

THE IMPACT OF THE MAPUTO PROTOCOL IN SIERRA LEONE

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1 Introduction

Sierra Leone is a country situated on the West Coast of Africa. It is a former British colony that gained independence in 1961. It is one of the least developed countries in the world, as ranked by the United Nations Development Programme (UNDP),¹ with an estimated population of seven million people. Women constitute a majority of its total population.²

But despite women being in the majority and having always contributed meaningfully to the country's economy and wellbeing, they have continued to experience systemic marginalisation and discrimination especially in the political, economic, social and cultural aspects of society.³ Issues related to equal opportunities for men and women in the Sierra Leonean society have been largely undermined as a result of early

marriage, teenage pregnancy, broken homes, patriarchy, stereotypes, post conflict society, promiscuous lifestyles and harmful practices such as female genital mutilation (FGM). Sexual and gender-based violence (SGBV) meted against women and girls still remains appalling and commonplace in Sierra Leone.⁴

Against this backdrop, and in a bid to address this ugly state of affairs, successive governments of Sierra Leone in the last two decades have made commitments to expand opportunities for women and girls to promote the advancement of gender equality and women empowerment initiatives. To fulfil its commitment, the state of Sierra Leone has at both the international and regional levels accepted many international treaties and conventions that guarantee the rights of women. These instruments include: the Universal Declaration of Human Rights (UDHR),⁵ the International Covenant on Civil and Political Rights (ICCPR),⁶ the International Covenant on Econom-

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1 See 'UNDP Human Development Report Index 2019.' Available at www.hdr.undp.org (accessed 3 August 2021).

2 '2015 Population and Housing Census: Summary of Final Results in Sierra Leone'.

3 'Gender Equality and Women's Empowerment' *The USAID* 21 July 2021.

4 As above.

5 The UN legal instrument that guarantees human rights in general that was passed into law on 10 December 1948.

6 The UN legal instrument that guarantees civil and political rights that was passed in 1966.

ic, Social and Cultural Rights (ICESCR),⁷ the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW),⁸ the African Charter on Human and Peoples' Rights (African Charter)⁹ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), to name but a few.

At the domestic level, steps have also been taken by successive governments to build and consolidate a culture of respect for women's rights through the enactment of policies and legislation. Sierra Leone has also established state institutions that give effect to the human rights obligations created by international instruments signed by Sierra Leone at both the international and regional levels.

Although much has been done for the realisation of women rights in the country, the status of women and their livelihoods have not significantly changed for the best. Research shows that the statistics of teenage pregnancy and gender-based violence (GBV) are still on the increase.¹⁰ Case in point is the horrific incident of sexual violence against a 55 year old woman who was gang-raped on 11 January 2020 in Motou Village Kpanda-Kemo Chiefdom Bonthe district, by 15 men allegedly

members of the *poro* society.¹¹ Despite the fact that Sierra Leone has signed and ratified a good number of international treaties and conventions that guarantee women's socio-economic and cultural rights, it is vital to note that the 1991 Constitution of Sierra Leone does not recognise, protect or allow for the enforcement of these rights.

Under Chapter 2 of the 1991 Constitution of Sierra Leone, socio-economic and cultural objectives are provided for. However, by virtue of section 14 of the Constitution,¹² Chapter 2 on socio-economic and cultural objectives does not confer legal rights and cannot be enforced within the court system. They merely exist as Fundamental Principles and Objectives of state policy to be taken into consideration in the governance of the country and the making of laws by parliament. These objectives were never intended to confer legal individual rights to citizens. Women continue to be disproportionately affected by this lacuna.

In contrast, the 1991 Constitution of Sierra Leone does recognise, protect and guarantee civil and political rights of its citizens. These rights are enshrined under Chapter 3 and are also entrenched provisions within the Constitution. Women have in some cases continued to enjoy these rights. However, section 27(4) of the 1991 Constitution of Sierra Leone makes it lawful for women to be discriminated on certain grounds.¹³ The provision excludes the application of the right to non-discriminatory laws to

7 The UN legal instrument that guarantees economic, social and cultural rights that was passed into law in 1966.

8 An international bill of rights for women and girls that was passed into law in 1979 at the United Nations.

9 The AU legal instrument that was passed into law in 1981.

10 'The Family Support Unit 2017 Report on Sexual and Gender-Based Violence puts the figure at 1,557 cases of SGBV and 156 teenage pregnancies.' Available at www.fsu.sl.org (accessed 4 July 2021).

11 This is a male secret society in Sierra Leone, Liberia, Guinea, and the Ivory Coast, introduced by the Mande people. Available at <https://en.m.wikipedia.org/wiki/Poro> (accessed 4 July 2021).

12 See sec 14 of The Constitution of Sierra Leone, 1991.

13 The Constitution of Sierra Leone (n 12) sec 27(4)(d).

matters of personal law that include marriage, divorce, adoption, or devolution of property upon death. Women are often discriminated with respect to all of the excluded matters.

In a nutshell therefore, it is disheartening to note that irrespective of the plethora of international and regional conventions that have been signed and ratified by the state of Sierra Leone which guarantees political, socio-economic and cultural rights of women, the 1991 Constitution is yet to be in line with these legal instruments. Thus, it is safe to conclude that the 1991 Constitution is still not in tandem with contemporary best practices in a democratic state like Sierra Leone.

2 Ratification of the Maputo Protocol

After almost 12 years of countless lobbying efforts by the Ministry of Social Welfare Gender and Children's Affairs¹⁴ (MSWGCA), the Ministry of Foreign Affairs and International Corporation¹⁵ (MFAIC), the Attorney General & Minister of Justice¹⁶ (AGMoJ), the Human Rights Commission of Sierra Leone (HRCSL)¹⁷ and civil society organisations¹⁸ (CSOs) for the ratification of the Maputo Protocol, the document was finally tabled in Parliament on 4 March 2014.¹⁹

14 A former government institution that was pushing for the advancement of women and children's rights in Sierra Leone.

15 The government institution that deals with all international relations matters of the state of Sierra Leone.

16 The government institution that advises the state of Sierra Leone in all legal matters.

17 The government institution that protects and promotes human rights in Sierra Leone.

18 These are independent organisations that complement the work of government in Sierra Leone.

19 'Sierra Leone Finally Ratifies Maputo Protocol' *The Politico Newspaper* 16 July 2015 at 1-2.

The executive, through the then Minister of Social Welfare, Gender and Children's Affairs, Moijueh Kai Kai, assured members of parliament that the idea of having Sierra Leone ratify the Maputo Protocol was to promote best practices in its democratisation process. He appealed to the Members of Parliament (MPs) to ratify the Protocol as it is geared towards advancing women rights in the country.²⁰

Contributing to the debate, the role of MPs was outstanding. The then minority leader of parliament, Honourable Bamedette Lahai, for example pointed out the end had finally justified the means. This is so because according to her, '34 years ago, the African Charter on Human and Peoples' Rights failed to cater for women rights; thus the need for the Maputo Protocol'.²¹ She ended her statement by encouraging the Minister to consult the people before signing such Protocol to determine whether there is any need for reservations.²² The MP concluded that just like the other international and regional conventions that are pushing for women rights which Sierra Leone had signed and ratified, the same was true for the Maputo Protocol.

Having rigorously debated each and every provision of the Maputo Protocol and also seeking clarifications for some of the critical provisions in the Protocol especially the one that has to do with the practice of FGM, the MPs overwhelmingly voted in favour of the ratification of the Maputo Protocol in July 2015 with no reservation.

20 *The Politico Newspaper* (n 19) at 2.

21 'Sierra Leone Finally Ratifies Maputo Protocol on Women' *The Awareness Times* 6 July 2015 at 1-2.

22 *The Awareness Times* (n 21) at 2.

3 Government focal point

In Sierra Leone, it was the then Ministry of Social Welfare, Gender and Children's Affairs that was the key governmental institution responsible for pushing for the ultimate realisation of the Maputo Protocol. After it was diffused in 2019, the Ministry of Gender and Children's Affairs is now taking the lead.

It is worth noting that even though the Ministry of Gender and Children's Affairs remains the government focal point, it stands to reason that it works in complementarity with other Ministries, Departments and Agencies in the formulation and implementation of policies that are in line with the Maputo Protocol.²³

The Office of the Attorney General and Ministry of Justice, the Ministry of Foreign Affairs and International Cooperation and the Human Rights Commission of Sierra Leone are the most relevant governmental institutions complementing the work of the Ministry of Gender and Children's Affairs towards the realisation of the protocol. The Ministry of Foreign Affairs for example maintains a human rights division that deals with all treaties and legal instruments signed and ratified by the state of Sierra Leone.

The Office of the Attorney General and Ministry of Justice is the institution that proffers legal advice to the government of Sierra Leone. The Office maintains an international division that is responsible for primarily advising the government to comply with obligations under international law and further scrutinises state reports that are usually

23 As above.

prepared by Ministries, Department and Agencies.

The Human Rights Commission of Sierra Leone maintains a directorate of gender that is pushing for the advancement of women's rights as well as a treaty body unit that advises the state on treaty body reporting and sometimes presents alternative reports to treaty bodies. The Office of the First Lady has been instrumental in pushing for the advancement of women's rights through its popular 'Hands off our Girls'²⁴ Campaign that was launched in 2018.

The African Commission on Human and Peoples' Rights²⁵ communicates directly with the state of Sierra Leone on the Maputo Protocol through the African Union Embassy in the country. Once the African Union Embassy receives the information, it will channel it to the Ministry of Foreign Affairs and International Cooperation for the attention of the government. The Ministry will then communicate to the Ministry of Gender and Children Affairs through the Permanent Secretary for the attention of the Directorate of Gender in the Ministry. All the institutions mentioned above are well informed about the Maputo Protocol.

4 Domestication or incorporation of the Maputo Protocol

Regrettably, ever since Sierra Leone signed and ratified the Maputo Protocol, it has failed to domesticate and or incorporate the provisions of the said Protocol at the domestic level. Unlike

24 A 2018 governmental Policy that is pushing for the advancement of women and girls' rights in Sierra Leone.

25 A quasi-legal institution in Africa that protects and promotes human rights in the African continent.

other states that have a monist system of incorporating international treaties and conventions into their legal systems, Sierra Leone has continued to practice a dualist system which requires domestication of international treaties and conventions before they become part of its laws.²⁶

Under international law, it is an established fact that the signing and ratifying of an international treaty are not the only requirements for such a treaty to form part of the legal system of a dualist state. It goes beyond that as the state is further required to pass an enabling legislation in a bid to domesticate the provisions of the treaty so as to incorporate them into the body of laws of that state.²⁷

The 1991 Constitution of Sierra Leone which is the primary source of law is silent in many respects about the rights contained in the Maputo Protocol.²⁸ The Constitution guarantees certain human rights to the citizens in general and not specifically for women as provided for in the Maputo Protocol. No Bill of Rights has so far been passed into law by Sierra Leone that comprehensively speaks to the rights in the Maputo Protocol. There are however few existing legislations in the country that partially guarantee women's rights in line with the Maputo Protocol.²⁹

The Truth and Reconciliation Commission (TRC) recommended a 30 per cent representation of women in governance.³⁰ Women's movements in Sierra Leone like the 50/50 Women's Group³¹ have long been pushing for the enactment of a Gender Equality and 30 per cent Quota Bill. Women representatives in parliament have also been pushing for the enactment of this proposed bill. All of these have been done in line with the relevant provisions of article 13³² under the Maputo Protocol. So far, only a gender equality and women empowerment policy has been adopted. A Bill is yet to be tabled in that direction.

5 Legislative reforms or adoption

According to a senior official at the Ministry of Gender and Children's Affairs, there was no comprehensive study undertaken by the state of Sierra Leone before the ratification of the Maputo Protocol. The then Ministry of Social Welfare, Gender and Children's Affairs only did basic popularisation to the general public about the Maputo Protocol and why it was necessary for Parliament to ratify it.

Since the Maputo Protocol was ratified, Sierra Leone, save for the 2019 Sexual Offences Amendment Act,³³ has not taken any bold step to comprehen-

26 AS Marrah 'The impact of the African Charter and the Maputo Protocol in Sierra Leone' in VO Ayeni (ed) *The impact of the African Charter and the Maputo Protocol in selected Africa states* (2016) 204.

27 As above.

28 Marrah (n 26) 204.

29 Marrah (n 26) 206.

30 V Remoe 'Sierra Leone Women's Movement, the 30% quota, and the fight for gender equality – These three women are #Generation Equality #IWD2020' <https://vickieremoe.com/blog/sierra-leones-women-s-movement-and-the-fight-for-gender-equality> (accessed 10 July 2021).

31 A women organisation that is pushing for the advancement of equality in Sierra Leone.

32 See the Protocol to the Africa Charter on Human and Peoples' Rights on the Rights of Women (2003) 14.

33 A legislative framework that protects women and girls' rights from sexual abused in Sierra Leone.

sively revolutionise its existing legislations that are pushing for the advancement of women's rights in order to give effect to the spirit, object and purpose of the Maputo Protocol in practical terms.

The four gender justice laws (the Domestic Violence Act of 2007,³⁴ the Registration of Customary Marriage and Divorce Act of 2007,³⁵ the Devolution of Estates Act of 2007³⁶ and the Sexual Offences Act of 2012)³⁷ that guarantee women's rights, were passed into law prior to the ratification of the Protocol.

The Domestic Violence Act³⁸ was passed into law in 2007 to deal with the increasing spate of physical, psychological and economical violence that has continued to be meted against women and girls in the country. Article 4 and 5 of the Maputo Protocol guarantee the rights to life, integrity, security and dignity of women which are also guaranteed by the said act in the country.³⁹

In line with the relevant provisions under articles 6 and 7⁴⁰ of the Maputo Protocol which speak to women's rights in relation to marriage, separation, divorce and annulment of marriage, the

Registration of Customary Marriage and Divorce Act⁴¹ 2007 gives effect to the Protocol in this regard. This Act has helped to address the many challenging issues women have been experiencing over the years especially in customary marriage which is most prevalent in the country.⁴²

The fundamental spirit, object and purpose of the Devolution of Estate Act 2007 gives effect to the relevant provisions under articles 20 and 21⁴³ of the Maputo Protocol. Prior to enactment of this Act, women that were not legally wedded to their spouse were not allowed to inherit their spouse's property after their demise regardless of how many children they had together. Even those women who were legally wedded but whose husbands died intestate were not allowed to inherit property due to draconian customary laws prevalent in the country. This Act therefore makes it abundantly clear as to how women can inherit the property or estates of their husbands who died testate or intestate.⁴⁴

In a bid to further advance the realisation of women's rights, the state of Sierra Leone in 2012 passed into law the Sexual Offences Act.⁴⁵ This Act was revolutionary as it sought to robustly deal with the despicable state of affairs of rape and other sexual offences perpetrated against women in the country. The Act also makes it clear that marriage is not a defence for sexual assault and further makes room for victims of sexual offences to access free legal and medical support.⁴⁶ In 2019,

34 A legislative framework that protects women and girls' rights from physical, economical and psychological violence in Sierra Leone.

35 A legislative framework that legalised customary marriage and explain the procedures to divorce a marriage in Sierra Leone.

36 A legislative framework that explains how property should be devolved in Sierra Leone.

37 A legislative framework that seeks to address the issue of sexual offences in Sierra Leone.

38 A legislative framework that seeks to address all forms of physical, psychological and economical violence meted against women in Sierra Leone.

39 Maputo Protocol arts 7 and 8.

40 Maputo Protocol arts 9 and 10.

41 A legislative framework that legalises customary marriage and explain the procedures to divorce a marriage in Sierra Leone.

42 As above.

43 Maputo Protocol arts 19 and 20.

44 Devolution of Estate Act of 2007 arts 37-39.

45 Domestic Violence Act of 2007.

46 As above, 6.

the Sexual Offences Act of 2012 was amended to now create punitive sanctions for perpetrators of sexual penetration of children. This was done against the backdrop of the rising statistics on rape and sexual penetration on women and girls in the country respectively. Under the Sexual Offences Act of 2012 (as amended in 2019), rape and sexual penetration are two different offences. Police statistics of the Family Support Unit reported in 2019 that there were 3,252⁴⁷ recorded rape and sexual penetration cases in Sierra Leone. In 2019, the Rainbow Centre recorded 3,701 cases⁴⁸ of sexual assault nationwide.

Under article 4(2)(a)⁴⁹ of the Maputo Protocol, state parties to the Protocol are called upon to enforce laws at the local level that seeks to discourage unwanted or forced sex perpetrated against women in society. With the passing into law and amendment of this Act, it is safe to say that this was a tangible step taken by Sierra Leone in fulfilling its obligations under international human rights law.

In 2015, an attempt was made by the government of Sierra Leone to pass into law a Safe Abortion Bill. The Inter Religious Council of Sierra Leone (IRCSSL)⁵⁰ protested the Bill citing that it was contrary to religious practices and moral standards of society. The bill was developed in a bid to give effect to article 14(2)(c)⁵¹ of the Maputo Protocol.

No significant increase in allocation of resources has so far been provided by

the state of Sierra Leone to its relevant institutions after the ratification of the Maputo Protocol. The pattern of resource allocation to state institutions has virtually remained the same. The state of Sierra Leone has continued to disburse resources in piece meal to Ministries, Departments and Agencies (MDAs) on the basis of need assessment.

6 Policy reform or formulation

The state of Sierra Leone has formulated as well as undertaken major policy reforms through its line MDAs in a bid to advance the rights of women and girls in the country thereby giving effect to the Maputo Protocol.

In 2018, the government of Sierra Leone through the Office of the First Lady⁵² launched the Hands off our Girls campaign.⁵³ This is an official government campaign and is geared towards advocating for the advancement of the rights of women and girls in the country. Speaking at the 74th United Nations General Assembly (UNGA), her Excellency, Fatima Bio pointed out that she was enthused to embark on this revolutionary campaign because of the passion of her husband in advancing the rights of women before becoming president.⁵⁴

As a result of this governmental policy initiative,⁵⁵ a Sexual Offences

47 'Sexual Gender Base Violence in Sierra Leone.' Available at <https://africaymca.org/gbv-in-sierra-leone/> (accessed 5 July 2021).

48 As above.

49 Maputo Protocol art 7.

50 An organisation that comprises of religious leaders from both the Christian and Muslim religion in Sierra Leone.

51 Maputo Protocol art 16-17.

52 The State Office is occupied by the wife of the President of the Republic of Sierra Leone.

53 An official government initiative run by the First Lady to help advocate against Rape and Sexual violence in the country.

54 Statement made by Fatima Bio on the 74th UN General Assembly. Sierra Leone's First Lady takes 'Hands Off Our Girls' Campaign to the United Nations' *The State House Media and Communication Unit* 27 September 2019.

55 As above.

Model Court⁵⁶ has been established; the Sexual Offences Act of 2012⁵⁷ has been amended with tougher sentencing guidelines; free sanitary pads have continued to be provided to girls; laudable awareness raising about women's rights have continued; employment opportunities for women and girls have been enhanced; and a 'One Stop Centre for Rape Survivors' has been introduced.⁵⁸

In 2020, the Ministry of Gender and Children Affairs launched the Gender Equality and Women's Empowerment Policy (GEWE).⁵⁹ This is a policy that seeks to mainstream gender into all developments and processes in the country as well as to ensure livelihood and social protection for women, girls, men and boys for both sustainable peace and economic growth. During the launching of this policy, Dr Mary Okumu⁶⁰ thanked the government of Sierra Leone for setting up a stand-alone Gender Ministry for the very first time and also described the policy as a gift for the advancement of women rights in the country. This policy was formulated by the government of Sierra Leone through the Gender Ministry and fulfils its obligation under article 19⁶¹ of the Maputo Protocol and its sub provisions.

Following the ruling of the Economic Community of West Africa States (ECOWAS) Court⁶² that overturned the discriminatory ban on pregnant girls to access formal education, the government through the Ministry of Basic and Senior Secondary Education (MBSSE)⁶³ welcomed the ruling and decided to launch a Radical Inclusion Approach⁶⁴ to education in the country. The approach seeks to guarantee that all pregnant women and girls fully access formal education and schooling rights. In a statement delivered to the nation, the President of Sierra Leone, Julius Maada Bio, affirmed that his government prides itself in its commitment and focus on inclusive national development through the radical inclusion of every citizen.⁶⁵

Dr David Moinina Sengeh holds the view that the state of Sierra Leone has an obligation at both the international and regional levels to take action that will eliminate all forms of discrimination against women as evident under article 2 of the Maputo Protocol.⁶⁶ Thus, the very reason led to the formulation of this new inclusive education approach.⁶⁷

56 A specialised court that deals with sexual offences in Sierra Leone.

57 Domestic Violence Act (n 45).

58 'Sierra Leone's President Julius Bio unveils One-Stop Centres, says among Early Adopters of the Concept in Africa' *The State House Media and Communication Unit* 9 July 2020.

59 A governmental policy that seeks to advance the right of women in Sierra Leone.

60 The UN Women Representative in Sierra Leone. Available at <https://za.linkedin.com/in/mary-okumu-phd-35888764> (accessed 10 July 2021).

61 Maputo Protocol arts 18 and 19.

62 A regional human rights court in West Africa.

63 The lead government institution for basic and secondary education in Sierra Leone.

64 A government policy that gives equal rights to boys, girls, women and men to access formal education in Sierra Leone.

65 'Victory for girls in Sierra Leone as the government as the government lifts the ban that prohibits pregnant schoolgirls from attending school!' available at https://www.equalitynow.org/press_sierra_leone_victory_mar_2020 (accessed 10 July 2021).

66 Minister of Basic and Senior Secondary Education in Sierra Leone.

67 D Sengeh 'We are proud of the first ever policy on inclusive education in Sierra Leone: the National Policy on Radical Inclusion in School' *The Gem Report* 8 April 2021.

Sierra Leone adopted a Free Healthcare Initiative in 2009⁶⁸ and successive governments have continued to maintain and increase support towards it through initiatives by the Ministry of Health and Sanitation (MOHS) to provide free healthcare for under five children as well as for pregnant and breastfeeding women. The policy was launched as part of government's commitment to further actualise the overall aim of the Health Sector Strategic Plan,⁶⁹ the Agenda for Prosperity,⁷⁰ as well as goal 4 and 5 of the Millennium Development Goals (MDG).⁷¹ This policy has now been expanded to cater for women with disabilities which has helped in many ways to give effect to article 14 of the Maputo Protocol⁷² in the country.

In 2017, the Ministry of Social Welfare, Gender and Children's Affairs⁷³ enacted a governmental policy known as the Zero Tolerance Towards the Circumcision of Girls Below 18 Years.⁷⁴ The policy makes it impermissible for girls below the age of 18 years to be initiated into any secret society. And for those girls that have attained the 18 years limitation, they must consent, and nobody should force them to be initiated into any secret society. A Memorandum of Understanding (MOU) was signed between the Ministry of Social Welfare, Gender and Chil-

dren's Affairs and the Bondo Society leaders⁷⁵ in the country so as to uphold this policy that is geared towards protecting and promoting the rights of women and girls in the country.⁷⁶ This policy was formulated in an attempt to give effect to Pillar 8 of the Agenda for Prosperity and corresponds with article 5 of the Maputo Protocol.⁷⁷ The practice of FGM still remains a challenge and the government has not done much to address it because of the fear of the political ramifications as it is deeply entrenched within the society.

Additionally, Cluster 5 of Sierra Leone's Mid-Term National Development Plan⁷⁸ (2019-2023) speaks about government's commitment to empower women, children, adolescents and persons with disabilities. This cluster⁷⁹ mainly touches on the role of government in advancing inclusiveness and empowerment for women, children and vulnerable groups in the country. Increasing investments for women, children and adolescents as well as for persons with disability is the main priority of government under this cluster. This policy aims to give effect to articles 8, 9, 12, and 19⁸⁰ of the Maputo Protocol.

All these initiatives were instituted by the government of Sierra Leone against the backdrop of complying with its obligations under international law.

68 'Policy on free health care services for pregnant and lactating women and young children in Sierra Leone' (2009).

69 Ministry of Health working strategies that seeks to enhance the health sector in Sierra Leone.

70 The then Ernest Bai Koroma government manifesto that was transformed into his second term of office working plan.

71 A former UN global development goals that elapsed in 2015.

72 Maputo Protocol arts 16 and 17.

73 Ministry of Social Welfare Gender and Children's Affairs.

74 The government policy on FGM Practice in Sierra Leone.

75 This is a local name given to those traditional leaders that are initiating women and girls into FGM in Sierra Leone.

76 'Gender Ministry, LAB signs MOU on Rape and SGBV' *The AYW Newspaper* July 2020 at 2.

77 Maputo Protocol arts 8 and 9.

78 Government of Sierra Leone Mid-Term National Development Plan 2019-2020.

79 See cluster 5 of Government of Sierra Leone Mid-Term National Development Plan 2019-2020.

80 Maputo Protocol arts 11, 13 and 18.

7 Impact on the judiciary

The judiciary of the Republic of Sierra Leone has not been very effective in giving effect to the Maputo Protocol. The failure of the state of Sierra Leone to domesticate the Maputo Protocol has further compromised the work of the judiciary in giving meaningful effect to the Protocol.

Save for a few judges like Justice Miatta Samba⁸¹ (alumna of the Centre for Human Rights at the University of Pretoria), Justice Jamesina King⁸² (Commissioner of the African Commission), the majority of the judges and magistrates hardly reference the Maputo Protocol in their rulings on critical human rights cases.

Some efforts have been made in the area of securing protection of the rights of women and girls who have been sexually abused. In 2020, a Sexual Offences Model Court was established to deal with sexual offence cases in an expeditious manner.⁸³ This facility it is hoped, will perhaps increase the rulings and jurisprudence on the Maputo Protocol.

In conclusion, there are hardly any references made to the Maputo Protocol

in domestic rulings, instead judges and magistrates prefer to cite the domestic gender justice laws as a basis of dispensing effective remedies to women victims of sexual and gender-based violence.⁸⁴ Some of the provisions of these gender justice laws, however, are in consonance with the Maputo Protocol.

8 Awareness and use of the Maputo Protocol by civil society

CSOs⁸⁵ have over the years been instrumental in calling on the state to respect its obligations under the Maputo Protocol. These organisations have also continued to sensitise and raise the awareness of the Protocol among Sierra Leoneans. Some of them have openly challenged the government on critical women rights issues by bringing legal action against the state in court at both the national and regional levels.⁸⁶

The 50/50 Women's Group⁸⁷ has become a household name among those organisations pushing for women's rights in the country. This organisation has been working tirelessly to change the traditional stereotypes and prejudices that have discriminated against, and reduced the status women in the Sierra Leonean society over time. As part of its commitment to promote gender equality, the organisation is driving its core objective through awareness campaign

81 Justice of the Supreme Court in Sierra Leone and Judge-elect at the International Criminal Court and also Alumnus of the Centre.

82 Justice of the Court of Appeal in Sierra Leone and Commissioner of the African Commission on Human and Peoples Rights. She is one of the few Justices in the Republic of Sierra Leone that has been making references to the Maputo Protocol in her rulings on sensitive legal matters. See Activity of the Working Group on Economic Social and Cultural Rights of the Africa Commission: 'Debating Access to Land and Water Rights of Women and Girls in Africa.' Available at <https://www.achpr.org/news/viewdetail?id=67> (accessed 5 March 2021).

83 News Update from the Head of Communications Unit in the Judiciary of Sierra Leone 2020.

84 Marrah (n 26) 207.

85 These are independent organisations that complement the work of government in Sierra Leone (n 18).

86 See Centre for Accountability and Rule of Law action brought against the Government of Sierra Leone to the ECOWAS Court on behalf of Ebola Survivors (2016).

87 A women organisation that is pushing for the advancement of equality in Sierra Leone (n 31).

messages to Sierra Leoneans on TV and Radio programmes.⁸⁸ The spirit of these media campaigns is centred on issues related to women's political, socio-economic and cultural rights so as to give effect to the Maputo Protocol and other international instruments at the domestic level. Members of this group were actively involved in urging the state of Sierra Leone to ratify the Maputo Protocol – and are still calling for its domestication at the domestic level.⁸⁹

Legal Link⁹⁰ is another organisation that defends the rights of vulnerable groups in Sierra Leone through the provision of quality, effective and timely legal assistance. This organisation has been very effective in providing free legal assistance to abused women and children particularly women living with disabilities in the country. On 9 March 2020, Legal Link held a national symposium with state institutions, CSOs, media institutions and school going pupils as it joined the UN to commemorate the International Women's Day.⁹¹ The event educated invitees about the Maputo Protocol and also called on the government to establish an Equal Opportunities Commission (EOC) that would ensure equal employment opportunities for women and men in the country.⁹²

Legal Access through Women Yearning for Equal Rights and Social

Justice (LAWYERS)⁹³ comprises of female legal practitioners that have done extensive work to promote and protect women's rights in the country. The organisation has been sensitising the nation about the Maputo Protocol as well as providing legal support for sexually abused women and girls in the country on a pro bono basis.⁹⁴

Campaign for Good Governance (CGG)⁹⁵ is promoting democratic participation, capacity building, gender equality and empowerment, human rights, constitutionality and the rule of law in Sierra Leone. This organisation has over the years raised many concerns about the violations and abuses of women's rights in the context of leadership positions, inhumane treatment, systemic discrimination and ignorant marginalisation by the powers that be. The organisation has further recommended to the UN⁹⁶ for more actions to be taken by the state of Sierra Leone with respect to its legal obligations at the international and regional levels particularly for women and girls.

Other CSOs in the country like Smart Women Initiatives,⁹⁷ Women and Disability Forum,⁹⁸ Aberdeen

88 See the website of the 50/50 Group. Available at <https://www.fiftyfiftySierraLeone.org/what-we-do/> (accessed 14 July 2021).

89 As above.

90 A legal organisation in Sierra Leone that provides free legal assistance to religious communities and vulnerable groups.

91 The day set aside by the UN to celebrate socio-economic, cultural and political achievements of women across the world.

92 'CSO Calls For Equal Opportunities Commission' *The Awareness Times* 19 March 2020 at 1-2. Available also at Legal Link's Annual Report 2020.

93 A legal organisation comprising of female lawyers that provides legal defense for women and girls in Sierra Leone.

94 Email from lawyers_sl@yahoo.co.uk in December 2020.

95 A local civil society organisation in Sierra Leone that was established to promote good governance, democracy and human rights.

96 See CGG Report submitted to the UN for the Universal Periodic Review of Sierra Leone, 2011.

97 An organisation that provides support to women and girls in Sierra Leone.

98 An organisation that advocates for and on behalf of women and girls with disability.

Women Centre,⁹⁹ Asmaa James Foundation,¹⁰⁰ have all been contributing to the ongoing awareness process on the Maputo Protocol and the attendant impacts of the protocol in promoting and protecting the rights of women if domesticated in the country. These organisations have also been highly involved in providing support to victims of sexual and gender-based violence particularly women and girls.

9 Awareness and use of the Protocol by lawyers and judicial officers

Few lawyers in Sierra Leone have demonstrated astute knowledge of the Maputo Protocol. This is partly because most lawyers in the country have little education on international human rights legal instruments. They rarely cite legal authorities at the international level in their legal submissions in court. It is important to emphasise that the majority of those lawyers that have demonstrated astute knowledge about the Maputo Protocol are alumni of the Centre for Human Rights, University of Pretoria.

Melron Nicol Wilson Esq,¹⁰¹ Human Rights Lawyer and Head of Melron Nicol Wilson Chambers, has been exemplary. This legal practitioner is an alumnus of the Centre for Human Rights, University of Pretoria. He has been passionate about defending the rights of women in the country. In 2020, he was the lead defence counsel that represented female journalist, Dr Sylvia

Olyinka Blyden,¹⁰² who was charged with seditious libel by the state¹⁰³ and was able to secure bail release for her at the Magistrate Court using the international and regional frameworks to convince the Magistrate. The accused has subsequently been discharged on all counts.¹⁰⁴

Augustine Sorie-Sengbeh Marrah Esq,¹⁰⁵ human rights lawyer and alumnus of the Centre for Human Rights, University of Pretoria, has also been outstanding. He has over the years provided free legal representation to victims of sexual and gender-based violence. His quest for human rights activism has made him become critical about the legal system in the country to the extent that in 2020, a bench warrant was issued against him by the Supreme Court¹⁰⁶ due to a critical comment he posted on social media impugning a judgment of the Supreme Court. He has cited many of the provisions in international and regional frameworks guaranteeing women's rights to persuade judges and magistrates to admit women to bail.

Sonkita Conteh,¹⁰⁷ Lawyer and Executive Director of NAMATI,¹⁰⁸ an organisation that promotes legal empowerment and women's access to

99 A medical organisation that provides free medical supports to victims of sexual and gender-based violence.

100 A charitable foundation that provides support particularly for women and girls.

101 A human rights lawyer that has continued to provide legal assistance to women and girls in Sierra Leone.

102 A female journalist in Sierra Leone.

103 Government of Sierra Leone Press Release dated 16 November 2020 from the Directorate of Information and Communications Office. Available at <https://www.thesierraleonetelegraph.com/government-of-sierra-leone-quashed-seditious-libel-count-charges-against-dr-blyden/> (accessed 2 July 2021).

104 As above.

105 A human rights lawyer and public defender in Sierra Leone.

106 'Supreme Court of Sierra Leone The Arrest Of Augustine Sorie Sengh Marrah Esq' *The Sierra Network* 28 October 2020.

107 A human rights lawyer, executive director of NAMATI and civil activist in Sierra Leone.

108 A legal empowerment network in Sierra Leone.

land rights and justice has been far-reaching. He is a human rights lawyer that has been doing great work in the area of advancing women's rights in the country. NAMATI organisation has been doing extensive work on legal empowerment programs and also on public interest litigation on women's access to land in the country. They have also made use of legal frameworks such as CEDAW and the Maputo Protocol in their public interest litigation law suits in the courts.¹⁰⁹

Fatmata Sorie Esq,¹¹⁰ Lawyer and President of Legal Access through Women Yearning for Equal Rights and Social Justice, is a legal practitioner and feminist that has been proactively challenging the excesses of the government on issues relating to women's rights. LAWYERS organisation has become a household name in the country for the defence of women and girls' rights.¹¹¹ In fact, it is the only female legal organisation in the country comprising of lawyers that are pushing for the advancement of women and girls' rights.

Justice Jamesina King,¹¹² Justice of the Court of Appeal of Sierra Leone and Commissioner at the Africa Commission, has been reputed for her passion

for human rights in the country. With her lobbying strategies at the international level, she has influenced many training opportunities that have been conducted for judges, magistrates and support staff of the judiciary on the effective implementation of global, regional, and sub-regional human rights norms and expeditious justice delivery.

Justice Miatta Samba, Justice of the Court of Appeal of Sierra Leone and Judge-elect at the International Criminal Court has been doing great work so as to give meaningful effect to the Maputo Protocol in Sierra Leone. Her references to the Protocol in some of her rulings on critical legal matters have just been superb and revolutionary.¹¹³ She is currently a Judge at the International Criminal Court.

10 Influence of the Maputo Protocol on higher education and academic writings

The Departments of Law at both Fourah Bay College (FBC)¹¹⁴ and the University of Makeni (UNIMAK)¹¹⁵ in Sierra Leone have introduced two modules in their curricula that teach on the Maputo Protocol. These modules are Public International Law and Human Rights Law. Both modules have been taught in the law programs since 2016. These modules were introduced against the backdrop of the growing need for higher institutions of learning in the country to be a part of the advancement of human rights which includes women rights.

109 Court Orders Oil Palm Company to Return Land and Pay Arrears of Rent to Landowners In Sierra Leone: press release dated 6 November 2018. Available at <https://namati.org/news-stories/court-orders-oil-palm-company-to-return-land-pay-arrears-sierra-leone/> (accessed 5 January 2021).

110 A human rights lawyer and president of LAWYERS organisation.

111 LAWYERS has been in existence since 14 February 1997 and they are an organisation of female lawyers who use the law to protect and promote the rights of women and girls in Sierra Leone. Available at <https://www.facebook.com/L> (accessed 10 February 2020).

112 Justice of the Court of Appeal in Sierra Leone and Commissioner of the African Commission.

113 See Giraffe Heroes Project. Available at <https://www.giraffe.org/miatta-maria-samba> (accessed 5 January 2021).

114 A higher institution of learning and one of the colleges that makes up the University of Sierra Leone.

115 A higher institution of learning in Sierra Leone.

The Law Department at Fourah Bay College,¹¹⁶ University of Sierra Leone, for example, has been organising moot court debates on contentious women's rights issues under international law over the past few years for students in the department. The same is also true for the Department of Law at the University of Makeni.¹¹⁷ The relevant provisions of the Maputo Protocol have been referenced by students that normally take part in these debates and moot competitions in their legal submissions.

Other departments within Fourah Bay College, such as the Peace and Conflict Department,¹¹⁸ the Gender Department,¹¹⁹ and the Social Work Department,¹²⁰ have recently introduced human rights law courses. These courses have been introduced with the growing recognition of the need to build and consolidate a culture of respect for human rights and best practices in the country. Fourah Bay College has also established an Institute of Gender Research and Documentation.¹²¹ This institute is mandated to undertake research work on gender issues and make meaningful recommendations to the state for reforms.

Lecturers¹²² have continued to formulate academic discussions in the classrooms around the Maputo Protocol so as to enlighten students about it.

Some final year students writing their dissertations on regional legal instruments that guarantee women rights have been using the Maputo Protocol as a case study.¹²³ The Department of Law Fourah Bay College and the University of Makeni have also established Law Societies and Clinics¹²⁴ to provide support for vulnerable students whose rights have been trampled upon. Female students have mostly benefited from these projects.¹²⁵

11 Impact on independent state institutions

Sierra Leone has established specialised institutions that are working in the realm of protecting and promoting women's rights in the country. Chief among these institutions are the Human Rights Commission of Sierra Leone (HRCSL), the Office of the Ombudsman¹²⁶ and the Sierra Leone Legal Aid Board.¹²⁷

The HRCSL is the official state institution that promotes and protects human rights in the country. This institution maintains a treaty body unit that follows up on government's compliance with its human rights obligations under international law. Recently, a gender

116 An academic department that pursues law course at Fourah Bay College.

117 An academic department that pursues law course at UNIMAK.

118 An academic department that pursues peace and conflict studies at Fourah Bay College.

119 An academic department that pursues law course at Fourah Bay College.

120 An academic department that pursues law course at Fourah Bay College.

121 An Institute of Gender, Research and Documentation at Fourah Bay College.

122 Academics teaching at the University in Sierra Leone.

123 KO Gbla 'The implementation of the Maputo Protocol in Sierra Leone' Dissertation, 2020 (LLB 4-FBC); M Fofanah 'The effectiveness of custodial sentencing in the criminal justice system of Sierra Leone', 2019.

124 Formal students' legal entities established to seek the welfare of students.

125 Law Society overseas moot court project and internships have greatly benefited female law students in the Department.

126 The institution that deals with administrative injustice and maladministration issues in Sierra Leone.

127 A legal institution that provides free legal service in Sierra Leone for those who cannot hire the service of a lawyer.

directorates were established in the Commission.¹²⁸ HRCSL is a grade A' Commission¹²⁹ and is amongst the few National Human Rights institutions in West Africa that have done tremendous work on issues related to women's rights. It produces a report on the state of human rights in the country every year¹³⁰ and was involved in the first progress report that was sent to the African Commission by Sierra Leone in 2014.¹³¹

The Office of the Ombudsman and the Sierra Leone Legal Aid Board have all done great work geared towards the implementation of the relevant provisions of the Maputo Protocol. The Legal Aid Board for example has provided and is still providing free legal services for women and girls whose rights have been violated or abused. The Office of the Ombudsman continues to deal with administrative injustices and maladministration with the public service that affects women's rights.¹³²

12 State reporting

Article 26(1)¹³³ of the Maputo Protocol places obligation on states that have ratified it to submit a report that clearly shows steps that have been taken towards the realisation of the rights guaranteed in the instrument at the domestic level.

128 Interviewed made by Mohamed Kuyateh on 10 November 2020.

129 The Human Rights Commission of Sierra Leone is accredited with an 'A' status by the UN Human Rights Committee and the Office of the High Commissioner for Human Rights in Geneva.

130 The Human Rights Commission produces a state of human rights report every year in Sierra Leone since 2004.

131 Marrah (n 26) 210.

132 The institution that deals with administrative injustice and maladministration issues in Sierra Leone.

133 Maputo Protocol art 22.

Ever since Sierra Leone ratified the Maputo Protocol, it has not presented any report to the African Commission under the Protocol. The state has failed to submit a report to the African Commission under the Maputo Protocol mainly as a result of administrative challenges and the lack of clarity as to who is supposed to do the reporting. There is an apparent confusion between the Ministry of Foreign Affairs and International Cooperation and the Ministry of Gender and Children's Affairs as to who should take the lead. So far Sierra Leone has submitted its 'Initial and Combined Reports' under the African Charter covering the period 1983-2013.

13 Communications

Few decisions have been taken against the state of Sierra Leone by the African Commission and the ECOWAS Court of Justice but none of the cases filed have alleged violation of the Maputo Protocol.

In 2017, a Sierra Leonean Non-Governmental Organisation (NGO), WAVES,¹³⁴ in partnership with Equality Now¹³⁵ and IHRDA,¹³⁶ filed a case before the ECOWAS Court to challenge the ban on pregnant girls accessing formal education in the country.¹³⁷ The Court in its ruling found that the ban on pregnant girls accessing formal education in Sierra Leone is in contravention

134 A non-profit organisation formally known as Women Against Violence and Exploitation in Society.

135 An organisation that seeks to protect and promote the Human Rights of Women and Girls in Sierra Leone.

136 An organisation formally known as Institute for Human Rights and Development in Africa.

137 A former discriminatory government policy that deprives pregnant girls' access to formal education.

of provisions of the African Charter on Human and Peoples' Rights and several other international and regional treaties to which the country is a party. However, the case did not specifically deal with a violation of the Maputo Protocol. The Court ordered for the policy to be revoked forthwith.¹³⁸

The government of Sierra Leone welcomed this judgment and decided to formulate the Radical Inclusion Approach¹³⁹ to Education in the country. The policy confers rights on both boys and girls to have equal access to formal education regardless of their status or condition.

14 Special mechanisms and promotional visits of the African Commission

A delegation¹⁴⁰ from the African Court on Human and Peoples' Rights visited Sierra Leone for a sensitisation mission in 2018. During their meeting with president of the Republic of Sierra Leone, Julius Maada Bio, the President of the African Court, Judge Sylvain Ore, congratulated President Bio on his recent election victory, sensitised him about the role of the Court and also pleaded with him for the country to ratify the Protocol establishing the African Court.¹⁴¹ President Bio in his response thanked the team and made a strong commitment that his government will look into the document¹⁴² and do the ratification.

138 Available at <https://www.amnesty.org>.

139 A government policy that gives equal rights to boys, girls, women and men to access formal education in Sierra Leone (n 67).

140 The president and other dignitaries of the African Court.

141 Available at <https://www.african-court.org> (accessed 23 June 2021).

142 The Protocol to the Africa Court to the Human and Peoples' Rights.

In 2017, a delegation from ECOWAS,¹⁴³ AU,¹⁴⁴ and UNOWAS¹⁴⁵ visited Sierra Leone so as to engage the leadership of the country to continue upholding the tenets of democracy and best practices. During their visit, the delegations held consultative discussion with the president and other stakeholders in governance. In this regard, the delegation used this opportunity to encourage stakeholders to do their job with utmost professionalism and impartiality, thereby promoting an inclusive society that guarantees equal opportunities for all.¹⁴⁶

In 2010, the Special Rapporteur on Prison and Places of Detention¹⁴⁷ in Africa was invited to a workshop in Sierra Leone. The Special Rapporteur utilised the opportunity to carry out a fact-finding mission at the Freetown Correctional Centre¹⁴⁸ as well as engage with the relevant state authorities in the country on the challenges within the prison sector and steps that ought to be taken by the state to address those challenges.

The African Commission is yet to visit Sierra Leone for a fact-finding mission. It did propose to visit Sierra Leone sometime in 2014 but due to Ebola Virus outbreak,¹⁴⁹ such proposal was cancelled. There has never been a

143 Economic Community of West African States (a sub-regional organisation in West Africa).

144 African Union (a regional integration block in Africa).

145 The United Nations Office for West Africa and the Sahel based in Dakar, Senegal.

146 Available at <https://www.unowas.unmissions.org> (accessed 20 May 2021).

147 Maria Teresa Manuela, Commissioner, Special Rapporteur on Prison and Places of Detention in Africa.

148 The government institution that is set up to detain convicted persons and other remanded.

149 A deadly virus that broke out in West Africa in 2014.

visit specifically on women's rights issues by any Africa special mechanism or procedure.

15 Factors that may impede or enhance the impact of the Maputo Protocol

15.1 Factors that are enhancing the impact of the Maputo Protocol

Discussed below are some of the factors that are enhancing the impact of the Maputo Protocol in the country.

First, the new Gender Equality and Women's Empowerment Policy that was launched in 2020 is enhancing the realisation of the provisions of the Maputo Protocol in the country. Following the formulation of this new policy, women and girls now have a better chance of having a gender mainstreaming policy in the country.¹⁵⁰ The Gender Equality and Women Empowerment policy has been transformed into a Bill and tabled before Parliament for consideration.¹⁵¹

Second, the establishment of a Sexual Offences Model Court to look into sexual and gender-based violence cases is also enhancing the impact of the Maputo Protocol in the country. Before now, it was the general courts that had jurisdiction to deal with both civil and criminal matters. As a response to the rampant rape and sexual offences committed against women and girls within the state, the government set up a separate court that has original jurisdic-

tion to deal with all sexual related offences. This newly established court has helped in the speeding up of trials and reduced the congested heavy workload as was evident in the conventional court system. This Court is also helping to give effect to the spirit, object and purpose of the Maputo Protocol.

Furthermore, the amendment of the Sexual Offences Act in 2020 has also enhanced the Maputo Protocol in the country. Prior this amendment, the Sexual Offences Act of 2012 had loopholes that allowed for perpetrators to receive lighter punishment or sometimes go unpunished. With this amendment, women have better protection from sexual predators.¹⁵²

Again, the formulation of the policy of Radical Inclusion in the educational sector has fundamentally helped to give meaningful effect to the Maputo Protocol. This policy embodies the reinstatement of young girls who had dropped out of school because they became victims of teenage pregnancy. The policy saw the need to lift the ban on pregnant young girls in the country. Pregnant girls can now continue their education and realise their potential of becoming contributing members in society.¹⁵³

The Hands off our Girls campaign initiative has also helped to promote and protect women and girl's rights in the country. In light of sexual abuse meted on women and young girls either by rape, sexual penetration or through undue influence, perpetrators can now face the full force of the law for their

150 Ministry of Gender and Children's Affairs, 'Gender Equality and Women's Empowerment Policy' (2020). Available at <https://www.sierraleone.org/lawshtml> (accessed 1 December 2020).

151 'President Bio's cabinet approves Gender Empowerment Bill for parliamentary debate' *The Sierra Leone Telegraph* 22 July 2021.

152 Domestic Violence Act (n 49).

153 B Chernor 'Sierra Leone: Radical inclusion approach to education an extraordinary victor for pregnant girls' *Freetown* 2020. Available at <https://allafrica.com> (accessed 1 December 2020).

wrong doings. The campaign which was launched by the Office of the First Lady is now a household name to stop systemic sexual and gender-based violence meted against women and girls.¹⁵⁴

The continued support given by successive governments towards the free health care initiative for pregnant and lactating women and also women with disabilities has also been helpful towards giving practical effect to the Maputo Protocol in the country. This policy has continued to guarantee the health security of pregnant and lactating women in line with article 14 of the Protocol.¹⁵⁵

The establishment of institutions that are pushing for the advancement of women and girls' rights like the Ministry of Gender and Children Affairs, the One Stop Centre for Rape Survivors, the Legal Aid Board, the Family Support Unit (FSU), etc has also enhanced the Maputo Protocol in fundamental terms at the domestic level. The Legal Aid Board for example has achieved a lot in terms of promoting peaceful coexistence within hostile communities by mediating community disputes, marital, family, tenancy, minor disputes, to name but a few. A total of 384,488¹⁵⁶ people have benefited from this institution's intervention since its inception in 2015. The Family Support Unit has also addressed hundreds of thousands of family disputes involving women and girls in the country.¹⁵⁷

154 R Vickie 'Hands of our girls in Sierra Leone: right message, wrong messengers' (2019). Available at <https://vickieremoe> (accessed 30 November 2020).

155 Alex James and others 'Evaluation of the Free Health Initiatives in Sierra Leone' (2015). Available at www.opml.co.uk (accessed 1 December 2020).

156 See the Legal Aid Board Report available at <https://www.lab.gov.sl>.

157 Family Support Unit (n 10).

The enactment of the gender justice laws (Devolution of Estate Acts 2007, Domestic Violence Act 2007, the Registration of Customary Marriage and Divorce Acts 2007 and the Sexual Offences Act 2012 as amended) has also helped enhance the Maputo Protocol in the country. These laws, though enacted before the ratification of the Protocol, have helped to guarantee the rights of women and girls in many respects as dictated by the Maputo Protocol.¹⁵⁸

The appointment of women to key international human rights and legal institutions¹⁵⁹ has been impactful to the Maputo Protocol as well. At the domestic level, a few women in the country have been appointed to prominent positions in key international justice mechanisms.¹⁶⁰ All of this has been done to give effect to articles 9, 13 and 19 of the Maputo Protocol.

The repeal of part 5 of the Criminal Libel Law¹⁶¹ in 2020 by the government of Sierra Leone has also enhanced women participation in the media. Women journalists in both the electronic and print media have become incentivised to raise awareness about women and girls' rights in the country. For example, station Manager for Radio Democracy, Asmaa James, who also doubles as the founder of the Asmaa

158 'Justice for Women in Sierra Leone' (2018). Available at <https://worldjusticeproject.org> (accessed 1 January 2021).

159 Justice Jamesina King was appointed as Justice of the Court of Appeal and Commission in the Africa Commission and Justice Miatta Samba was appointed as Justice of the Supreme Court and currently serving as a judge of the International Criminal Court.

160 'The State of Human Rights Report 2017.' Available at <https://www.hrcsl.org> (accessed 24 February 2021).

161 See the repealed law at the Parliament of Sierra Leone Website. Part 5 of the Criminal Procedure Act among other things used to criminalise press freedom in the country. The law has now been expunged.

James Foundation, has been on the lead pushing for the advancement of women and girl's rights in the country. Her presence in the media has continued to help disseminate information on women and girls' rights in the country.¹⁶²

15.2 Factors that are impeding the impact of the Maputo Protocol

Patriarchy and male chauvinism still dominate the Sierra Leonean society. This is an impediment that undermines the impact of the Maputo Protocol. Men are still of the belief that they are the ones in control, hence, they should have hegemony over women.¹⁶³

More fundamental also, the failure by Sierra Leone to domesticate the Maputo Protocol is another impediment. Sierra Leone is a dualist state; hence, international and regional law do not apply except where the state has domesticated the treaty.¹⁶⁴

Also, in Sierra Leone, international treaties, conventions, protocols and case laws are considered persuasive and not binding within the justice system. The state of Sierra Leone has in some instances refused to comply with the decisions of these international and regional mechanisms. This is a challenge for the applicability of Maputo Protocol in the country.

There is also inadequate representation of women in political and governance positions in the country. The

president of the 50/50 Women Group in Sierra Leone, Dr Fatou Taqi has called on the state on many occasions to increase women participation in politics and governance.¹⁶⁵ Notwithstanding these calls, positions occupied by women in governance are still less than 30 per cent even though women constitute the majority of the population of country. This status quo overtly characterises the societal discrimination and marginalisation being meted against women and girls in the country.¹⁶⁶

The failure of Sierra Leone to legislate both the Safe Abortion Bill of 2015 and the 30 per cent Gender Quota Bill also compromised the Maputo Protocol in fundamental terms. The Ministry of Gender and Children Affairs together with other women organisations have long been pushing for these two proposed bills to be passed into law but to no avail.¹⁶⁷

Moreover, continued harmful traditional practices like FGM occasioned by the Bondo Society against women and girls have also served as an impediment to the realisation of the Maputo Protocol in the country. Even though there is a government policy which restricts girls below the age of 18 years from being forcefully initiated into the Bondo Society, the absence of effective implementation and monitoring mechanisms renders the policy an exercise in futility as there is little or nothing to show that

162 More Foundation for West Africa, 'Sierra Leone's parliament repeals criminal libel law that threatens free speech' (2020). Available at <https://ifex.org/> (accessed 23 January 2021).

163 50/50 Women Group in Sierra Leone '2015 Research studies on factors impeding women's rights in Sierra Leone.' Unpublished.

164 Marrah (n 26) 204.

165 '50/50 Group Sierra Leone pays courtesy call on President Julius Maada Bio, Praises his Position on Women' *The State House Media and Communications Unit* 8 January 2020.

166 Remoe (n 30).

167 As above.

it is being respected by initiators of the Bondo Society.¹⁶⁸

The lack of a comprehensive affirmative gender mainstreaming policy in government institutions has further proven to be an impediment to the Maputo Protocol. The absence of this policy has deprived women and girls of having full access to adequate support systems within public institutions thereby increasing their level of vulnerability.

More controversial still, the existence of discriminatory laws and practices has also posed serious challenges to the realisation of the Maputo Protocol. The 1991 Constitution of Sierra Leone sets no minimum age of marriage. The Registration of Customary Marriage and Divorce Act allows for a woman to be marriage at the age of 16 subject to parental consent.¹⁶⁹ This is below the minimum age of marriage as set by article 6 of the Maputo Protocol.

In Sierra Leone, traditional rulers and custodians of customary law and traditions support this legislation. Customary law has also deprived women in some chieftaincies to have access to paramount chief positions. Even though section 8¹⁷⁰ of the Chieftaincy Act of 2009 allows for women to contest for paramount chief positions, sub section (1)(b) of the same section 8 prescribes that customary law shall determine who qualifies to stand as paramount chief in a particular chieftaincy. Section 72(3)¹⁷¹ of the 1991

Constitution also provides for the applicability of customary law as far as chieftaincies matters are concerned. Disappointingly also, section 27(4)(d)¹⁷² of the Constitution allows for women to be discriminated against in relation to adoption, marriage, divorce, burial, devolution of property on death and other issues of personal law by deferring to the customary law. Put more simply, the protection from discriminatory laws as provided for under section 27(4) of the 1991 Constitution is not applicable to the provision mentioned above.

Lastly, the lack of a robust implementation and monitoring mechanism to ascertain compliance with international treaties as well as reporting obligations has also been a challenge. No specific body exists in Sierra Leone with a clear-cut mandate to ensure compliance by MDA's to their reporting obligations under international treaties and instruments.

16 Conclusion

In sum, while it is apparently clear that Sierra Leone lacks a comprehensive legal framework that addresses the provisions of the Maputo Protocol in specific terms, it is vital to emphasise that some progress has been made particularly in the area of awareness raising of the Maputo Protocol within the population in the country.

With the ratification of the Maputo Protocol, the amendment of the Sexual Offences Act, the repealed section of the Criminal Libel Law, the establishment of a Sexual Offences Model Court, the introduction of a One Stop Centre for

168 E Batha & N Peyton 'Sierra Leone bans FGM in clampdown on secret societies' *Freetown* 2018. Available at www.reuters.com (accessed 30 November 2020).

169 See the Registration of Customary Marriage and Divorce Act of Sierra Leone (2007). Available at www.sierraleoneweb.org (accessed 30 November 2020).

170 See the Chieftaincy Act of Sierra Leone (2009) available at www.sierraleone.org/lawshtml (accessed 5 December 2020).

171 The 1991 Constitution of Sierra Leone Act 6 (1991) available at www.sierra.leone.org/lawshtml (accessed 6 December 2020) 37.

172 As above, 17-18.

Rape Survivors and the introduction of a new Gender Equality and Women Empowerment Policy, it is safe to conclude that the provisions of the Maputo Protocol are gradually taking a firm grip in Sierra Leone even though domestication of the Protocol has not yet been achieved.

If Sierra Leone is to effectively address the challenges faced by women in the country, much more needs to be done particularly in the area of legal and policy reforms, budgetary support to MDAs working around women and girls' rights issues, training and capacity building support to CSOs and NGOs advocating for women's rights and the passing of the Gender Affirmative Bill that will help increase the quota and participation of women in the socio-economic and political governance architecture in the country.

There is a significant need for empowered, educated and robust women coupled with a transformed parliament and judiciary to demand the changes that are required to put women issues in the limelight in the country.