

**NGO Joint Parallel Report on the Government of Sierra Leone's
First Report on the Implementation of the
International Covenant on Economic, Social and Cultural Rights**

*Submitted to the
UN Committee on Economic, Social and Cultural Rights
for consideration in the formulation of the
List of Issues during the 74th Pre-Sessional Working Group (4-8 March 2024)*

by:

Science for Democracy

Rue Ducale 41,
1000 Bruxelles, Belgium

Contact: Dr. Laura Convertino
laura.errans@gmail.com

*International Human Rights Center
Loyola Law School, Los Angeles*

919 Albany Street
90015, Los Angeles, CA, USA

Contact: Prof. Cesare Romano
cesare.romano@lls.edu

and

Desert Flower Africa
Freetown, Sierra Leone

Contact: Father Peter Alpha Konteh
peterkonteh.caritas2014@gmail.com

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PURPOSE OF THIS PARALLEL REPORT

(1) The purpose of this parallel report is to assist the Committee on Economic, Social and Cultural Rights (the Committee) in the formulation of the List of Issues during the 74th Pre-Sessional Working Group (4-8 March 2024), leading to the discussion of the Government of Sierra Leone’s First Periodic Report on the implementation of the Covenant on Economic, Social and Cultural Rights (“CESCR” or “Covenant”). Sierra Leone acceded to the Covenant on 23 August 1996.¹

(2) The report focuses on female genital mutilation (FGM), an issue that comes under the purview of the Covenant (Articles 3, 10, 12 and 15). FGM is also known as female genital cutting or female circumcision. These terms are used to describe “a non-therapeutic, surgical alteration of female genitalia which is a traditional practice...”² The World Health Organization (WHO) describes the procedure as one that “involves partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.”³ The practice is usually performed on girls between the age of 10-14.⁴

(3) In countries where FGM is practiced, studies have found it to be a leading cause of death for women and girls.⁵

¹ International Covenant on Economic, Social and Cultural Rights, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=156&Lang=EN [accessed 27 Oct 2023].

² Owolabi Bjalkander, Donald S. Grant, Vanja Berggren, Heli Bathija, and Lars Almroth, *Female Genital Mutilation in Sierra Leone: Forms, Reliability of Reported Status, and Accuracy of Related Demographic and Health Survey Questions*, Obstetrics and Gynecology International, Volume 2013, p. 1, https://www.orchidproject.org/wp-content/uploads/2019/04/FGM_Sierra_Leone_Forms_Reliability_Reported_Status_Accuracy_Related_Demographic_Health_Survey.pdf [last accessed 14 Nov 2023].

³ World Health Organization, *Female Genital Mutilation*, 2023, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> [last accessed 14 Nov 2023].

⁴ UNFPA, *Female Genital Mutilation*, <https://sierraleone.unfpa.org/en/topics/female-genital-mutilation-4> [last accessed 3 Dec 2023].

⁵ Lily Ramsey, *Female Genital Mutilation found to be a leading cause of death in girls and young women in Africa*, News-Medical.Net, Aug 2023, <https://www.news-medical.net/news/20230817/Female-Genital-Mutilation-found-to-be-a-leading-cause-of-death-in-girls-and-young-women-in-Africa.aspx> [last accessed 8 Dec 2023].

FGM is typically performed by someone with no medical training, without anesthesia, and using knives, scissors, scalpels, razors or pieces of glass.⁶ When not causing death, many health complications can arise following the procedure including severe bleeding, shock, problems urinating, cysts, infections, need for later surgeries, complications in childbirth, and increased risk of newborn deaths.⁷ The injuries from the practice can also result in a reduction in sexual response, less sexual satisfaction, and discomfort and pain during sexual intercourse.⁸

(4) Birth outcomes are also negatively impacted by FGM.⁹ There is a growing body of evidence supporting the correlation between infant mortality and FGM. Infants of mothers who have undergone extensive forms of FGM have a higher likelihood of dying at birth.¹⁰ The WHO estimates that 1-2 infant deaths per 100 births are a direct result of FGM in Africa.¹¹ Additionally, women who undergo FGM are at a much greater risk of requiring a Caesarean section, an episiotomy, an extended hospital stay, and experiencing post-partum hemorrhage.¹²

(5) Unfortunately, FGM continues being a wide-spread practice in Sierra Leone. Sierra Leone's first periodic report, submitted in March 2023, acknowledges that FGM is a "harmful traditional practice" and that it remains contentious.¹³ The report notes that following a consultative process between the Ministry of Gender and Children's Affairs and partners, a recommendation to ban FGM and criminalize the practice was suggested, but no such ban has been put in place.¹⁴ Although the report brings attention to critical steps that are needed to end the practice such as sensitization and awareness measures, the prevalence of FGM across the State signals the need for more effective, immediate steps.¹⁵ Additionally, while it is absolutely critical to address the children affected by FGM, the State's initial report fails to adequately capture the long-term consequences of the practice that women may face throughout their lives.¹⁶ This report intends to fill these gaps.

⁶ Amnesty International UK, *Sierra Leone: Putting an end to FGM*, 18 May 2020, <https://www.amnesty.org.uk/sierra-leone-ban-female-genital-mutilation-fgm-uk> [last accessed 4 Dec 2023].

⁷ World Health Organization, *Female Genital Mutilation*, *supra* note 3; Amnesty International UK, *Sierra Leone: Putting an end to FGM*, *supra* note 6.

⁸ Beth D. Williams-Breault, *Eradicating Female Genital Mutilation/Cutting: Human Rights-Based Approaches of Legislation, Education and Community Empowerment*, *Health and Human Rights Journal*, 14 Aug 2018, <https://www.hhrjournal.org/2018/08/eradicating-female-genital-mutilation-cutting-human-rights-based-approaches-of-legislation-education-and-community-empowerment/> [last accessed 22 Dec 2023].

⁹ UNFPA, *Female genital mutilation frequently asked questions*, Feb 2022, <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions> [last accessed 8 Dec 2023].

¹⁰ *Id.*

¹¹ Soheila Rabiepour & Zeynab Ahmadi, *The effect of female circumcision on maternal and neonatal outcomes after childbirth: a cohort study*, *BMC Pregnancy and Childbirth*, Volume 23, 20 Jan 2023, <https://bmcpregnancychildbirth.biomedcentral.com/articles/10.1186/s12884-022-05316-4> [last accessed 8 Dec 2023]; Banks E, Meirik O, Farley T, Akande O, Bathija H, Ali M. *Female genital mutilation and neonatal outcome: WHO collaborative prospective study in six African countries*, *The Lancet*, Volume 367, Issue 9525, 3 June 2006, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)68805-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)68805-3/fulltext) [last accessed 28 Dec 2023].

¹² UNFPA, *Female genital mutilation frequently asked questions*, *supra* note 9.

¹³ CESCR, *Initial report submitted by Sierra Leone under articles 16 and 17 of the Covenant, due in 1998*, E/C.12/SLE/1, 2023, para 58.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

ABOUT THE AUTHORS OF THIS REPORT AND SOURCES

(6) This report has been prepared by Megan Mars (Science for Democracy), and by Chandra Ingram (JD Candidate 2024) and Marilynn Escún Yac (JD Candidate 2024) of the International Human Rights Center of Loyola Law School, Los Angeles, working under the supervision of Professor Cesare Romano, and in collaboration with Father Peter Alpha Konteh (Desert Flower).

(7) Science for Democracy is a Brussels-based NGO that promotes the right to science as a structural component of liberal democracies through dialogue between the scientific community and decision-makers all over the world.¹⁷

(8) The International Human Rights Center of Loyola Law School, Los Angeles is committed to achieving the full exercise of human rights by all persons and seeks to maximize the use of international and regional political, judicial, and quasi-judicial bodies through litigation, advocacy, and capacity-building.¹⁸ Loyola Law School, Los Angeles is the school of law of Loyola Marymount University, a Jesuit university.

(9) Desert Flower is committed to raising awareness about the detrimental effects of FGM and advocating for its eradication.¹⁹ Through various activities and initiatives, they aim to educate communities about the importance of ending this harmful practice and empower young people to speak out against it.

BACKGROUND

(10) In Sierra Leone, FGM is usually practiced in an all-female society called the Bondo society (also known in West Africa as the Sande). The purpose of the Bondo society is to help young women earn the rites of passage into adulthood.²⁰ In order to receive these rites of passage, a girl must undergo their cultural rituals including FGM. The society is called Bondo because initiation occurs in the Bondo bush, which is a private enclosure constructed near their village. Once a woman becomes a member of the Bondo, she is able to go to the Bondo without her husband's permission. The Bondo leader, a woman called Soweï, typically performs the cutting.²¹ Clitoridectomy and excision are believed to be the most common forms of FGM practiced in Sierra Leone.²²

(11) Generally, there is a “collective sense of social obligation and expectation” that adds to the preservation of the practice.²³ It is sustained through pressure on younger women or families to continue the practice; refusals

¹⁷ <https://sciencefordemocracy.org/> [accessed 1 Nov 2023].

¹⁸ <https://www.lls.edu/academics/centers/internationalhumanrightscenter/> [last accessed 7 Nov 2023].

¹⁹ <https://www.desertflowerfoundation.org/en/home.html> [last accessed 7 Nov 2023].

²⁰ Owolabi Bjälkander, et al., *Female Genital Mutilation in Sierra Leone: Forms, Reliability of Reported Status, and Accuracy of Related Demographic and Health Survey Questions*, *supra* note 2, at p. 3.

²¹ *Ibid.*, p. 1.

²² *Id.*

²³ CEDAW & CRC, *Joint Recommendation No.31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, CEDAW/C/GC/31/Rev.1-CRC/C/GC/18/Rev.1, para 57.

result in ostracism, being shunned, and stigmatization.²⁴ Community leaders and supporters of the practice claim FGM is required to protect a woman's honor.²⁵ Because the Bondo is the only place women are allowed to go to without permission from their husband, women who are a part of the Bondo have an increased freedom of movement. Also, members of the Bondo are regarded as having a higher standing than other women.

(12) Although Sierra Leone asserts that it is taking "gradual steps towards complete elimination" of FGM,²⁶ it continues having one of the highest rates of FGM in the world.²⁷ In Sierra Leone, at least 83% of women aged 15-49 have undergone FGM.²⁸

(13) It should be noted that FGM is not a problem unique to Sierra Leone. It also occurs elsewhere in West Africa. For instance, in 2019, a CEDAW Inquiry concerning the practice of FGM in Mali found that the State was responsible for "grave violations of rights under the Convention."²⁹ The findings showed 82.7% of women aged from 15 to 49 years and 76.4% of girls aged from 0 to 14 years had experienced FGM in Mali.³⁰ The State failed to act with due diligence to adopt a law prohibiting [FGM] and had "insufficient awareness-raising measures."³¹

(14) Despite many years of efforts, local and global, to end the practice, FGM remains widespread in Sierra Leone. Regardless of sustained international pressure, the country still lacks legislation that criminalizes or punishes the practice. Even when there have been short-lived prohibitions in Sierra Leone (e.g., during the Ebola crisis starting in 2014 when FGM was banned to prevent the spread of infection), the law was not adequately enforced.³²

(15) Sierra Leone tried to criminalize FGM in 2007. The Child Rights Act (2007), drafted in partnership with the United Nations Children's Fund (UNICEF), defined FGM as "cutting or removal of any part of the female genitalia."³³ It intended to provide a legislative framework to protect children under the age of 18, aligned with the obligations under the Convention on the Rights of the Child (CRC).³⁴ However, it fell short of what is needed to root out the practice. Indeed, under pressure from the paramount chiefs of the communities where FGM is practiced, the legislature removed FGM from §46 of the draft, which would have prohibited and criminalized these

²⁴ *Id.*

²⁵ Amnesty International UK, *Sierra Leone: Putting an end to FGM*, *supra* note 6.

²⁶ CESCR, *Initial report submitted by Sierra Leone under articles 16 and 17 of the Covenant, due in 1998*, *supra* note 13, at para 58.

²⁷ USAID, *Desk Study on Female Genital Mutilation/Cutting in Sierra Leone*, <https://www.usaid.gov/document/desk-study-female-genital-mutilationcutting-sierra-leone#:~:text=Sierra%20Leone%20has%20one%20of,in%20rural%20Sierra%20Leonean%20societies>. [last accessed 4 Dec 2023].

²⁸ FMG/C Research Initiative, *Sierra Leone: Key Findings*, <https://www.fgmcri.org/country/sierra-leone/> [last accessed 14 Nov 2023].

²⁹ CEDAW, *Inquiry concerning Mali under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/IR/MLI/1, 2019, para 80.

³⁰ *Ibid.*, para 18.

³¹ *Ibid.*, para 61-62.

³² Thomson Reuters Foundation & 28 Too Many, *Sierra Leone: The Law and FGM*, Sept 2018, p. 4-5, [https://www.fgmcri.org/media/uploads/Law%20Reports/sierra_leone_law_report_v2_\(june_2021\).pdf](https://www.fgmcri.org/media/uploads/Law%20Reports/sierra_leone_law_report_v2_(june_2021).pdf) [last accessed 5 Dec 2023]. For example, a Soweï was arrested for forcing a 28-year-old woman to undergo FGM but was released without charges following protests from traditional cutters.

³³ The Child Rights Act, 2007, Available at <http://www.sierra-leone.org/Laws/2007-7p.pdf> [last accessed 22 Dec 2023].

³⁴ *Id.*

customary practices on children.³⁵ Although the Child Rights Act incorporates clauses from the CRC prohibiting “cruel, inhuman or degrading” treatment of children, which could be applied to FGM, there is no evidence to date that this law has been used to prosecute acts of FGM in Sierra Leone.³⁶ While §33 of the Child Rights Act imposes a fine of up to 30,000,000 Leones (about \$1,500 USD) or 2 years imprisonment for harm caused to a child by any cultural practice, FGM is not specifically listed.³⁷

(16) In 2012, eight of the fourteen local chiefdoms,³⁸ paramount chiefs and Soweis³⁹ signed Memorandums of Understanding banning FGM for girls ages 0-18 years-old and requiring consent from women over 18.⁴⁰ Yet, these voluntary agreements have no legal force⁴¹ and FGM continues in many of these districts.⁴²

(17) The Ministry of Social Welfare, Gender and Children’s Affairs is tasked with gender issues in Sierra Leone, including addressing FGM.⁴³ Reports indicate that it worked with strategic partners to draft a National Strategy for the Reduction of FGM/C 2016-2020, but ultimately it was not implemented.⁴⁴

(18) The following sections explain how, by allowing FGM to continue, Sierra Leone is failing to fulfill its obligations under the Covenant, specifically concerning Articles 3, 10, 12 and 15.

BY FAILING TO CURTAIL THE HIGH RATES OF FGM IN THE STATE, SIERRA LEONE FAILS TO FULFIL ITS INTERNATIONAL OBLIGATIONS UNDER THE COVENANT

(19) FGM violates multiple international human rights treaties, including the Covenant, the Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of Discrimination Against Women (CEDAW).⁴⁵ Because of that, this Committee, along with other

³⁵ Lisa O’Carroll, *Sierra Leone’s secret FGM societies spread silent fear and sleepless nights*, The Guardian, 24 Aug 2015, <https://www.theguardian.com/global-development/2015/aug/24/sierra-leone-femalegenital-mutilation-soweis-secret-societies-fear> [last accessed 22 Dec 2023].

³⁶ 28TooMany, “FGM in Sierra Leone KEY FINDINGS”, Sept 2021, [https://www.fgmcri.org/media/uploads/Country%20Research%20and%20Resources/Sierra%20Leone/key_findings_sierra_leone_v1_\(september_2021\).pdf](https://www.fgmcri.org/media/uploads/Country%20Research%20and%20Resources/Sierra%20Leone/key_findings_sierra_leone_v1_(september_2021).pdf) [last accessed on Nov 1, 2023].

³⁷ The Child Rights Act, 2007, *supra* note 33.

³⁸ The districts are Bo, Bonthe, Kambia, Kailahun, Port Loko, Pujehun, Western Area Rural and Western Area Urban. Thomson Reuters Foundation & 28 Too Many, *Sierra Leone: The Law and FGM*, *supra* note 32, at p. 5.

³⁹ Soweis are FGM initiators. Thomson Reuters Foundation & 28 Too Many, *Sierra Leone: The Law and FGM*, *supra* note 32, at p. 5.

⁴⁰ CESCR, *Initial report submitted by Sierra Leone under articles 16 and 17 of the Covenant, due in 1998*, *supra* note 13, at para 58.

⁴¹ Amnesty International, *Communities in Sierra Leone turn their backs on female genital mutilation*, 22 July 2014, <https://www.amnesty.org/en/latest/news/2014/07/communities-sierra-leone-turn-their-backs-female-genital-mutilation/> [last accessed 21 Dec 2023].

⁴² US Department of State, *Human Rights Report: Sierra Leone*, 2013, p. 25, <https://2009-2017.state.gov/documents/organization/220368.pdf> [last accessed 21 Dec 2023].

⁴³ Thomson Reuters Foundation & 28 Too Many, *Sierra Leone: The Law and FGM*, *supra* note 32, at p. 5.

⁴⁴ *Ibid.*, p. 6.

⁴⁵ CESCR, Art. 3, Art. 10, Art. 12, Art. 15; CCPR, Art. 3, Art. 7; CEDAW, Art. 2, Art. 3, Art. 5, Art. 12, Art. 14, Art. 16; CRC, Art. 2, Art. 19, Art. 24, Art. 34.

human rights bodies and mechanisms, have repeatedly called for its elimination and criminalization.⁴⁶

(20) Numerous concluding observations by this Committee have expressed concern about FGM and have called for the prohibition of the harmful practice.⁴⁷ Other UN treaty bodies have also repeatedly criticized the practice and affirmed the harm it causes and its discriminatory nature.⁴⁸ For instance, the CEDAW Committee and the Committee on the Rights of the Child recognized in Joint General Recommendation 31 that FGM is a deep-rooted cultural practice perpetuated by gender inequality.⁴⁹

(21) In the concluding observations on the sixth periodic report of Sierra Leone, the CEDAW Committee expressed concern about the “continued prevalence of [FGM] and the lack of legal prohibition of this harmful practice.”⁵⁰ The CEDAW Committee recommended the State party to “explicitly prohibit [FGM].”⁵¹

(22) In 2012, the UN General Assembly adopted a Resolution to intensify “global efforts for the elimination of female genital mutilation.”⁵²

(23) It should be noted that Sierra Leone ratified the African Union’s Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in African (Maputo Protocol).⁵³ Article 5 calls for complete

⁴⁶ CESCR, *General comment No. 14 on the right to the highest attainable standard of health*, (Art. 12), E/C.12/2000/4, 11 Aug 2000, para 22. (“There is a need to adopt effective and appropriate measures to abolish harmful traditional practices affecting the health of children, particularly girls, including...female genital mutilation.”); *See also* Human Rights Council, *GA Resolution “Elimination of female genital mutilation,”* A/HRC/RES/44/16, 17 July 2020.

⁴⁷ CESCR, *Concluding Observations on the initial report of Uganda*, E/C.12/UGA/CO/1, 8 July 2015, para 26(c); CESCR, *Concluding Observations on the second periodic report of the Sudan*, E/C.12/SDN/CO/2, 27 Oct 2015, para 41-42; CESCR, *Concluding Observations on the initial report of Guinea*, E/C.12/GIN/CO/1, 30 March 2020, para 21; CESCR, *Concluding Observation on the initial report of Mali*, E/C.12/MLI/CO/1, 6 Nov. 2018, para 32-33; CESCR, *Concluding Observations on the combined second to fifth periodic reports of Kenya*, E/C.12/KEN/CO/2-5, 6 April 2016, para 39-40: “The Committee recommends that the State party intensify its efforts to prevent and eradicate female genital mutilation and other harmful traditional practices.”

⁴⁸ Sierra Leone acceded to the International Covenant on Civil and Political Rights on 23 August 1996, International Covenant on Civil and Political Rights, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=156&Lang=EN [accessed 27 Nov 2023]; Sierra Leone ratified the Convention on the Elimination of All Forms of Discrimination against Women on 11 November 1988, Convention on the Elimination of All Forms of Discrimination against Women, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=156&Lang=EN [accessed 27 Nov 2023].

⁴⁹ CEDAW & CRC, *Joint Recommendation No.31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, *supra* note 23, at para 7.

⁵⁰ CEDAW, *Concluding Observations on the sixth periodic report of Sierra Leone*, CEDAW/C/SLE/CO/6, 10 March 2014, para 18(b).

⁵¹ *Ibid.*, para 19(c) & 18(b). The CEDAW Committee was concerned that Sierra Leone rejected a provision that would have criminalized child FGM.

⁵² General Assembly, *Resolution adopted by the General Assembly on 20 December 2012: 67/146. Intensifying global efforts for the elimination of female genital mutilation*, A/RES/67/146.

⁵³ African Union, *List of countries which have signed, ratified/acceded to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of the Women in Africa*, [https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA.pdf](https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL%20TO%20THE%20AFRICAN%20CHARTER%20ON%20HUMAN%20AND%20PEOPLES%20RIGHTS%20ON%20THE%20RIGHTS%20OF%20WOMEN%20IN%20AFRICA.pdf) [last accessed 20 Dec 2023].

elimination of FGM.⁵⁴ While Sierra Leone’s first report refers to the government’s commitment to the Maputo Protocol, clearly, it still has failed to “take all necessary legislative and other measures to eliminate such practices.”⁵⁵ (24) More to the point, FGM is a violation of multiple articles of the Covenant.

I) *Article 3*

(25) FGM violates the right of women to live free from gender-based violence and discrimination. Under Article 3 of the Covenant: “States Parties...undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”⁵⁶ Nearly 9 in 10 women and girls in Sierra Leone have undergone FGM.⁵⁷ The practice is a manifestation of gender inequality in the State.

(26) Motivation that perpetuates the practice often include concerns about girls’ marriageability, social acceptance, virginity prior to marriage, sexual availability of females to their husbands, and women’s chastity and monogamy in marriage.⁵⁸

(27) General Comment 16 states that the obligation to protect the enjoyment of all rights “requires States parties to take steps aimed directly at the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority...”⁵⁹ Thus, Sierra Leone must take more immediate steps to eliminate the customary and discriminatory practice of FGM.

(28) The Office of the United Nations High Commissioner for Human Rights (OHCHR) points to “significant reductions” in FGM practices where States have both enacted *and* enforced criminal sanctions.⁶⁰ Additionally, in the concluding observations on the initial report of Guinea, this Committee asked that the government “ensure that cases of... female genital mutilation are promptly and impartially investigated...”⁶¹

(29) General Comment 16 also refers to the States parties’ duty to adopt “legislation to eliminate discrimination and to prevent third parties from interfering directly or indirectly with the enjoyment of this right” and to “monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and

⁵⁴ African Union, *Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa*, 2005, p. 9, https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf [last accessed 21 Dec 2023].

⁵⁵ CESCR, *Initial report submitted by Sierra Leone under articles 16 and 17 of the Covenant, due in 1998*, *supra* note 13, at para 58; African Commission on Human and Peoples’ Rights, *Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa*, African Union, 2005, Article 5.

⁵⁶ CESCR, Art. 3.

⁵⁷ UNICEF, *Sierra Leone: Statistical Profile on Female Genital Mutilation*, January 2019, p. 2.

⁵⁸ Rajat Khosla, Joya Banerjee, Doris Chou, Lale Say & Susana T. Fried, *Gender equality and human rights approaches to female genital mutilation: a review of international human rights norms and standards*, *Reprod Health*, 12 May 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5429526/> [last accessed 22 Dec 2023].

⁵⁹ CESCR, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant)*, E/C.12/2005/4, 2005, para 19.

⁶⁰ General Assembly, *Good practices and major challenges in preventing and eliminating female genital mutilation*, A/HRC/29/20, 27 March 2015, para 13.

⁶¹ CESCR, *Concluding Observations on the initial report of Guinea*, E/C.12/GIN/CO/1, *supra* note 47, at para 21(c).

women...”⁶² Sierra Leone must take steps to prevent practitioners from performing FGM with freedom from punishment. The government can work with local organizations to assist Soweis with finding alternative work as part of the phasing out process.

(30) Finally, FGM contributes to teenage marriage and childbearing because girls are considered ready for marriage once they undergo FGM.⁶³ In Sierra Leone, by age 19, 45% of teenage girls have started childbearing.⁶⁴ This is linked to lower secondary education rates of women (41%) versus men (57%) and alarmingly low literacy rates among teenage mothers.⁶⁵ Even worse, 40% of maternal deaths in Sierra Leone are teenagers.⁶⁶ Sierra Leone has a duty to prevent the wide-ranging consequences of FGM that expressly affect women and girls.

II) Article 10

(31) Article 10.1 of the Covenant recognizes that “[t]he widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society...”⁶⁷ In a Joint General Recommendation, CEDAW and CRC stated that FGM, as a social norm, is allowed by parents and is generally performed as a requirement for marriage, which is arguably the start of a new family unit.⁶⁸ Unfortunately, that means that in Sierra Leone, to start a new family unit, women must accept FGM.⁶⁹ Typically, FGM is practiced in unsafe and unsterile environments without proper medical equipment. It is performed with razor blades, penknives, or pieces of broken glass.⁷⁰ As a result, the nearly 90% of women in Sierra Leone who suffer from FGM can experience health issues that affect the expansion of a family including infertility, difficulties during childbirth, and an increased risk of infant and maternal mortality.⁷¹

(32) Article 10.3 of the Covenant recognizes that “[s]pecial measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other

⁶² CESCR, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant)*, *supra* note 59, para 19-20.

⁶³ Interview with FGM expert, 7 Dec 2023.

⁶⁴ Chernor Bah, *Sierra Leone Case Study – Implementation of Beijing Education Commitments at the National level, 1995-2020*, ED/GEMR/MRT/2020/P1/33, 2020, p. 2, <https://unesdoc.unesco.org/ark:/48223/pf0000374503> [last accessed 8 Dec 2023].

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ CESCR, Art. 10.1.

⁶⁸ CEDAW & CRC, *Joint Recommendation No.31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, *supra* note 23, at para 6.1, 7.3.1.

⁶⁹ Caroline Largoza, *Tackling FGM In Sierra Leone*, The Borgen Project, 29 Jan 2021, <https://borgenproject.org/fgm-in-sierra-leone/> [last accessed 18 Nov 2023].

⁷⁰ *Id.*

⁷¹ Equality Now, *Following Another Death From FGM In Sierra Leone, 130 Women’s Rights Groups Around The World Call On The Government To Criminalize FGM*, 1 Feb 2022, https://www.equalitynow.org/press_release/fgm-sierra-leone-130-womens-rights-groups-feb/ [last accessed 18 Nov 2023]; Caroline Largoza, *supra* note 69.

conditions.”⁷² In Sierra Leone, FGM occurs mostly to young girls before the age of 15.⁷³ Due to the typically unsafe and unsterile conditions of the FGM practice, girls can experience short-term and/or long-term complications such as infections, psychological trauma, cysts, ulcers, and even death.⁷⁴ In various concluding observations on State reports, the CRC has repeatedly recognized FGM as a harmful practice on children and noted the “harmful impact of female genital mutilation on the psychological and physical health and welfare of the girl child.”⁷⁵

(33) Therefore, the criminalization and elimination of FGM in Sierra Leone is necessary to protect families, children, and young persons, if Article 10 of the Covenant is to be respected.

III) Article 12

(34) Article 12.1 provides that “[t]he States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁷⁶ FGM is not medically necessary. It is harmful and can lead to severe consequences for a woman’s physical and mental health. Therefore, the practice of female genital mutilation is a violation of a person’s right to the highest attainable standard of health, physical and mental.

(35) The Committee interpreted the right to health to contain freedoms, including “the right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation.”⁷⁷ Following criminal proceedings over the death of a 21-year-old student who was subject to the practice in the Bonthe District, three Special Rapporteurs issued a statement condemning female genital mutilation as “a grave form of violence against women and girls that amounts to torture.”⁷⁸ Girls and women are often forcibly restrained during the procedure and the subjection of non-protesting girls and women to FGM also occurs without their full, informed consent.⁷⁹ FGM is commonly performed upon girls between the ages of four and twelve,⁸⁰ who are not in a position to give informed

⁷² CESCR, Art. 10.3.

⁷³ UNFPA, *What We Do: Female genital mutilation*, <https://sierraleone.unfpa.org/en/topics/female-genital-mutilation-4> [last accessed 18 Nov 2023].

⁷⁴ Equality Now, *Following Another Death From FGM In Sierra Leone, 130 Women’s Rights Groups Around The World Call On The Government To Criminalize FGM*, *supra* note 71.

⁷⁵ CRC, *Concluding Observations on the fourth periodic report of Yemen*, CRC/C/YEM/CO/4, 2014, para 47; *Concluding Observations on the combined second and third periodic reports of Gambia*, CRC/C/GMB/CO/2-3, 2015, para 45; *Concluding Observations on the combined third to fifth periodic reports of Kenya*, CRC/C/KEN/CO/3-5, 2016, para 35.

⁷⁶ CESCR, Art. 12.1.

⁷⁷ CESCR, *General comment No. 14 on the right to the highest attainable standard of health*, *supra* note 46, at para 8.

⁷⁸ United Nations News, *Sierra Leone: Female genital mutilation ‘amounts to torture,’ impunity must end*, 24 Aug 2022, <https://news.un.org/en/story/2022/08/1125322> [last accessed on 3 Dec 2023].

⁷⁹ Center for Reproductive Rights, *Female Genital Mutilation A Matter of Human Rights: An Advocate’s Guide to Action*, p. 14, https://reproductiverights.org/sites/default/files/documents/FGM_final.pdf [last accessed on 3 Dec 2023].

⁸⁰ *Ibid.*, p. 15.

consent.⁸¹

(36) This Committee's General Comment 14 urged State parties to provide a safe and supportive environment for adolescents that ensures the opportunity to participate in decisions affecting their health and to negotiate the health-behavior choices they make. The Committee stated that this right to health depends on youth-friendly health care, which respects confidentiality and privacy.⁸²

(37) In General Comment 22, this Committee recognized female genital mutilation as gender-based violence and a harmful practice that denies women and girls their right to full sexual and reproductive health under Article 12.⁸³ FGM procedures result in short-term and long-term complications including hemorrhaging; infections; severe pain; urine retention and other urinary tract problems; psychological trauma; chronic infections; cysts and ulcers; painful scar tissue; problems affecting the bladder, uterus, and kidneys; sexual health issues; mental health issues; infertility; menstrual complications; difficulties during childbirth; and an increased risk of infant and maternal mortality.⁸⁴ Severe forms of FGM (infibulation) may predispose women to fistula, a condition in which a hole between the vagina and the rectum or bladder causes a woman to continuously leak urine, feces or both.⁸⁵ In Sierra Leone, FGM also results in death, including the death of 19-year-old Fatmata Turay in 2016 and 10-year-old girl Marie Kamara who bled to death following complications from the procedure in 2018.⁸⁶

(38) Studies document an association between FGM and adverse mental health outcomes.⁸⁷ Women and girls who experienced FGM also experience in the long term, post-traumatic stress disorder (PTSD), anxiety, depression and

⁸¹ Informed consent, according to the United Nations General Assembly, is consent to a medical intervention that is "obtained freely, without threats or improper inducements." Consent also includes social context, including the impact of extreme social, cultural, and religious pressures on women's ability to decide freely to undergo FGM, with full knowledge of the consequences.

⁸² CESCR, *General comment No. 14 on the right to the highest attainable standard of health*, *supra* note 46, at para 23.

⁸³ CESCR, *General comment No. 22 (2016) on the right to sexual and reproductive health* (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/22, 2 May 2016, para 29.

⁸⁴ Equality Now, *Following Another Death From FGM In Sierra Leone, 130 Women's Rights Groups Around The World Call On The Government To Criminalize FGM*, *supra* note 71.

⁸⁵ Matanda, Dennis Juma., Sripad, Pooja, et al., "Is there a relationship between female genital mutilation/cutting and fistula? A statistical analysis using cross-sectional data from Demographic and Health Surveys in 10 sub-Saharan Africa countries." *BMJ*, 9(7), 19 July 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6678015/> [last accessed on 22 Dec. 2023].

⁸⁶ Kate Hodal, *Girl, 10, dies after female genital mutilation in Sierra Leone*, *The Guardian*, 20 Dec 2018, <https://www.theguardian.com/global-development/2018/dec/20/girl-10-dies-after-female-genital-mutilation-in-sierra-leone> [last accessed on 3 Dec. 2023]; Kieran Guilbert, *Sierra Leone urged to ban FGM after death of teenage girl*, *Reuters*, 18 Aug 2016, <https://www.reuters.com/article/us-leone-fgm-idUSKCN10T15V/> [last accessed on 3 Dec. 2023].

⁸⁷ Abdalla SM, Galea S, "Is female genital mutilation/cutting associated with adverse mental health consequences? A systematic review of the evidence", *BMJ Glob Health*. 15 July 2019; 4(4): e001553. doi: 10.1136/bmjgh-2019-001553; see also WHO, *Female Genital Mutilation Hurts Women and Economies*, 6 Feb 2020, <https://www.who.int/news/item/06-02-2020-female-genital-mutilation-hurts-women-and-economies> [last accessed on 3 Dec 2023]. ("FGM is not only a catastrophic abuse of human rights that significantly harms the physical and mental health of millions of girls and women"); Serene Chung, *The Psychological Effects of Female Genital Mutilation*, FGM/C Research Initiative, 16 May 2016, <https://www.fgmcri.org/blog/the-psychological-effects-of-female-genital-mutilation-research-blog-by-serene-chung/> [last accessed on 3 Dec 2023]. ("The World Health Organization (2008, Annex 5) reported that immediate psychological trauma may stem from the pain, shock and the use of physical force by those performing FGM.")

memory loss.⁸⁸ A study in practicing African communities found that women who have undergone FGM have the same levels of PTSD as adults who have been subjected to early childhood abuse, and that the majority of the women (80%) suffer from affective mood or anxiety disorders.⁸⁹

(39) Sierra Leone's failure to implement national legislation prohibiting FGM is a violation of the Covenant. The Committee stated that State parties have a core obligation "[t]o enact and enforce the legal prohibition of harmful practices and gender-based violence, including female genital mutilation."⁹⁰ Additionally, in a joint statement several UN Special Rapporteurs called on the Government of Sierra Leone to criminalize FGM.⁹¹ The statement further calls on the Government to implement a law that creates an exception to age and guarantees their right to bodily integrity, which Sierra Leone has failed to do.⁹²

(40) Further, the Committee stated in General Comment 14 that violations of the obligation to protect occur where a State fails to take effective steps to prevent third parties from undermining the enjoyment of the right to sexual and reproductive health. This includes the failure to prohibit and take measures to prevent all forms of violence and coercion committed by private individuals and entities, including harmful practices such as female genital mutilation.⁹³ In December 2021, Maseray Sei, a 21-year-old woman died from FGM-related complications, and the cutter in her case is facing prosecution for manslaughter in one of the first FGM cases in the country taken to court. However, without a law criminalizing the practice in Sierra Leone, there are no penalties, consequences, or opportunities for redress.⁹⁴

(41) Sierra Leone has failed to put in place laws, policies and programs to prevent, address and remediate violations of all individuals' right to autonomous decision-making on matters regarding their sexual and reproductive health, free from violence, coercion and discrimination.⁹⁵

IV) Article 15

(42) Article 15.1.b of the Covenant recognizes "the right of everyone to enjoy the benefits of scientific progress

⁸⁸ Behrendt, A., and Moritz, S., *Posttraumatic Stress Disorder and Memory Problems After Female Genital Mutilation*, *The American Journal of Psychiatry*, 162(5), 2005, p. 1000-1002.

⁸⁹ Keel, A., *Re: Female Genital Mutilation (Letter to Health Professionals in Scotland)*, 2014, [http://www.sehd.scot.nhs.uk/cmo/CMO\(2014\)19.pdf](http://www.sehd.scot.nhs.uk/cmo/CMO(2014)19.pdf) [last accessed 8 Dec. 2023].

⁹⁰ CESCR, *General comment No. 22 (2016) on the right to sexual and reproductive health* (article 12 of the International Covenant on Economic, Social and Cultural Rights), *supra* note 83, at para 49(d).

⁹¹ OHCHR Press Releases, *Sierra Leone: End impunity for female genital mutilation, say UN human rights experts*, 24 Aug 2022, <https://www.ohchr.org/en/press-releases/2022/08/sierra-leone-end-impunity-female-genital-mutilation-say-un-human-rights> [last accessed on Dec 3, 2023].

⁹² *Id.*

⁹³ CESCR, *General comment No. 14 on the right to the highest attainable standard of health*, *supra* note 46, at para 42 & 49.

⁹⁴ Equality Now, *Equality Now And Its Partners Welcome The Call By UN Special Rapporteurs To The Government Of Sierra Leone To Take Action To End Female Genital Mutilation*, 15 Sept 2022, https://www.equalitynow.org/news_and_insights/un-special-rapporteurs-government-sierra-leone-fgm/ [last accessed on 3 Dec 2023].

⁹⁵ CESCR, *General comment No. 22 (2016) on the right to sexual and reproductive health* (article 12 of the International Covenant on Economic, Social and Cultural Rights), *supra* note 83, at para 29.

and its applications.”⁹⁶ First, as this Committee explained in General Comment 25, the right to “benefit” from science includes “the right of having scientific knowledge disseminated” and the duty of States to “form critical and responsible citizens who are able to participate fully in a democratic society.”⁹⁷ Women and girls of Sierra Leone have a right to be provided with life-saving information about FGM.

(43) In Sierra Leone there is a general lack of information-sharing concerning the harmful effects of FGM. Article 15 of the Covenant requires that this important medical information be provided to the general population. Women can only enjoy the “benefits of scientific research”⁹⁸ if they are informed about the impact FGM might have on them, immediately and in the future.⁹⁹ For example, in the concluding observations on the combined second to fifth periodic reports of Kenya, this Committee recommended the government of Kenya “intensify efforts to prevent and eradicate [FGM]... by...enhancing awareness-raising campaigns on the negative impact of [FGM]...”¹⁰⁰

(44) Second, General Comment 25 points out that “special attention should be given to the protection of women’s free, prior and informed consent in treatments or scientific research on sexual and reproductive health.”¹⁰¹ Women must be able to provide their informed consent for sexual and reproductive health treatments. However, obtaining consent for FGM is troubling in Sierra Leone due to the deeply entrenched nature of the practice in social and cultural life.¹⁰² It is typically not a question of whether a woman is providing consent, but instead they have no choice because denying the practice would lead to stigmatization and accusations of being unclean, promiscuous or diseased.¹⁰³ Women in Sierra Leone are not providing free, prior and informed consent because, if agreed to at all, consent is established under extreme social pressures.

(45) Finally, no scientific evidence supports any health benefits resulting from FGM.¹⁰⁴ Instead, the procedure damages healthy female genital tissue and leads to numerous health complications.¹⁰⁵ Further, when these complications arise, women and girls do not usually seek medically trained health professionals for treatment.¹⁰⁶ Instead, they tend to be treated outside of hospital settings.¹⁰⁷ Initial health treatments are typically provided by the Soweï or a traditional healer, which further delays proper treatment of the victim and adds to the severity of

⁹⁶ CESCR, Art. 15.1.b.

⁹⁷ CESCR, *General Comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)*, E/C.12/GC/25, 30 April 2020, para 8.

⁹⁸ *Ibid.*, para 8.

⁹⁹ CESCR, *Concluding Observations on the combined second to fifth periodic reports of Kenya*, *supra* note 47, at para 40.

¹⁰⁰ CESCR, *Concluding Observations on the initial report of Uganda*, *supra* note 47, at para 26(d).

¹⁰¹ CESCR, *General Comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)*, *supra* note 97, at para 33.

¹⁰² Thomson Reuters Foundation & 28 Too Many, *Sierra Leone: The Law and FGM*, *supra* note 32, at p. 5.

¹⁰³ *Id.*

¹⁰⁴ World Health Organization, *Female Genital Mutilation*, *supra* note 3.

¹⁰⁵ *Id.*

¹⁰⁶ Owolabi Bjalkander, Laurel Bangura, Bailah Leigh, Vanja Berggren, Staffan Bergstrom & Lars Almroth, *Health complications of female genital mutilation in Sierra Leone*, *Int. J. Womens Health*, 6 July 2012, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3410700/> [last accessed 22 Dec 2023].

¹⁰⁷ *Id.*

the complication.¹⁰⁸ Thus, women cannot enjoy the benefits of scientific progress under these conditions.

(46) Since the practice cannot be uprooted overnight, Sierra Leone must provide treatment to women who will continue being impacted by the harmful practice in the near future. For instance, in the concluding observations on the second periodic report of Sudan, this Committee recommended that the government “provide assistance to victims of [FGM], including medical procedures to treat immediate and long-term complications.”¹⁰⁹ Scientific progress has resulted in the advancement of safe treatments and procedures; women in Sierra Leone have a right to access these services in hopes of beginning to heal from the harms of FGM. In addition to treatment for physical complications, psychosocial support is necessary for victims who may be suffering from post-traumatic stress disorder, anxiety and depression.¹¹⁰

RECOMMENDATIONS

(47) We respectfully recommend this Honorable Committee include at least one of the following questions in the List of Issues it will prepare for Sierra Leone.

- 1. Please explain what steps Sierra Leone intends to take to prohibit FGM.***
- 2. Please explain what steps Sierra Leone intends to take to protect children from FGM.***
- 3. Please explain what steps Sierra Leone intends to take to ensure women and girls receive necessary treatment for mental and physical consequences of FGM.***
- 4. Please explain what steps Sierra Leone intends to take to lower the rates of FGM in its jurisdiction.***
- 5. Please explain what steps Sierra Leone intends to take to disseminate knowledge about the harms of FGM.***
- 6. Please explain what steps Sierra Leone intends to take to incentivize Soweis to stop performing FGM.***
- 7. Please provide up-to-date data on the number of women and girls who have died from complications of FGM.***
- 8. Please provide up-to-date information on maternal complications and infant deaths tied to FGM.***

¹⁰⁸ *Id.*

¹⁰⁹ CESCR, *Concluding Observations on the second periodic report of the Sudan*, *supra* note 47, at para 42.

¹¹⁰ CEDAW & CRC, *Joint Recommendation No.31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, *supra* note 23, at para 7.