peoples' culture and because about 90 percent of the women in the country cling to this practice.

*"A law prohibiting such practice will prove to be very unpopular among women folks."*³²¹

This is an argument not to be rejected. In the case of Sierra Leone it is important to use both a top down and a bottom up approach, meaning that for the legislation to be effective and possible to implement and enforce both official measures and policies has to be taken. Strategies ought to be developed at a grass root level taking in consideration the existing customs when increasing an understanding of the reasons of why FGC cannot be accepted. Only to pass a law would not facilitate the eradication of FGC, but would instead have the same outcome as in Guinea, meaning no progress.

It is consequently crucial not to advice for an immediate ban of FGC, but it has to be done in connection with careful considerations of the context the law is to be implemented and enforced within and the goals that shall be achieved with the law.

Sarah Mwaipopo writes in her Master Thesis on Tanzania, *'any government, which intends to prohibit FGC by using law, should make sure that the law clearly and expressly defines the prohibited act; lack of definition might be an obstacle in formulating and knowing the nature of the offence and hence leaving the suspects or criminals outside the ambit or purview of the relevant section of the law'*.³²² She continues by stating that a law should make sure that all types of FGC performed is covered.

It is further essential not to forget that the Supreme Court of Sierra Leone has powers and competence to try cases of interpretative significance, and could, for example consider wheatear the question if the practice of FGC could be included in any existing section in criminal law of Sierra Leone. The Supreme court is the last resort within a country and also the executive organ within the legislative system that might ensure effective interpretation of the existing national laws. It is only after the failure of domestic judicial proceedings that the international human rights conventions provide for interventions of the bodies, such as for example the African court and

³²¹ Answers by the Deputy Minister A.J Koroma at the Gender Division, Paper received, Freetown 2004.

³²² See Mwaipopo Sarah *"The Law and Practice Relation to Female Genital Mutilation in Tanzania"* Faculty of Law, Lund University/RWI, Masters Programme in Human Rights Law Prof. Katarina Tomasevski Fall 2004

African Commission on Human and Peoples' Rights. This is essential in a discussion regarding laws in a country as it is difficult, in legal terms, to know what the highest judiciary's interpretation of a case is if it is never tried.

CHAPTER FIVE: Possible Strategies and Concluding Remarks

In this part of the thesis I intend to outline suggestions which might be appropriate for Sierra Leone when the steps to initiate change in regard to FGC will commence. I will then terminate the thesis with concluding remarks, the conclusion is intended to be a summing up of the overall aim of the thesis.

5.1 Recommendations for Change; Ideas From a Number of Women in Sierra Leone

In this part I have included suggestions from some of the people I interviewed in Sierra Leone. Their suggestions and thoughts are of high relevance and value as they are living their daily life in Sierra Leone. Thus they are capable of interpreting the situation and may easier foresee what would happen if FGC is addressed in the country.

Thoughts and recommendations of women in Sierra Leone, for the abolition of FGC:

“Call the initiators, talk to them, educate them and encourage them to stop, because they are the ones that decides, it is left to all women to be educated and stop it”

“One have to sensitize the people, tell them the harm it does, it is possible provided you talk to them, tell them the reason to stop, maybe they will stop and accept”

“The government will help, they will respect the government”

“It is not good if the government want to stop it because it will effect the women who are not initiated when they give birth, the clitoris will block the child when it is coming out”

Would a law prohibiting FGC facilitate to abolish the practice?

“A law will not be good, it will disturb, we will hide, we leave the child to hide until she feel better”.³²³

“I like the idea, we respect the government, if they say, and educate us, we will stop”

Maybe the government want to stop it cause some die there and they bleed a lot, therefore if the government tell us to stop we are willing to stop”

“Women will demonstrate, they cannot stop it”

³²³ Interview in Freetown August 2004

If stop it the initiators will feel it, let us stop if there is a law, people will cooperate, even without the government some have stopped it, so if the government add their will it can make it easier”

Town Chief, Jottor:³²⁴

“If the international community decide it fits (to stop FGC) and the government accepts, we the traditional rulers will have to ask our women to stop the practice. We are there for the government, we can talk to our women. If there is a proposal, the government should call all the paramount chiefs. They will withdraw to their communities and give the message out to the women. The rulers will say, a treaty is signed and they will advise the women. At this time the chiefdoms will not be afraid, as the government backs them up”

5.2 Suggestions

There is no law neither any policy statement from the government in Sierra Leone with regard to the practice of FGC. Addressing FGC in Sierra Leone is, as we have seen, not an easy task. It requires the challenging of a range of issues, which are needed to be recognized and outlined. The outline of these issues has been made in this thesis and these are to be kept in mind when the suggestions are illustrated.

The concrete suggestions for stakeholders here under is aimed to guide action to be taken to put an end to FGC in Sierra Leone. Note that these approaches and suggestions should be applied together, if applied in isolation the impact will be quite insignificant.

5.2.1 Policy Statement and a Law

A prerequisite for action against FGC in Sierra Leone is a *policy statement* from the government.

People in Sierra Leone need a policy statement as those who oppose the practice might refer to the statement when they attempt to combat and address FGC.

A policy statement from the government is, as well, important for women and girls in Sierra Leone who refuse to undergo the practice of FGC. They may refer to the policy statement when opposing those who encourage the continuation of FGC.

A policy statement is, as stated above by Town Chief Jottor in Kenema,

³²⁴ Kenema August 2004

necessary for the traditional leaders, for them to dare to address the issue within their communities.

Lawyers would have a ground for their arguments against the practice and could bring cases on FGC to trial, referring to general law and include FGC.

A Law would nevertheless be the ultimate goal. Prosecutors, the police and law enforcement agents are in need of a tool in form of a law to be able to intervene when FGC is performed upon girls and women. The female population would also, through a law, be able to have legal recourse and a remedy if their rights have been violated.

In September 2001, the European parliament adopted a resolution which calls upon the European Union and the member States for the promotion of foreign aid “to those countries which have adopted legislative and administrative measures prohibiting the practice of FGM”.³²⁵ A possibility would be that those countries relevant as donors of foreign aid recognize the lack of measures to prohibit FGC in Sierra Leone, and address the issue in dialogues with the government of Sierra Leone. Government officials from Sierra Leone could also make donor countries aware of this before initiating development of legislative and administrative measures.

An illustration of the effects of a law prohibiting FGC is given by Drissa Konté, a 29-year-old community health worker in the northern Ivory Coast; She mean that “One can talk to these women all you want about the human rights side of it, or the danger to the girls. But it is the threat of being arrested that has an effect, let one woman in this region be arrested for performing excision, and watch how fast they stop it”.³²⁶

A law must nevertheless be followed by the encouragement and awareness raising for the population, and make girls and women aware of their possibilities to report FGC. The Family Support Unit at the police could be responsible for taking reports. The Family Support Unit could also provide for mediation between a girl and her family, both because the court system is not yet effectively functioning but also because it might be difficult for a woman or a girl to bring a case to trial if protection is not given and when the short term solution would be an informal mechanism which can help her to approach the threat of FGC. A suggestion should in addition be that she is assisted by a woman from an NGO who would help her to formulate what she wants or do not want in front of her family.

An issue of particular weight is the issue if women do not have the freedom of choice, no matter how educated they are they might not have a choice to

³²⁵ See Patricia Wheeler “Eliminating FGM: The Role of the Law, *The International Journal of Children’s Rights*. 11 (2004)

³²⁶ See Robinson, Simon, “*The Last Rites*”, December 3, 2001/Vol. 158 No. 23 See: <http://www.time.com/time/europe/af/magazine/0,13716,185799,00.html> Last visited 2005-02-16

decide whether they shall undergo FGC or not. It is therefore of tremendous necessity that the women not only in regard to FGC but in regard to their lives in general are granted the same equal protection by the law as men, and that they are recognized equally to men in the sectors of the society. This is not something which can be changed focusing on one issue but has to be looked upon from all perspectives. The fundament for change would mainly be change within the family, using “*the bottom up approach*”, meaning that change comes when people most effected by the problems are involved in creating a solution. This presupposes that women must be granted equal participation within the community and within politics.

5.2.2 Sensitization

Sensitization is crucial to use as approach to be applied in a campaign against FGC, and might have a large impact on people in Sierra Leone. Sensitization can be carried out in line with the policy statement from the government. It is difficult to imagine that a sensitization campaign would be successful without support from the government.

In the unofficial proposal from the Ministry of Social Welfare, Gender and Children’s Affairs (the Gender and Children’s Affairs Division) focus is put on sensitization. The sensitization should target local authorities, initiators and the communities in general. The objective would be to create awareness on the relationship between FGC and related health effects.

An idea, strongly recommended, would be to form a technical advisory committee comprised of e.g. local NGO’s, Paramount Chiefs, local and religious leaders and government officials. The committee would design and follow-up the results of a campaign.

The committee’s first task would be to consider in what way a campaign could be carried out. The campaign has to be based on research and understanding of the local context. Research is also necessary to estimate the public approval or disapproval for the continuance of FGC. It is however worth to keep in mind that the public base their perceptions on the cultural values and if educated these perceptions on cultural values and if educated these perceptions might change and thereof also their support of the continuation of FGC. The next goal should would be to provide all stakeholders and the members of the committee with information so that they can initiate sensitization.

The sensitization would deal with both the health effects of FGC, the risk of HIV/AIDS could also be included as an highly relevant issue, and those myths and rumors surrounding the practice would be focused on. This is essential as the taboos must be broken for a campaign to be constructive.

Sensitization cannot only target one group in the society, but has to be wide and include consultation. It is essential to recognize and identify the structures in the society as structural distinctions within the society play an important role in Sierra Leone and is interconnected with the identities of the people.

Communication is necessary for change. For that reason it is necessary that initiators, community leaders such as the paramount chiefs and elders are consulted by the committee members and they shall give their views of the practice. The sensitization can be enforced first after consultations have been conducted and based on the findings a campaign can be crystallized, outlined and carried out. The sensitization campaign can be carried out through schools, media, the judicial system, NGO's, existing health facilities and community based groups such as the child welfare committees. It is crucial that the people are active in the process so that the issues which are addressed to the people in the communities reaches everyone.

Before schools are educating students it is necessary to educate parents of the risks of FGC. Examples can be found where teachers has taken the initiative to educate children on FGC and parents has taken children from the school. An idea could therefore be to create parent groups discussing the issue of FGC within the communities, before targeting children. The outcome can be presented for the traditional leaders, for them to engage in a dialogue with the people.

5.2.3 Alternative Ceremonies

I have described the power and strengths of the Bundo Society and its fundamental importance to many people in Sierra Leone. It is significant not to dismiss the society and its continuation and stress the fact that the society might contribute with positive things for women. Therefore instead of ignoring the society as an important element in the society it could be used as a channel for change. The ceremonies are today changing because of different reasons, and a weight is put on FGC and not so much on other cultural aspects of the society. To highlight the other parts of the cultural heritage within the society should be a main goal.

An example from the west African context can be found in Gambia, where the Foundation for research on Women's health, productivity and Environment (BAFROW) has put efforts to reconstructure rites of passage ceremonies for girls to exclude the physical act of FGC.

The new ceremonies were realizable after the BARFOW had trained initiators and their assistants to use a designed new ceremony.³²⁷ Parents and community members were educated through a campaign about the new

³²⁷ See The Foundation for Research on Women's health, Productivity and the Environment (BAFOW), "*Rites of Passage: Responses to Female Genital Cutting in the Gambia*" : <http://www.cedpa.org/publications/PROWID/AFRICA/bafrow.pdf> Last visited 2005-02-16

rite of passage in order to convince parents to send their daughters to participate in the new ceremony.³²⁸

This could be an idea to be developed within the context of Sierra Leone and the Bundo Societies would have the continued responsibility of an alternative rite of passage for the girls. The initiators could continue to educate girls of the positive aspects of the culture of Sierra Leone and maintain their authority in the community. The new ceremony would continue to remain a time of festivity and gift giving and the initiators and other relevant community members would have an continued site for their activities.³²⁹

5.2.4 Income Generating Activities for the Initiators

The alternative ceremonies would, if adapted, continue to be an source of income for the initiators as the same principles would be applicable for the Bundo Society and FGC and the initiators would still be those responsible for the ceremonies.

If this is not possible, and if the idea of alternative initiation rites would be rejected a possibility of other income generating activities would have to be found. An idea would be that the initiators maintain their position as consultants and mediators for the people in the communities, hence preserving their authority and gaining income from the people assisted.

5.3 Suggestions for Implementing Actors

-The Ministry of Social Welfare, Gender and Children's Affairs

The Ministry should be one of the main actors when addressing FGC in Sierra Leone. The ministry need to take a firm stand against the practice of FGC and issue an official policy statement, reaching the people, if possible together with other ministries in Sierra Leone. The ministry should also include FGC, specifically in its two national policies, and describe how action is or will be taken by the ministry to abolish the practice.

-The National Commission for Democracy & Human Rights

The Commission was created in 1994 by the military government. The rationale for creating the commission was the need for an independent body to engineer the attitudinal transformation needed for the people in the

³²⁸ Ibid.

³²⁹ Ibid.

conflict torn Sierra Leone. The commission would promote democracy, good governance, national development and the exercise of civic rights and responsibilities.³³⁰ In 1996, through an act of Parliament (Act No. 3), the democratically elected government expanded the mandate to include human rights. The mandate of the Commission is, amongst other things, to “*increase resentment against violations of human rights generally and the rights of women and children in particular*”, to create greater awareness and acceptance of children’s rights and obligations and of the responsibilities of adults and the state towards them”, “to increase awareness and understanding of human rights issues and the strategies to address them at various levels.”³³¹

The Commission could be an implementing partner for strategies with regard to the abolition of FGC in Sierra Leone.

The Commission receives funding from NGO’s, and receive a subvention from the government.

-Family Support Unit at the Police

The Family Unit (FSU) should be educated about FGC and given the responsibility to receive and coordinate complaints in regard to FGC. The FSU has been educated to receive claims of rape, and to initiate further education in the same way as this has been done can therefore not be dismissed as impossible.

Funding will however be needed.

-Lawyers Center for Legal Assistance (LAWCLA)

The Center for Legal Assistance is the only centre which provides for free legal assistance in Sierra Leone. The center is a non-profit making public interest human rights law center. The center has a Gender Research & Advocacy Unit and has represented victims of rape, and given legal advice to female clients. It is also advocating for legal reform of discriminatory laws against women in Sierra Leone.³³² A suggestion would be that LAWCLA initiate a test case for the supreme court, provided there is a victim who is ready to bring her case to trial. The Supreme Court of Sierra Leone could clarify the rule of law in regard to FGC.

Different organizations and institutions have funded LAWCLA’s activities and a possibility could be to receive funding specifically in regard to a project dealing with FGC and the initiation of litigation of a case of FGC.

³³⁰ See http://www.daco-sl.org/encyclopedia2004/5_gov/5_3ncdhr.htm Last visited 2005-02-15

³³¹ See National Commission for Democracy & Human Rights, Sierra Leone, Annual Report for 2002 See <http://www.daco-sl.org/encyclopedia2004/>

³³² See The Lawyers Centre for Legal Assistance Sierra Leone Report Highlighting Activities that were Executed by the Centre in 2003, Para., 8

5.3.1 UN Agencies Present in Sierra Leone

UNICEF

The United Nations International Children's Fund, is mandated by the United Nations General Assembly to advocate for the protection of children's rights.³³³

UNICEF works through its country program's, to promote the equal rights of women and girls and support their full participation in the political, social and economic development of their communities.³³⁴

UNICEF has a planned Country Program 2004-2007 for Sierra Leone.³³⁵ The Country program include a Health and Nutrition Program, a primary Education Program, child protection programs, a water and sanitation program and an adolescent HIV/AIDS program.³³⁶

A suggestion would be that FGC is included in these programs as an issue in addition to those already addressed. FGC is interconnected with issues mentioned to be improved within the Health and Nutrition program, for example the anemia in pregnant women.³³⁷

The primary education program could address the issue of FGC when improving the quality of teaching, as it is described that education program will include training of 5000 teachers. The Child Protection program which is addressing major protection issues, could when '*district chieftom social development workers*' are '*strengthen to support the community-based support systems*' inform the social workers of the policy of UNICEF and FGC.

When UNICEF is '*increasing protection services through the updating and revitalization of the juvenile justice system and expanding the services for child victims of sexual and physical abuse*', FGC could be an additional issue to be addressed as FGC could be seen as physical abuse, and when the '*child welfare system will be strengthened in each district*' in Sierra Leone and '*information and awareness raising materials will be disseminated nationally to change attitudes and practices concerning gender-based violence*', FGC should be one of these practices specifically addressed.

³³³ See UNICEF's Mission Statement http://www.unicef.org/about/who/index_mission.html Last visited 2005-02-15

³³⁴ See http://www.daco-sl.org/encyclopedia2004/4_part/4_2icef.htm Last visited 2005-02-15

³³⁵ See http://www.daco-sl.org/encyclopedia2004/4_part/42icef.htm Last visited 2005-02-15

³³⁶ Ibid.

³³⁷ See 2.3.3 "Immediate Health Consequences"

The Adolescent HIV/AIDS Program could inform on FGC and the risk of HIV/AIDS when FGC is carried out on girls, as the UNICEF *‘provide support for information and behavioral change targeted at adolescents’*.

UNIFEM

The United Nations Development Fund for Women in Sierra Leone will support the legal reform in the areas of women’s rights in Sierra Leone.³³⁸

UNIFEM could include FGC as an issue to address when supporting the legal reform of women’s rights in Sierra Leone.

UNFPA

The United Nations Population Fund works with governments and NGO’s. UNFPA support program that help women, men and young people with reproductive health issues such as how to undergo pregnancy and child birth safely and combat violence against women. UNFPA also work with awareness raising, and helps governments in the world’s poorest countries, and countries in need to formulate population policies and strategies in support of sustainable development.³³⁹ UNFPA could be an avenue for the government of Sierra Leone in regard to developing a policy against FGC.

These Agencies have a very central role to play in Sierra Leone and these Agencies need to recognize that FGC is an essential issue, relevant to address in the country.

5.3 Concluding Remarks

“Just Denouncing the practice of FGC can make some of us feel better and self-righteous, but will not solve the problem because human behavior and cultural values, however senseless and destructive they look to us from our personal stand points, have a meaning and fulfill a function for those who practice them. People will only change their behavior when they themselves perceive it to be wrong and meaningless.”³⁴⁰

Arriving in Sierra Leone I was advised not to include the subject of FGC in my study as; *“it could be dangerous, difficult and no one would dare to speak to me about it”*.

³³⁸See http://www.daco-sl.org/encyclopedia2004/4_part/4_2ifem.htm Last visited 2005-02-15

³³⁹See http://www.daco-sl.org/encyclopedia2004/4_part/4_2fpa.htm Last visited 2005-02-15

³⁴⁰ See The Lawyers Centre for Legal Assistance Sierra Leone Report highlighting activities that were executed by the Centre in 2003, Article by Jeneba Kamara, Paras., 12-13

But when starting to carry out the study I found that people were very anxious to discuss the issue, especially youths and women. They had an interest and a yearning to learn more about human rights and the responsibility of the state to ensure these rights. My findings has showed that peoples' and their cultures' are evolving and that people have a yearning to learn and develop, in order to achieve a better life. A woman, 40 years old, in Bo who sold palm oil asked me to pass a message to the government, she said:

“I want you to go to the government and give recommendations about the suffering, what the women go true, some do like it, but they do not understand, the government has to make the people understand. The government has much to say, but it seem that the government do not want. The women suffer beacoup, even the child bearing, no one assist the women, let the government pay attention to the woman issue. The men do not care, women are not supposed to suffer in this way, I want to see changes on the women's issue because we suffer beacoup!”

With this thesis I have sketched a picture of Sierra Leone and the practice of FGC. I have emphasised the implementation of both the Convention on the Elimination of All Forms of Discrimination against women and the Convention and the Rights of the Child. The discussion with regard to the implementation of these conventions shows that there are many ways that the conventions can be called upon for the elimination of discrimination against women and FGC, and many strategies to apply. The conventions may also be used as tools when lobbying for the abolition of FGC and for educational purpose to initiate change for women and children effected by discrimination. The thesis may contribute with ideas and arguments in order to achieve change regarding FGC and to improve the status of women in Sierra Leone.

Supplement A

A Youth Organisation in Freetown “The Youth Fighting Against HIV/AIDS” wrote me this after asking female friends in their neighborhood on the practice of FGM (Mohammed James Kamara and Balla Sesay.

How women in particular respond to circumcision:

“The first person we asked she actually do not like the initiation but they just have to go under it to prove their moral instinct and in regard to traditional values in Sierra Leone in general. However some are enthusiastic to undergo the ceremony for many reasons.

Firstly if they fail to perform or refuse the initiation they would be rejected and refused many privileges and be disregarded in the society, calling them unfavorable names that differentiate them from the others who have already undergone “Gboraka” the traditional circumcision commonly known as Bundo society.

Secondly opportunities could be given to the undergoes and those who rejected are being discriminated in terms of marriage.

Or it becomes a political issue, the Mamy Queen of the village/town, neglect your opinion, ideas, feelings, thoughts etc. Whether it being negative or positive initiatives they wouldn't listen to you.

So this is why people force themselves into the ideas. Some are even eager to do it because they saw others going through it and they admired them greatly because of their songs, dancing, plays and food availability for the initiated.

Further they would be convinced that if they did not go through the ceremony it would be difficult for them to have one partner in their matrimonial homes, and effect them how to take care of the matrimonial house such as how to take care of their husband, child and home integral. The idea of our traditional people that if the female sex refused to be circumcised, it would be very difficult for one male partner to satisfy the female in terms of sex in particular.

Finally, the least but not last, the ancient traditional people who introduced this practice openly agreed for females to be circumcised because male are circumcised so why not female. Though some of us are against these ideas since it is not in the Bible nor in the Koran.

So we would be grateful if you people would put some mechanism in place to stop it. There are many reasons for this but we could not outline all for now. To clear your doubt they use the same knife to perform that circumcision on the females sex in a traditional Sierra Leonean setting.”

Supplement B

Case in the Magistrate Court of Freetown; The Tokeh Case.

The case involves death of a young woman, in her late 20s early 30s in 2002.

Facts (according to the prosecutor):

The deceased was quarrelling with a lady who is a member of the Bundo society. The deceased condemned the Bundo society and made many comments against the woman and the members of the Bundo Society. The member of the Bundo society made a report to the senior members of the Bundo society who held a meeting and decided that they will initiate the deceased into the Bundo society by force. This information reached the deceased who decided to abandon the village. As soon as the deceased left this reached the members of the Bundo society who started to chase the deceased. She was running towards a nearby village. A witness said that six Bundo women chased the deceased. Between the two villages there was a river. The deceased went into the river to swim across, but she drowned.

All six Bundo women are charged with murder, but the director for public prosecutions gave instructions, when the case was pending, that it shall be reduced to man slaughter.

The Bundo women had been arrested by the headman of the village!

Three police investigated the case, are also formal witnesses.

Four civilian witnesses, one of the witness changed story in the court, by the police have notes from interrogation.

According to the prosecutor this case is not "Strictly a Bundo case" as the deceased was not harmed in the Bundo bush.

If it would have happened in the bush only Bundo women may enter to investigate the case. When I asked if they will not be biased he said "no because they have sworn the police oath"

The case is now on the stage of preliminary investigation. The magistrate has no right to deliver a judgment, but shall deliver the case to the high court only if the magistrate consider the case to be proven by the prosecutor.

Initially it was a female senior magistrate on the case but she was elevated from the court to the high court. She was not a member of the Bundo society.

I was in the court the day the case should have been brought but the case was adjourned. I heard later that this is very common in the courts, a case is often adjourned several times and in the end the witnesses does not come

and the case cant be carried through.

I have this case because it was the only case I existing concerning the Bundo Society that had been brought to court, that any of the lawyers, judges and polices and prosecutors I met had heard about.

It is also an example on what the Bundo society is capable to do.

Table of interviews

Interviewed women in Sierra Leone:

- 19 Women Interviewed in Kabala in August 2004
- 20 Women Interviewed in Kenema in August 2004
- 17 Women Interviewed in Bo in August 2004
- 10 Women interviewed in Freetown in September and August 2004

Other persons subjects to my interviews in Sierra Leone:

- Mr Gabbidon, Francis, The Ombudsman of Sierra Leone, interview in Freetown, September 2004
- Mrs Gbujama, Shirley, The Minister of Social Welfare, Gender and Children's Affairs of Sierra Leone, interview in Freetown, September 2004
- Mrs Koroma, A.J, Deputy Minister, The Gender Division at the Ministry of Social Welfare Gender and Children's Affairs, interview in Freetown, September 2004
- Mrs Mariato, Bangura, Ministry of Social Welfare, Gender and Children's Affairs, interview in Freetown, September 2004
- Mrs Koroma, Jenoba, working with the Common Wealth Secretariat on a simplified version of CEDAW, interview in Freetown, September 2004
- Mr Arrow, Lawyer, interview in Bo, September 2004
- Two lawyers in Freetown working at the Attorney Generals Office (did not wanted me to cite their names), interviews in September 2004
- Mr Carew, F.M. Attorney General of Sierra Leone, interview in Freetown September 2004
- Two lawyers in Kenema, (did not wanted me to cite their names), Interviews in Kenema August 2004
- Five Soweis (initiators), interviews in Kenema, August 2004
- Chief Jottor, Town Chief in Kenema, interview in Kenema, August 2004, together with the SLPP Chairman in Kenema
- Mr Mansaray, Ali, Marah, Paramount Chief in Kabala, interview in Kabala, August 2004

- Mr Sisse, Mohammed, Court Chairman of the Customary Court of Kabala, Interview in August 2004
- Mr Bah, Kalilu Field Officer for the Campaign for Good Governance- Koinadugu, interview in Kabala, August 2004
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