

Child Protection in Post-war Sierra Leone: Contextualizing Provision, Protection and Participation Rights of Children.

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Abstract

Child protection in Sierra Leone is characterised by neglect, the unwillingness, and inability of the structures and practices of government; child unfriendly policies, economic exploitation, and harmful traditional beliefs. The study investigates the Government of Sierra Leone's commitments to international human rights law to fulfilling the provision, protection and participation rights of children. I argue that the top-bottom approach adopted by the government and child protection agencies to secure children's human rights is unsuccessful since the informal system of child protection and rearing considers children's rights as imposition of western norms and denigration of traditional values of Sierra Leone.

Dedication

To my wife, Cecilia Conteh and my son, Joseph Mahun Conteh

Introduction

The international commitment to protection of children's human rights in the West African nation of Sierra Leone is characterised by neglect, the unwillingness, and inability of the structures and practices of government; child unfriendly policies, economic and sexual exploitation, and harmful traditional beliefs and practices. As Landgren (2005) argues, 'Children's protection from violence, exploitation and abuse is weak in much of the world, despite near universal ratification of the Convention on the Rights of the Child (CRC)'¹. This argument is explicit in the African continent where child poverty² and flagrant violations of human rights are expressly manifest in states' policies and practices. Viljoen (2000), points out that:

In many respects, children are more likely to be victims of human rights violations than adults, and African children are more likely to be victims than children in other continents. Causes of human rights violations in Africa, such as poverty, HIV/AIDS, warfare, famine and harmful cultural practices have a disproportionate impact on the continent's children. (cited by Julia 2008, p.3)

The putative CRC, an embodiment of international human rights laws for children, emphasizes the following; child survival and development, protection and participation. These entitlements have been broadly categorised into '3Ps' - Provision, Protection and Participation rights of children (Quennerstedt, 2010, p620). The categorization forms the basis of analysis of states' responsibilities under international human rights law to ensuring and protecting human rights of children. Similarly, Grover (2007), points out: 'children's rights are indistinguishable from human rights generally, rather, the rights articulated in the CRC are the same human rights entitlements that apply to all persons' (cited in Quennerstedt, 2010, p620).

This dissertation investigates the Government of Sierra Leone's commitments to international human rights law to ensuring and fulfilling the '3P' rights of the child within the context of a protective environment (Landgren, 2005). It does so in the aftermath of a decade long civil war (1991-2002). Much as this study sets out to examine the provision, protection and participation rights of children in tandem with the protective environment framework in

¹ The Convention on the Rights of the Child was adopted in 1989 and entered into force in 1990. CRC has received the most ratification by member states of the United Nations. All member states of the UN have ratified with the exception of the United States of America and Somalia – see www.treaties.un.org/Pages/viewDetails. Accessed 27/08/2012

² The United Nations Development Program (UNDP 2000, p.73) defines poverty as a state in which a person is unable to live long, healthy and creative life, or to enjoy a decent life worthy of self-respect and the respect of others. Child poverty is therefore understood in the context of a person below the age of 18 and lacks opportunities to realize basic human needs.

Sierra Leone, however, the author limits the study to a few sets of rights rather than looking at the entire provisions of the CRC. Under the provision rights, the following are examined;

(a) Child survival and development, infant and child mortality rates,

(b) Provision of safe and affordable drinking water,

(c) Access to quality primary education, and

(d) Measures taken to stem traditional practices prejudicial to the health of children.

Under the protection rights, the study focuses on economic exploitation of children. In particular, the study examines the incidences of child labour including the phenomenon of street children. Under the participation rights of children, which for many, forms the political and civil rights of children, the study measures government's commitments, policies, and practices to ensuring the full enjoyment of freedom of expression and access to information, freedom of thought, conscience and religion of children in Sierra Leone. From a cultural standpoint, the study investigates how the formal and informal national child protection frameworks (see Part II) strike the balance between 'westernized forms' of children's human rights and cultural or traditional values of Sierra Leone.

Further, three broad and overarching research questions are crucial to this study. These questions include the following;

(1) What model of implementation of the '3ps' is being adopted by the government of Sierra Leone i.e., a hierarchical and or a parallel model in securing children's rights? In providing answers to the questions, the following sub-questions have been developed;

(a) What is the status of human rights of children vis-à-vis child survival, development, protection and participation?

(b) Has the government of Sierra Leone fulfilled the provisions of the Child Rights Act?

(2) What measures have the government taken to provide a protective environment framework in its development agenda? The sub-questions include the following;

(a) What are the strengths and weaknesses in terms of capacity of the government to ensuring that children's rights are respected and protected?

(b) What are the existing mechanisms to enforce municipal legislations relating to child protection?

(c) Are children's rights secured, respected and protected in the aftermath of the legislation of the Child Rights Act 2007 than before the 2007 Act?

- (3) How do the provisions of the Child Rights Act conform or challenge traditional practices of child rearing and protection? The sub-questions include the following;
- (a) How do these laws penetrate local populations?
 - (b) What local institutions exist to bring up a child and how do they differ from the mechanisms created by the central government and NGOs?

This study is divided into four parts; part I (the introduction), discusses the aims and objectives of the study as well as the research questions. Methodological and ethical issues have also been addressed. Part II presents the analytical framework and a synoptic background to Sierra Leone's national child protection regimes. Under the analytical framework, theoretical and ontological arguments on the use of the '3Ps' are presented in addition to tracing the historical origins of human rights of children. Further, the protective environment framework is discussed. Under the subtopic of national child protection systems; both the formal and informal child protection systems are discussed. The 2007 Child Rights Act, the Sierra Leone version of the CRC, forms the unit of analysis of the formal and legal national child protection instrument as it forms a comprehensive though not exhaustive national legal document. Further, the informal systems of child protection, (i.e., the communal and traditional systems), are normally discussed as a useful system in child rearing and welfare in Sierra Leone, but more often than not, conflicts with the formal systems of child protection.

In Part III, the paper contextualizes the CRC's implementation patterns in a country ravaged by a decade long armed conflict under the three broad categorizations – Provision, Protection, and Participation rights of children. In doing so, two models of implementation of the CRC will be examined; the 'Hierarchical and Parallel Models of implementation' of the '3Ps'. As Murray argues:

Where rights are not addressed simultaneously, but rather in turn; provision, protection, then participation, this can be termed the hierarchical model. By contrast, when children's rights to provision, protection and participation are addressed simultaneously, this can be termed the parallel model (Murray, 2010).

This chapter further presents a critical analysis of the '3Ps' within the context of a protective environment framework for effective child protection (Landgren, 2005). The

protective environment framework comprises eight elements that serve as a veritable tool in safeguarding the provision, protection and participation contents of the CRC. Landgren describes these eight elements of the framework as key elements to ‘creating and strengthening child protection efforts’ in developing countries (ibid). The protective environment include the following; government commitment and capacity; legislation and enforcement; culture and customs; open discussion; children’s life skills, knowledge, and participation; capacity of families and communities; essential services; and monitoring, reporting and oversight. (Landgren, 2005).

In part IV, a summary and conclusion of the study is presented. The dissertation concludes that a parallel model as opposed to a hierarchical model of implementation of the ‘3ps’ is adopted in Sierra Leone. This section further presents recommendations to the Government of Sierra Leone, international child protection agencies, and local child protection Nongovernmental Organizations (NGOs).

1.1 Methodology

This study employed a qualitative research technique to provide answers to the research questions asked. Documentary study was primarily used. However, the use of qualitative method does not imply complete exclusion of quantification. This dual approach is consistent with Bryman’s argument which points out:

Qualitative research is sometimes taken to imply an approach to social science research in which quantitative data are not collected or generated. Many writers on qualitative research are critical of such rendition of qualitative research, because the distinctiveness of qualitative research does not reside solely in the absence of numbers (Bryman, 2008, p 366).

This study therefore triangulates its findings especially in relation to measuring child protection practice with regards to infant and child mortality rates. In achieving this, the research extensively used and relied on UNICEF’s Multiple Cluster Surveys (MICS) to generate quantitative data. The CIA fact book 2011 on infant and child mortality was also used as a source to measure improvements made in Sierra Leone to diminishing infant and child mortality rates. In order to corroborate documents from UNICEF and child protection NGOs in Sierra Leone, I conducted unstructured interviews. This is so because, not only that ‘the interview is probably the most widely employed method in qualitative research...it is the flexibility of the interview that makes it so attractive’ (Bryman, 2008, p.436).

At the governmental (formal) level of child protection in Sierra Leone, interviews were conducted with the Director of Children's Affairs at the Ministry of Social Welfare, Gender, and Children's Affairs (MSWGCA), the Children's Affairs Officer at the Human Rights Commission of Sierra Leone (HRCSL), and the Child Protection Manager of Save the Children Sierra Leone. At the informal level of child protection, ninety three interviews were conducted in the capital city Freetown, Bo, Kenema, and Kono. Conducting interviews at the informal level was crucial to the research as it provided answers in particular, to the third research question - participation rights of children. To achieve this, four experienced field researchers were recruited. The field researchers are graduates of the University of Sierra Leone with a Social Science background. In 2010, I worked with these four field researchers to conduct a research for the United Nations Development Programme (UNDP – Sierra Leone) on youth unemployment and migration patterns in post war Sierra Leone. Nonetheless, further training was provided on the nature of the research and on ethical issues relating to research on children's rights. The analysis of the research findings is categorized under the provision, protection and participation as well as under the applicable protective environment framework.

Conducting research on children's rights is sensitive in nature. It implies bearing in mind the concerns of children, the community as well as government and other stakeholders in child protection practice. This involves ethical questions which I managed throughout the research process. Crucial also to this research is my interest in child protection as an 'insider' but also an 'outsider'. I am a Sierra Leonean, I grew up in a community with similar child rights issues and experiences the study sets out to investigate. I can relate with the information gathered and some feelings of empathy/nostalgia tended to interfere with my analysis. However, my methodological rigour ensured that the data spoke objectively for themselves and the substantive issues were not tampered with by my predilections. As Insider, it helped to access data, respondents, and communities in Sierra Leone. It also proved indispensable in designing questions that will fit the local context and grassroots understandings and interpretation of child rights issues. The outsider perspective helped me to stand back and allow the analysis to be evidence-based. I did not allow my scholarly knowledge in human rights influence the outcome of the research. Objectivity was maintained throughout the research.

Seeking informed consent is invaluable. As Bryman puts it, 'research participants should be given as much information as might be needed to make an informed decision about

whether or not they wish to participate in the study' (Bryman, 2008,p.694). I therefore strived to keep this in mind and not to misinform my interviewees. The purpose and contents of the research was briefly discussed with respondents prior to conducting the interviews. Closely related to gaining informed consent is confidentiality and anonymity of respondents. I ensured that information provided especially by government officials (within the human rights commission), NGOs and civil society activists remained anonymous and confidential in my research report.

Chapter II: Analytical Framework and National Child Protection Systems

This chapter presents a synoptic background to human rights of children and the national framework for child protection in Sierra Leone. Prior to the proliferation of human rights and the so called universality of human rights and civil liberties, children were considered to be properties and objects of a rational human being – man, especially so in the seventeenth and eighteenth centuries (Habashi et al, 2010 and Quennerstedt, 2010). However, twentieth century saw the spread and acceptance of human rights at least in principle leading to the recognition of children as rights holders³. The evolutionary pattern of human rights of children forms part of the analytical framework followed by an analysis of the coinage and widespread use of the ‘3Ps’ by human rights scholars. The analytical framework further presents an analysis of the protective environment framework for effective child protection outlined by the Committee on the CRC but broadened and popularized by UNICEF. The second half of this chapter describes the national child protection system of Sierra Leone. In particular, the formal and informal systems of child protection are discussed.

2.1 Analytical Framework

2.1.1 Legal instruments relating to children’s rights

International human rights law is often described as an evolutionary field; having evolved successively over time, and ‘expanding both in scope and the subjects of rights’ (Bueren, 1998). Bobbio (1996) outlines three trajectories of human rights evolution:

Positivization – a process in which initial philosophical ideas of rights were proclaimed as positive rights with specific and ‘limited’ contents; universalization – a process in which rights were increasingly viewed as universally valid for all humans; and proliferation – where universal rights are viewed as situated within contextual circumstances that have to be taken into account in the interpretation of rights (quoted in Quennerstedt, 2010, p625)

At the positivization era of rights, women and children were not considered as rational human beings. At this embryonic evolutionary stage of rights development, only rational beings were entitled to rights, thus slaves, women and children were denied constitutional rights, and were excluded from the enjoyment of rights for lack of so called rational capacity (Habashi et al, 2010). Although, women and children are human beings, and by natural law, entitled to rights, they were however, considered to be properties of ‘rational capacity holders

³ I argue that the 1924 Geneva Declaration of the Rights of the Child and the 1959 UN Declaration on the Rights of the Child were landmark and foundational declarations that guaranteed the promotion and protection of children’s human rights.

– man’ (ibid). Heine (2005), refers to the era of positivization of rights as one in which the earliest records of constitutionalism including but not limited to ‘San Marino 1600, the English Bill of Rights – 1689, and the American constitution – 1787, neglected to incorporate children as part of the proclamation of ‘national soul’ (cited in Habashi et al. 2010). Baker (2001), affirms that ‘the lack of reference to children in constitutions during the timeframe from 1600 to 1800s related to the accepted practice that children were possessions or property which belong to the male heads of households (cited in Habashi et al, 2010). In the seventeenth and eighteenth centuries, children had no legal claims in society. In other words, children like women and other categories of human beings, lacked citizenship (ibid). As Osborn (1991) points out, children were denied citizenship/civil liberties because of the presumed inability to make meaningful and gainful contribution to nation states, since children ‘were not reliable contributors to communities, and as a result, children were perceived as a commodity’ (ibid).

However, under the auspices of the default League of Nations, the Geneva Declaration of the Rights of the Child, 1924, formed a ground-breaking and an explicit expression by the international community to ensuring the protection of children’s human rights. The scope of children’s rights was further expanded in 1959, a decade after the UN Declaration on Human Rights, when a Declaration on the Rights of the Child was proclaimed in a UN General Assembly Resolution 1386⁴. These two Declarations formed a normative framework for the UN, regional organizations and Transnational Advocacy Networks - TAN (Keck and Sikkink, 1998, p8) to protecting children and assuring children’s welfare provisions.

The CRC, following the Declaration on the Rights of the Child, 1959, was adopted in 1989 and entered into force in 1990. This instrument, anchors human rights of children as an embodiment of the 1966 Covenants on Civil and Political Rights, Economic, Social and Cultural Rights and the 1948 Universal Declaration of Human Rights. Thus, the preamble to the CRC refers to the underlying doctrine that ‘everyone is entitled to all the rights and freedoms enshrined in them, without distinction of any kind and childhood is entitled to special care and assistance’(CRC 1989, Preamble).

⁴ This Resolution served as a basis for the Convention on the Rights of the Child adopted in 1989 and entered into force in 1990.

Children's entitlements in the CRC have been divided into three categories labelled as the '3Ps'. The first 'P' refers to 'Provision rights'- covering child survival and development (rights to food, water, shelter, health and education). Under the CRC, States Parties are obliged under the Provision rights to undertake the following; article 6 requires a positive obligation on States Parties to ensure the survival and development of the child while article 24 requires State Parties to take appropriate measures under paragraph 2 to diminish infant and child mortality, develop primary health care facilities, combat disease and malnutrition - provide clean drinking water, taking into consideration the dangers and risks of environmental pollution. Paragraph 3 obliges states parties to take appropriate measures with a view to abolishing traditional practices prejudicial to the health of children (CRC, article 24 paragraphs 2). Under article 27, States Parties are to provide a standard of living adequate for the child's physical, mental, spiritual, moral and social development; and article 28 calls for children's rights to education. These rights, (in particular articles 6 and 24) are critically examined in chapter three. The study examines the Government of Sierra Leone's commitment to diminishing child mortality, universal primary education and the provision of adequate clean drinking water.

The second 'P' consists of 'Protection rights' from abuse, economic exploitation and neglect (article 32). Although protection rights of children are not limited to article 32, however, the study focuses on examining the availability of a protective framework of article 32 in Sierra Leone, in particular, protection from economic labour prejudicial to the health of children. Other protection rights of children include the following; Article 3 articulates the infamous phrase 'Best interest of the Child'. Paragraph 1 states that 'in all actions, concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration...for the protection of his or her wellbeing'(article 3 para.1). States parties are obliged to take measures to combat illicit transfer of children (article 11), children's dignity and privacy must be protected at all times (article 16), states parties to ensure that adoption is in the best interest of the child (article 21), states parties to protect children from the illicit use of narcotic drugs (article 33), states parties to take measures to protect children from sexual exploitation (article 34) and torture or other cruel, inhuman or degrading treatment or punishment (article 37). These protection rights, like the provision rights, remain a critical challenge for the full enjoyment of children's rights in post-war Sierra Leone. However, in discussing protection rights of children in Sierra Leone, this

dissertation focuses on article 32 – protection of children from exploitative economic child labour.

The third category of rights pertains to children's 'Participation rights' - children's civil and political rights. Ehler and Frank argue that "participation right is crucial to Africa, given the range of conditions on the continent that render its children particularly vulnerable" (Ehler and Frank, 2008, p 111). In Sierra Leone, the study reveals that this third category of the rights of children is controversial and to a large extent unacceptable. The universal validity and applicability of the so called participation rights of children under articles 14 have been critically analysed in chapter three vis-à-vis cultural beliefs and traditional practices in Sierra Leone.

In accordance with article 4 of the CRC, the CRC was domesticated in Sierra Leone in the form of the Child Rights Act (CRA) 2007. This Act purports to promote the rights of the child compatible with the CRC and the African Charter on the Rights and Welfare of the Child (ACRWC). In 2002, Sierra Leone ratified the ACRWC, the African regional legal instrument for the protection and enjoyments of the human rights of the African child. Generally, the framers of the ACRWC translated the framework of the CRC into the ACRWC. However, in addition to the '3Ps' of the CRC, the ACRWC adds 'Responsibility' on the part of the child to uphold family, social, societal and African values (ACRWC article 31). The ACRWC, unlike the CRC, explicitly expresses the cultural dimensions of child rights in Africa. Within the African context, the rights of children are paralleled to responsibilities which form a radical departure from those enshrined in the Convention on the Rights of the Child. Under the ACRWC, the African child is required to respect elders at all times and assist or work for the subsistence and survival of the family (ACRWC article 31). A child's work for the cohesion of the family does not constitute child labour. Child labour, under the ACRWC is limited to economic exploitation. Work, for example, in a family farm or business does not constitute child labour so long as it is not prejudicial to the health and education of the child. In measuring Sierra Leone's children's rights obligations, these two international instruments; the CRC and the ACRWC will provide legal insights for the measurement of children's rights in Sierra Leone in policy and in practice.

2.1.2 The '3Ps'

The emergence of the '3p'- provision, protection and participation concept in researching children's rights is traced to what Hammerberg (1990) introduced as a 'pedagogical tool' (quoted in Quennstedt, 2010, p 623). Hammerberg, summed up the articles of the CRC into the provision, protection and participation rights to simplify the meaning of the Convention and to explain the Convention to an uninformed public:

For easy understanding of the Convention, one could group the articles according to the 'three Ps': provision, protection and participation. Provision – the right to get one's basic needs fulfilled; Protection – the right to be shielded from harmful acts or practices; and Participation – the right to be heard on decisions affecting one's own life. (Quoted by Quennstedt, 2010, p 621).

Quennstedt argues that, the '3Ps' concept was 'inspired by similar symbolic slogan of 'respect, protect, provide' to refer to the broader economic and social rights'. Similarly, Verhellen (2001) expresses that the division of the CRC is a tool for the examination of the Convention: "...we can sub-divide the CRC for a closer examination. For example, looking at the CRC through the device of the so-called 3Ps is a very useful exercise" (Cited in Quennstedt, 2010). Lansdown adds that the Convention:

Provides a comprehensive framework which addresses right relating not only to children's need for care, protection and adequate provision but also for participation...The principles it (the Convention) contains can be broken down into three main categories – provision, protection and participation. The provision articles recognize the social rights of children to minimum standards of health, education, social security, physical care...; the protection articles identify the rights of children to be safe from discrimination, physical and sexual abuse, exploitation, substance abuse and conflict and the participation articles are to do with civil and political rights. (Lansdown, 1994 p.36)

Quennstedt extensively and critically discusses children's human rights reflecting on the '3Ps'. She argues that the categorization of children's rights into the '3ps' has a 'hampering effect' in researching children's human rights; as this categorization poses the problem that 'provision-protection-participation model takes the form of the normal and real, and thus frames research on children's rights in a way that directs the spotlight to certain questions and leaves other in the shadows' (Quennstedt, 2010). Her argument is inspired by establishing a relationship between human rights and children's rights; she argues that children's rights are 'part of a broader human rights framework'. Bobbio (1996) describes children's rights as a "step in the expansion of human rights during the last half century" (ibid). Further, Grover (2007) argues that children's rights are 'indistinguishable from human rights generally, and that the rights articulated in the Convention on the Rights of the Child are the same human rights entitlement that apply to all persons' (ibid). Given Grover's argument, Quennstedt therefore contends that human rights should not be understood using

different language or vocabularies to a category of persons – provision, protection and participation to describe children’s human rights and civil, political, socioeconomic rights for adults. This dichotomy, to the estimation of Quennestedt, is false and a flawed categorization. Nonetheless, the categorization is relevant to examining children’s rights I find the concept quintessential for my analysis, the use of different vocabularies relating to children’s rights offers an opportunity to child protection practitioners to argue for justiciability of children’s rights.

2.1.3 The ‘Protective Environment Framework’ for Child Protection

The protective environment framework is a useful framework in measuring States Parties commitment to implementing the ‘3Ps’ of the CRC. UNICEF developed the concept of the protective environment as a tool to guide programmatic action by international and national actors in support of children’s protection (Langren, 2005). For effective child protection practice in developing countries, Landgren outlines eight elements that are ‘instrumental in keeping children safe from harmful situations as these elements can be strengthened and measured’ (ibid). The framework is in consonance with the Committee on the CRC’s⁵ (hereafter the Committee) Guidelines for Periodic Reports. In particular, the Committee asks States Parties to:

Create an environment conducive to ensuring the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological, and social development, in a manner compatible with human dignity, and to prepare the child for an individual in a free society⁶.

The Committee recommends that states parties take measures beyond promulgating laws on child protection⁷ and therefore urges states parties to:

Provide adequate and systematic training and sensitization on children’s rights for those who work with children (e.g. parliamentarians, judges, lawyers, law enforcement officials, health personnel, teachers, school and institution administrators and staff, social workers)⁸ and promote within schools, families,

⁵ This is a treaty body that regulates, examines states parties’ implementation of the CRC

⁶ See General guidelines regarding the form and contents of periodic reports to be submitted by states parties

under article 44, paragraph 1 (b), of the Convention adopted by the Committee on the rights of the Child at its thirteenth session, 343rd meeting CRC/C/58 October 1996

⁷ General Comment No. 5, para. 24 - 65

⁸ See Concluding Observations of the Committee on the Rights of the Child, Romania, U.N. Doc. CRC/C/15/Add.199 (2003).

institutions as well as judicial and administrative procedures, respect for the views of children and facilitate participation in all matters affecting them⁹

These recommendations of the Committee are policy prescriptions for states parties to implement and embrace human rights based approach to development. This is so because the UN advocates that ‘all programs of development cooperation, policies, and technical assistance should further the realization of human rights’¹⁰.

The framework includes; government’s commitment and capacity; legislation and enforcement; culture and customs; open discussion; children’s life skills, knowledge and participation; essential services; capacity of families and communities and monitoring, reporting and oversight (Landgren, 2005). Much as these elements are crucial for effective child protection practices in developing countries, it suffices to say that, some aspects of the framework collide with traditional practices of Sierra Leone. In particular, the element of culture and customs proves to be divisive, controversial and undermines traditional tenets and values upheld in many African rural settings and communities. As controversial as it seems, nonetheless, Landgren, argues that cultures and customs must be targeted by states parties in order to eradicate all forms of discrimination against the girl child, abolish corporal punishment, and underage female genital mutilation. The acceptability and practicability of this norm is a challenge states parties and the international community continue to grapple with. I argue that these debates often come to conclusions that traditional practices are harmful without a thorough understanding of them. The dismissal of traditions points to the imperial, top-down and paternalistic tendency of international norms. The international norm on child protection, I argue, is based on Western experiences, yet it claims unquestionable universal validity and applicability. This is not an attempt to justify the so called harmful traditional practices, but to understand African traditional practices, cultures and customs as the basis for implementing norms. These cultural debates on universality element will be examined in tandem with the relevant provisions of the CRC and the Sierra Leone Child Rights Act.

⁹ See concluding observation of the Committee on the rights of the child – CRC/C/15/Add.157 On Bhutan 2001

¹⁰ See UN statement of Common Understanding on human rights based approach – May 2003

2.2 Background to Sierra Leone's National Child Protection Mechanisms

This subtopic discusses both international human rights standards as well national legal framework on children. It is important at this juncture to highlight Sierra Leone's level of commitment to international human rights law on children at least in principle. Further, this subtopic describes two forms of child protection systems that constitute the national child protection framework, i.e., the formal and informal structures. Whereas the formal structure adopts a western approach to child protection, the informal structures cling to traditional African values and beliefs.

2.2.1 The legal framework

The West African nation of Sierra Leone is a state party to a number of international human rights norms relative to human rights of children. In particular, Sierra Leone ratified the CRC (18th June 1990); Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflicts (15th May 2002), and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (17th September 2001)¹¹ and the African Charter on the Rights and Welfare of the Child – ACRWC (13th May, 2002)¹². Further, in 2011, Sierra Leone ratified the International Labor Organization (ILO) Convention 138 on Minimum Age and Convention 182 on Elimination of the Worst Forms of Child Labor¹³. Nonetheless, theory and international commitments do not meet practice as children remain the object of all forms of exploitation, abuse, domestic violence, forced and bonded labor, rape, cruelty, unlawful carnal knowledge, juvenile injustices, trafficking, harmful traditional practices including female genital mutilation and early and forced marriages (MICS 2000, 2005, 2011). This subtopic presents a synopsis of the human rights landscape of children in Sierra Leone espousing the national framework for child protection.

¹¹ See www.treaties.un.org/Pages 27/08/2012

¹² See www1.umn.edu/humanrts/instree/auok/htm

¹³ See

http://www.ilo.org/ipec/Regionsandcountries/Africa/WCMS_IPEC_CON_TXT_SLE_HOM_EN/lang--en/index.htm. Accessed 29/08/2012

Child protection practice¹⁴ and fulfilment of the rights of children as enshrined in the United Nations Convention on the Rights of the Child are not a recent phenomenon in Sierra Leone. Prior to the UN instrument on children, Sierra Leone promulgated statutory laws on children that purport to protect human rights of children with reference to the Amended Bastardy Laws of 1872¹⁵, the Prevention of Cruelty to Children Act 1926¹⁶, Corporal Punishment Act 1953¹⁷, Children and Young Persons Act (Cap 44) 1945¹⁸, Legitimacy Act 1989¹⁹, the Adoption Act 1989 and the most recent instrument that resonate the CRC, the Child Rights Act 2007²⁰. Since 2007, the bedrock and foundation for justiciability of children's rights, rests on the CRA. Unlike previous statutory laws defining a child as someone below the age of 15 (Cap 44 Part I, section 2 paragraph 2), the CRA defines a child following the meaning of the CRC as anyone under the age of 18 (CRA 2007, Part I section 2 paragraph 6).

The Act further delimits functions and structures for child protection, as well as administrative and judicial trajectories to address juvenile delinquency and neglect of children. In accordance with international best practices, the CRA repealed Part IV of Cap 44 (CRA 2007, Part IV section 61)²¹, calls for the establishments of a national human rights commission for children, Child Welfare Committees (CWC) and Child Panels at community levels. As the national legal instrument that purports to protect children, the CRA in principle provides guarantees for the full enjoyment of human rights of children including; right to life,

¹⁴ The United Nations Children's Fund (UNICEF) refers to child protection as the protection of children against violence, exploitation and abuse. This definition encompasses children in conflicts with the law, survival and development of the child and situations that render children vulnerable to worst forms of exploitation (including but not limited to sexual exploitation and labor exploitation of children), domestic violence and abuse. Article 1 of the CRC refers to a child as 'every human being below the age of eighteen years'. This age threshold applies to children in Sierra Leone as defined by the Child Rights Act 2007 in consonance with the CRC

¹⁵ Being an Act that purports to secure the rights of a bastard child with particular reference to maintenance and education of the child – see the 1872 Preamble of the Amended Bastardy Laws

¹⁶ The 1926 Prevention of Cruelty to Children Act purports to protect the right to life of the child (Section 4), sexual abuse (Section 6, 7 & 8), indecent assault and carnage knowledge (Section 9), and abduction of the girl child (Section 12).

¹⁷ An Act institute to regulate the infliction of corporal punishment

¹⁸ This Act deals with juvenile justice systems in Sierra Leone

¹⁹ Being an Act of the House of Parliament that renders legitimacy to illegitimate children of parents who subsequently marry each other

²⁰ This Act is an attempt by the Government of Sierra Leone to domesticate the CRC as mandated in Article 4 of the CRC

²¹ Part IV of Cap 44 criminalized any acts not limited to begging or alms seeking by a child. Under this law an abandoned child with no home, parent or guardian and no settled abode constituted an offence. The child would therefore be brought to a juvenile court.

survival and development of the child (CRA 2007, Part III section 23), protection from child soldiering/conscription, and recruitment into the armed forces (CRA 2007, Part III section 28). The CRA explicitly prohibits exploitive and hazardous child labour (CRA 2007, Part VIII, section 125), forced or early marriage (CRA 2007, Part III, section 34) and all forms of torture or other cruel, inhumane or degrading treatment or punishment, including any cultural practice which dehumanises or injurious to the physical and mental welfare of a child (CRA 2007, Part III section 33).

A glance at these legal regimes appear to perhaps assure the international community, development partners and human rights agencies of a strong legal benchmark for the protection of children. On the contrary, Landgren contends that:

Often, legislation is not accompanied by significant changes in state or private practices and capacity. The types of programmatic response supported have tended to be curative rather than preventative in nature, addressing symptoms rather underlying systems that have failed to protect children. (Landgren, 2005).

I will return to examine the validity of Landgren's argument in part III. Since the focus of this section is on existing national child protection regimes, I proceed to outlining the differences between formal and informal regimes.

2.2.2 Formal child protection framework

In Sierra Leone, two forms of child protection regimes can be identified; the formal and informal (community) child protection regimes. At the formal governmental level, child protection systems comprise the Ministry of Social Welfare, Gender and Children's Affairs (MSWGCA), the Sierra Leone Police (SLP) through the so called Family Support Unit (FSU), Ministry of Health and Sanitation and the Ministry of Justice. These formal governmental structures are supported by INGOs (such as UNICEF and Save the Children), national NGOs and CSOs for the realization of human rights of children. The informal structure of child protection comprises community, chiefdom or traditional level child protection. As it were, these two forms of child protection mechanisms (the formal and informal), differ on best practices and approaches to ensuring enjoyment of human rights by children. The values and norms of the formal structure is arguably perceived by tribal or traditional chiefs and cohorts as a western constructed norms that claims universal applicability which more often than not, conflicts and undermines indigenous tribal and traditional values.

The MSWGCA is the governmental agency with a mandate to promoting and protecting children's human rights. In summary, it seeks to achieve the following; (a) the provision of adequate services to socially marginalized and disadvantaged persons in Sierra Leone including women, children, the physically and mentally challenged, street children, orphans and sexually abused children; (b) ensures that international human rights instruments ratified are enacted in domestic laws for the protection of marginalized persons, and (c) formulates and implements policies and serves as a custodian of the CRA²². These structural prescriptions will be examined in a later chapter.

Moreover, at the formal level of child protection, the FSU of the Sierra Leone Police in partnership with the MSWGCA deals with cases of child abuse, sexual abuse, domestic violence and other offences committed against children and by children (CRA 2007, Part III section 57). According to Child Frontiers, there are only 40 of these police units across the country (Child Frontiers, 2010, p 48), although the CRA envisaged FSUs to be established in all police stations in the country. In principle and in practice, police officers at the FSU investigate incidences of child abuse, child domestic violence, and where feasible make arrests for criminal or civil cases against alleged perpetrators (Family Support Unit training manual, Sept.2008). It is not within the scope of this study to evaluate the usefulness of the FSU, but suffice it to make mention of the structure as it forms part of the formal child protection structure of Sierra Leone.

2.2.3 Informal child protection framework

As alluded to earlier, the informal structures more often than not conflict with the formal structures of child protection. The formal system represents a top-bottom approach to child protection. Whereas the formal structures explicitly promote individualism, the informal structures seek a communal approach to child welfare, development and protection. The informal structures comprise the following; Paramount Chiefs, Section Chiefs, community chiefs, village chiefs and village elders²³ as well as secret societies. Each of these entities

²² These lists of responsibilities by the MSWGCA are by no means exhaustive; I decided to state the core responsibilities as they relate to children's rights. Credits are given to the Director of the Directorate of Children's Affairs for supplying me this information.

²³ Sierra Leone is composed of 144 Chiefdoms, each with a Paramount Chief. Each chiefdom is divided into Sections with Section Chiefs followed by community and village chiefs. Socioeconomic issues including children's welfare and protection are addressed adopting a hierarchical structure.

commands influence, power and authority within their respective jurisdictions that affects the welfare and protection of children. Chiefs and elders would normally receive complaints including child domestic violence, family child welfare issues and child sexual abuse. This traditional system of administration of justice is dovetailed with the so called secret societies. Secret societies are considered to be common African ancestral heritage that uphold the spirit of communalism and play a critical role in the welfare of the African child to which Sierra Leone is not an exception (Child Frontiers, 2010, p 55). To adherents of the practice, it is considered to be rites of passages to both manhood and womanhood. In certain cultures, offences/crimes that constitute child abuse or molestation are abominable and punishable. The interplay and debates between the two systems, the formal and informal, forms an integral part of chapter three of this work.

In this chapter, I have presented a historical background to children's human rights starting with the 1924 and 1959 Declarations to the universally acclaimed Convention on Rights of the Child. The provisions of the CRC – classified under the '3ps' have been discussed. In the second half of the chapter, two forms of child protection regimes in Sierra Leone have been identified and discussed. The issues discussed under this chapter are crucial for a better understanding of the thematic areas of discussions and analysis in chapter three. In chapter three, the status of the so called '3ps' within a protective environment in Sierra Leone is examined.

Community and village chiefs handle minor crimes/offences, should they fail at this level, and the issue is referred to the Section Chief. Grave offences are referred to the Paramount Chief.

Chapter III

3.1 The status of the ‘3ps’ within the context of protective environment for children in Sierra Leone

The internalization of international human rights norms (Risse and Sikkink, 1999, p1) on the rights of children is one of the post war challenges Sierra Leone is grappling with since the civil war (1991 – 2002) came to an end. In this chapter, the paper contextualizes the CRC’s implementation patterns in a country ravaged by a decade long armed conflict under the three broad categorizations – Provision, Protection, and Participation rights of children. In doing so, two models of implementation of the CRC have been examined; the hierarchical, and parallel models of implementation of the ‘3Ps’. Further, this chapter evaluates the protective environment framework for child protection in Sierra Leone. In view of the above, this chapter focuses on the following: (a) Child survival and development with reference to infant mortality rates (IMR), and child mortality rates (CMR), (c) provision of safe, and affordable drinking water, (d) access to quality primary education, and (e) traditional practices prejudicial to the health of children. Under the protection rights, the study focuses on economic exploitation of children with reference to the incidence of child labour including the phenomenon of street children. I have also examined the status of participation rights of children in Sierra Leone, which for many schools of thought; form the civil and political rights of children. This is an attempt to measure government’s commitments, policies, and practices to ensuring the full enjoyment of freedom of expression, thought, conscience and religion of children in Sierra Leone vis-à-vis traditional or cultural values.

The second half of the chapter discusses the research findings. In so doing, the paper evaluates the availability or the lack of a protective environment for effective child protection. The near universal acceptance and validity of international human rights norms seems to perhaps reassure the international commitment and the so called civilized states that states parties to the CRC conduct and provide for a protective environment for children in their respective jurisdictions. However, theory and international commitments do not meet practices. Sierra Leone, like many states parties, reneges in its responsibilities in providing an environment conducive for effective child protection. The eight elements of the protective environment framework will be examined, with particular reference to the following; Government’s commitment and capacity; legislation and enforcement; capacity of families and communities, provision of essential services, and children’s life skills and participation.

This chapter therefore measures the human rights of children in Sierra Leone in principle, policy, and practice (Landman, 2004)

3.2 Methodology

I have employed both documentary research and interviews to provide answers to the research questions. Documents consulted included but not limited to UNICEF documents, (in particular, the final reports of the Multiple Indicator Cluster Surveys MICS 2000, 2005, and 2010), UNICEF's Innocenti Reports, reports and documents of child protection agencies; International non-governmental organisations (INGOs), and national NGOs. These documents were structured and synthesized within the remit of the '3ps' and the protective environment framework. The field research in the form of unstructured interviews was centred on attempts to consult with key stakeholders both at the formal and informal levels of child protection framework in Sierra Leone. The following stakeholders were identified; the MSWGCA, HRCSL, FSU, NGOs (Save the Children Sierra Leone), community based organizations and traditional leaders. Bearing in mind cost and time constraints, the sample size was limited to 120 respondents. As Bryman puts it "decisions about sample size represent a compromise between the constraints of time and cost" (Bryman, 2008, p179). In doing so, the convenience sampling technique was employed since the convenience sampling was available to the researcher "by virtue of its accessibility" (ibid, p183). At the formal level of child protection in Sierra Leone, the study entailed telephone interviews with the Director of Children's Affairs at the MSWGCA, the Gender and Children's Affairs Officer at the HRCSL, and the Child Protection Manager - Save the Children Sierra Leone. Although several attempts via emails and telephoning were made to consult with the Chief of Child protection at UNICEF, s/he would not avail for interviews. The failure to conduct interviews with UNICEF child protection unit did not undermine the reliability of the findings since UNICEF's online child protection databases were easily accessible.

Further, interviews were conducted in four urban towns; Freetown, Bo, Kenema, and Kono. In order to achieve this, four Social Sciences graduates were recruited as field researchers. These field researchers were trained on research ethics, unstructured interview techniques, and the thematic areas of the research. I proposed that each field researcher would conduct 30 interviews with household heads which would have given a total sample size of 120. However, as a consequent of time, money and heavy rainfalls (the study was conducted

during the rainy season), the field researchers were only able to conduct a total of 93 interviews over a period of three weeks. The following, forms the distribution of interviewees; Freetown 20, Bo Town 28, Kenema 30 and Kono 15. I selected Freetown and Bo (the first and second cities of Sierra Leone respectively), primarily because residents in these towns are more informed on human rights issues of children than residents in Kenema and Kono. Whereas Freetown and Bo have accepted the formal structures and system of child protection, Kenema and Kono continue to cling to traditional values, rejecting the formal system of child protection. The selection of these towns is crucial to provide answers to the third research question which examines the nexus between the formal and informal structures of child protection in Sierra Leone.

It is important to note that the interviews were conducted in Krio – the lingua franca of Sierra Leone, and translated into English by the field researchers. The translated version of the interviews is used in this chapter. Throughout the interviews, open ended questions were asked from an interview guide, which comprised thematic areas to be covered as specified in the research questions. The use of unstructured interviews allows flexibility and enables interviewees to express their views as opposed to closed questions that limit them. This method enabled me to elicit relevant information which otherwise wouldn't have been the case had I used structured interview techniques. Prior to undertaking the interviews, informed consent was sought. Emails, containing a synopsis and purpose of the study were sent to the Director of children's affairs at the MSWGCA, the child protection manager – Save the Children Sierra Leone, and the children's affairs officer – HRCSL. Follow up calls were made, and different dates and times were agreed upon for the interviews. Throughout the interviews, no audio tapes were used; rather, field notes were taken. This is so because respondents are less inclined to deal with anything that seems official.

3.3 The '3Ps' in Sierra Leone

As discussed in the analytical framework and elsewhere in this paper, the provisions of the CRC have three categorizations; provision, protection, and participation. This section presents findings on the status of these rights, with a view to examining whether or not Sierra Leone implements children's rights in a hierarchical and/or parallel model. Murray argues that 'Where rights are not addressed simultaneously, but rather in turn; provision, protection, then participation, this can be termed the hierarchical model. By contrast, when children's

rights to provision, protection and participation are addressed simultaneously, this can be termed the parallel model' (Murray, 2010). Documents consulted as well as interviews conducted reveal a parallel model of implementation of children's rights exists in Sierra Leone although the provision and protection rights receive more attention than the participation rights. Participation rights of children are generally considered to be controversial and inconsistent with the traditional values of Sierra Leone. This will be discussed in detail under the participation rights.

3.3.1 Provision rights of Children in Sierra Leone

Under the provision rights of children, the study examines the following; child survival and development (CRC article 6 paragraph 2) with reference to efforts of Government of Sierra Leone to diminishing infant mortality rates (IMR)²⁴ and child mortality rates (CMR) or under5 mortality rates (U5MR)²⁵, provision of safe and affordable drinking water (CRC article 24 para. 2a, b & c), access to quality primary education (CRC article 28), and measures to abolishing traditional practices prejudicial to the health of children (CRC article 24 para.3). In principle and to a very reasonable extent in practice, the study reveals a high level of commitment to ensuring children enjoy the provision rights of the CRC and the CRA. Government officials, civil society activists and traditional leaders interviewed opined that children are the future of the country, and as such, it is imperative on government, child protection partners, parents and communities to provide healthcare services and quality education to children.

The protection of the right to life of children which encompasses child survival and development, reduction of IMR and CMR appears to be a high priority policy area of the GoSL but bedevilled by challenges. The Minister of Health and Sanitation puts it;

Improving the health of the nation is one of the key priorities of our Government... Considerable progress has been made in reducing the high infant and maternal mortality rates... Nonetheless, women continue to die at childbirth, too many children die of easily preventable diseases for which cost effective interventions exist and sadly, much remains to be done with regard to tackling ill health related to poverty (National health sector strategic plan 2010, p2).

Although the remit of this paper is not to discuss the causes of the infant and child mortality rates, it suffices to say that the inability of pregnant women to pay the costs of medical care, poor primary healthcare facilities, inadequate numbers of trained and qualified

²⁴ I have adopted UNICEF's definition of IMR to mean the probability of an infant dying before s/he reaches her/his first birthday

²⁵ UNICEF defines CMR/U5MR as the probability of dying before the fifth birthday

medical practitioners among many others inhibits the fulfilment of article 24 of the CRC; in particular, the enjoyment of highest attainable standard of health. According to Child Health Epidemiology Reference Group (CHERG), causes of neonatal deaths in Sierra Leone are attributable to Diarrhoea 2%, tetanus 2%, congenital 4%, asphyxia 25%, infections 30%, preterm 32%, and other causes 4%. While child mortalities are caused by malaria 13%, measles 5%, injuries 3%, HIV/AIDS 2%, Diarrhoea 20%, pneumonia 16% and other causes 18% as presented in charts I and II below (CHERG, 2010).

Chart I. causes of neonatal deaths in Sierra Leone by percentage

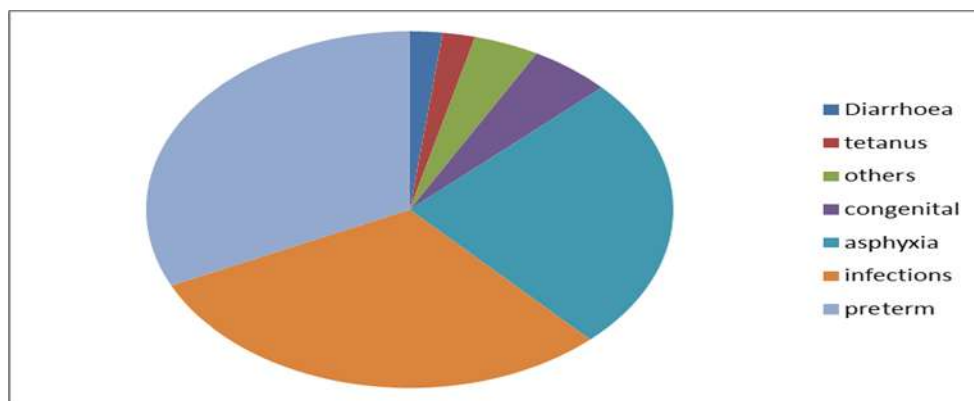
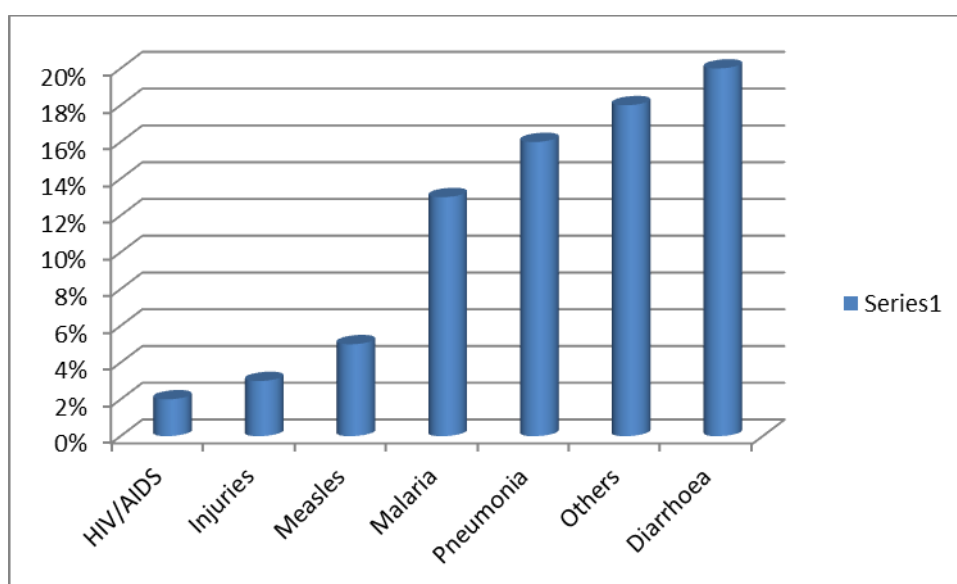


Chart II. Causes of U5MR in Sierra Leone



The table below further shows the appalling and miserable status of infants and under5s in Sierra Leone. Based on these statistics, Sierra Leone is one of the worst countries in the world for a child to be born and to survival childhood (World Bank 2011, CIA factbook 2011)²⁶, with the CIA ranking Sierra Leone 12th worst place for a child to born and survival.

Table 1 IMR and CMR indicators since year 2000

Indicator	2000 levels	2005 levels	2010 levels
Infant mortality rate (number of children dying before age one divided by the number of live births in the year)	170/1000	158/1000	128/1000
Under-five mortality rate (number of children dying before the age of five years divided by the number of live births)	286/1000	267/1000	217/1000

Source: UNICEF MICS 2000, 2005 and 2010.

²⁶ See databases of both the World Bank at www.data.worldbank.org/indicators and the United States of America's Central Intelligence Agency (CIA), at www.gov.cia/library/public accessed 08/07/2012.

However, as the study shows, the future for the provision of primary healthcare services to children in Sierra Leone is not bleak. Although Sierra Leone remains one of the worst places for prenatal, postnatal and maternal care, the table above illustrates that there is progressive realization of article 24 of the CRC. Whereas in 2000, IMR was 17% of 1000 live births, this figure dropped to 15.8% in 2005 and by 2010, IMR dropped by 12.8%. The figures on the U5MR demonstrate improvement from 28.6% in 2000 to 21.7% by the end of 2010.

According to the Director of children's affairs, the Government of Sierra Leone through the supports from international partners is committed to ensuring that the provision rights of children as enshrined in the CRC and the CRA 2007 are enjoyed by children under the jurisdiction of Sierra Leone. The Director further states that:

The Agenda for Change²⁷ critically reflects strategies focused on diminishing infant and child mortality rates. This commitment was translated into practice when in April 2010 the GoSL introduced a Free Healthcare Initiative (FHCI) for pregnant women, lactating mothers and children under the age of five. This is a milestone in child protection practice in the country as many pregnant women, lactating mothers and U5s who cannot afford the costs of medical services are now availed the opportunity to do so free of cost. (Director of Children's Affairs, MSWGCA)

The introduction of the FHCI, as it emerged in the study, is a critical policy that invariably contributes to the reduction of neonatal and U5MR in the country and hence a step toward diminishing infant mortality rates. The Director further argues that the appalling statistics of the 2010 MICS will significant drop by 2015. This argument is supported by a civil society report which states that: "there are widespread reports that infant and maternal mortality rates have reduced in every districts and the utilization of health facilities has dramatically increased since the introduction of FHCI" (Health for All Coalition Report 2011, p15).

²⁷ The Agenda for Change is the GoSL Poverty Reduction Strategy Paper II 2008-2012 (PRSP II). One of the thematic areas of interest to this study is sustainable human development. Under the sustainable human development policy framework, the government pledges to improve access to primary education and reduce mortality rates (IMR, U5MR as well as prenatal healthcare).



A village woman shares her excitement for the FHCI. Source: Health poverty Action, 2010.

Contrary to the Director’s optimism, Amnesty International’s report on the status of healthcare services for children especially with regards diminishing infant and Under5 mortality rates claims that:

Much remains to be done. The healthcare system remains dysfunctional in many respects. Disparities persist between rural and urban maternal health services; the quality of care is frequently substandard, and many women continue to pay for essential drugs, despite the free care policy (AI Report: At a Cross Roads, Sierra Leone’s Health Care policy, 2011).

Closely related to child survival and development in developing countries is availability of access to quality, affordable, and acceptable water and sanitation. Water and sanitation are core provision rights of children that children of Sierra Leone are entitled to. The Committee on the CRC in its General Comments No.7 unequivocally reminds states parties that “under article 24 states have a responsibility to ensure access to clean drinking water and that such access is particularly essential for young children’s health”(GC No.7, 2006, paragraph 27). This point is further emphasized in UNICEF’s report on availability of water and sanitation in Sierra Leone when it observes that “unsafe drinking water is a significant carrier of diseases such as trachoma, cholera, typhoid, schistosomiasis and other

pathogens that cause diarrhoea” (MICS4, 2010, p59). Access to safe, affordable drinking water and acceptable sanitation facilities are a major challenge in Sierra Leone. The inadequate supply of safe and affordable drinking water undermines the realization of highest attainable standard of health for children; hence, the incidence and prevalence of diarrhoea and other water borne related diseases prejudicial to the health and survival of infants and U5s. As indicated earlier, diarrhoea accounts for 20% U5M across the country owing partly to poor sanitation facilities and unsafe drinking water in the country.

Respondents in Kono reveal that diamond mining activities in the district contaminate sources of drinking water. Contaminated water has harmful effects on the health of community people but more especially so on pregnant women, lactating mothers and children. The interviews in Bo, Kenema and Kono further reveal that the widely available sources of drinking water are surface water, unprotected wells and springs. These sources, according to respondents are not protected and therefore unsafe to be used as drinking water, which more often than not, lead to diarrhoea and cholera, killing hundreds of children every year. This situation is further worsened by poor sanitation facilities. The MICS4 reveals “unsafe means of disposal of excreta and other waste also contribute to the transmission of diseases that lead to child morbidity and mortality in Sierra Leone” (MICS4, 2010, p64). Moreover, the study reveals that only 40% of the household population in Sierra Leone uses an improved sanitation facility (MICS4, 2010, p65). Undoubtedly, the unavailability/inadequate, unimproved, and unacceptable sanitation facilities pose serious risks to community hygiene and healthy lifestyles especially so relating to the survival of children.

The provision of educational rights perhaps appears to be one of the most anticipated social rights of children in post war Sierra Leone. Universal access to quality education is a leap to eradicating endemic poverty, empowerment of future leaders, protection of children from all forms of exploitation, and increases prospects for socioeconomic growth. Respondents revealed that since the end of the civil war in 2002, successive governments have prioritized the right to primary education but much more is desired, as some respondents request a complete overhaul of the educational structure. In the government’s policy paper (Agenda for Change), the government commits itself to improving access to primary and quality education through extensive training programmes for teachers; providing adequate

teaching and learning materials; and improving the conditions of service for teachers especially in remote areas (An Agenda for Change 2008-2012). In what appears to be in consonance with the Agenda for Change, the MICS4 study reveals that majority (74%) of children of primary school age (6-11) attend schools, while only 26% of children do not attend schools, but that attendance rate is higher among the girl child than among boys; 48% and 42% respectively (MICS4, 2010, pp93-95). This is so because in the aftermath of the war, the Government of Sierra Leone through international cooperation and support initiated free primary and secondary education for girls to boost the level of enrolment and access to education by the girl child.

On the contrary, I argue that the increase in net enrolment does not necessarily mean access to quality education. Since 2007, performances in external examinations by government supported schools (public schools) have not been satisfactory as more and more pupils fail the National Primary School Examination (NPSE) and Basic Education Certificate Examination (BECE) examinations. The interviews reveal that standards of education are lowering; quality of learning is poor, incentives to learning are inadequate, and government's policies on improving access to quality education are yet to be translated into policy outcomes. According to respondents, a number of factors militate against access to quality education in the country. Critical among many other militating circumstances in the educational sector include the following; poor condition of services, delay of salaries and other benefits, insufficient infrastructure and lack of furniture. Some respondents argue that much as the government's approach to improving the quality and access to education has been curative and unsustainable, teachers and other workers in that sector contribute to poor quality education. As one respondent points out:

Teachers have adopted the unprofessional conduct of requesting money and/or sex from pupils/students especially during examinations. The request of such favors undermines the profession and contributes to lowering of standards both at primary and tertiary educational levels (Respondent in Bo).

The above issues are more acute in rural communities than in urban areas. Further, two major challenges were identified by respondents; first, the distance most children cover to reach the nearest school and the second challenge is the teacher pupil ratio. It emerged that most children walk 10 – 15 miles to and fro schools on a daily basis. The long distances covered by children is demotivating, some children especially the girl child are easily targeted and raped either on their way to or from school. Further, the teacher – pupil ratio contributes to poor learning in rural communities as well as urban towns. Although statistics

on this is inaccurate and unofficial, it emerged from respondents that a teacher can have as many as 80 pupils per class in primary schools while in junior secondary schools a teacher can have as many as 100 pupils. Notwithstanding these challenges to access quality primary education, it is reasonable to assert that universal access to education is an acceptable norm in Sierra Leone and its implementation is underway.

Measures to securing the health of children especially the girl child, with reference to government taking appropriate measures to abolishing traditional practices prejudicial to the health of children appear to be weakened by traditional orientations in the country. The informal structure of child protection in Sierra Leone is averse to the formal position that traditional practices are prejudicial to the health of children. As the interviews reveal, tensions exist between universal validity and acceptance of human rights norms labelling traditional practices as ‘harmful traditional practices’. The universal usage of the concept of harmful traditional practices amount to efforts of the formal western norm to demeaning, debasing, dehumanizing any traditional practices inconsistent with western values. For most traditionalists, this is cultural imperialism and cultural supremacists’ proclivity. Female Genital Mutilation/Cutting, and early child marriage leading to teenage pregnancies, have been widely classified as forms of harmful traditional practices prejudicial to the health and survival of children in Sierra Leone. One respondent outlines the effects of these practices:

In my opinion, such practices have severe long and short health hazards to children such as birth complications, contraction of STIs/HIV, fistula, unsafe abortion and in some cases death (NGO Manager)

The Government of Sierra Leone is in a dilemma; firstly, being a state party to international human rights standards, it’s obliged under international human rights laws to ensuring that appropriate measures; both administrative and judicial are taken to protect human rights. On the other hand, the culturally sensitive nature of the issue of FGM inhibits any proactive and progressive actions to be taken. The MICS4 underscores this point: “FGM/C remains a highly sensitive and political topic in Sierra Leone. While some agencies and NGOs continue to work to eradicate this practice, the Government of Sierra Leone has not made particularly strong efforts to eliminate the practice of FGM/C. Politicians can win votes by publicly supporting FGM/C” (MICS4,2010 p112). In principle however, the government has taken measures to combat FGM and early child marriage. The CRA under section 33 subsection 1 prohibits any “cultural practice which dehumanises or is injurious to the physical and mental welfare of a child” whereas section 46 subsection 1 states that “no

person or association shall subject a child to any of the following practices: - (a) early marriage (b) child betrothal” (CRA 2007). In practice, these laws are not implemented:

In terms of abolishing traditional practices, there is lack of willingness from government to enforce the law because of the cultural and traditional sensitivity to these traditional practices. In fact, most politicians campaign to local/grass roots people by encouraging them to undertake mass initiation of children into secret female societies (NGO Manager).

Although there is lack of political will to enforce the law on FGM, rights based NGOs have over the years especially so in the aftermath of the enactment of the CRA in 2007 launched an adversarial campaign against the practice. As the interviews revealed, NGOs that openly campaign against the practice face intimidation, marginalization and communal discrimination by traditional or cultural adherents. In 2010, a journalist of the national broadcasting television, Sierra Leone Broadcasting Cooperation (SLBC) was intimidated and forced to flee her home town for discussing alleged dangers of FGM on a live radio program in Kenema. Notwithstanding the risks associated with campaigns against FGM, respondents in Bo and Kenema argue that the rate of initiation has significantly declined since 2007:

The campaign against FGM by rights based organizations albeit under difficult circumstances is yielding results. Educating people on the dangers of FGM and the legal prohibition of the practice has contributed to the reduction of FGM initiations in Bo and Kenema cities.

A ‘Sowei’ interviewed in Kenema disclosed that;

For the past three years, a huge number of Soweis have been restrained from performing FGM on children. Efforts of government officials and NGO workers encourage us to stop the practice on teenage girls as we are made to believe that the practice is detrimental to the health of children.

Although the Sowei above suggests a decline in FGM, a staff of a Community Based Organization (CBO) - Humanist Watch Kenema revealed that initiation of children as young as 5 five years old is a common problem in Kenema and its surrounding communities. In corroboration to this point, a police officer attached to the Family Support Unit in Kenema expressed that FGM is still a concern in Kenema. According to him, an incident was recently reported whereby:

A child died in the hands of Soweis during one of their cultural ceremonies in a secret society bush in Kenema. The cause of death was attributed to witchcraft rather than to the FGM procedure. It could well be that uncontrollable bleeding after the mutilation may have killed the girl.

Bearing this knowledge in mind, the study proceeds to presenting findings on the so called protection rights of children in Sierra Leone. In doing so, the paper examines whether or not these protection rights are implemented in parallel with the provision rights.

3.3.2 Protection rights of children in Sierra Leone

Protection rights of children, the world over, are under serious threat. It is one of the obstacles to the full realization of the provision rights of children - child survival and development in developing countries. According to UNICEF, “children subjected to violence, exploitation, abuse and neglect are at risk of death, poor physical and mental health, HIV/AIDS infection, educational problems, displacement, homelessness, vagrancy and poor parenting skills later in life”(UNICEF 2006). Governments are therefore obliged under the CRC to: “recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental,...or social development" (CRC article 32 paragraph 1). In UN General Assembly Resolution A/RES/S-27/2 on ‘A World Fit for Children’, world leaders reaffirmed their commitment to ‘protect children from harm and exploitation’ (A/RES/S-27/2 paragraph 7). These are core protection rights of children. Protection of these rights would therefore involve states parties and child protection agencies “preventing and responding to violence, exploitation and abuse against children – including commercial sexual exploitation, trafficking, child labour and harmful traditional practices, including children living without parental care” (UNICEF 2006). Given this background, this section of the dissertation presents findings on the status of a key protection right of children in Sierra Leone; protection from all forms economic exploitation of children, in particular, child labour including street children.

The concept of child labour, like FGM, is controversial and culturally sensitive issue in Sierra Leone. It is subjected to varying interpretations as it covers ethical, social, economic, legal (Grootaert and Kanbur, 1995). In what appears to be a protective legal framework in consonance with article 32 of the CRC, section 32 of the CRA prohibits child exploitative labour. However, the formal meaning and understanding of what constitutes child exploitative labour conflicts with the informal sector’s perception of child rearing. While the formal structures consider child labour to mean when children aged 5 – 11 are involved in “at least one hour of economic work or 28 hours or more of domestic work per week, and ages 12 – 14 perform at least 14 hours of economic work or 28 hours or more of domestic work per week” (MICS4, 2010, p100). Sen (1981) argues that: “any activity which the child undertakes to help the family in its substance efforts or to help him/her in his/her

own subsistence efforts whether paid or unpaid, legal or illegal, which will have negative implications on the physical, mental, psychological and social development of the child (Cited in Admassie, 2002). The informal or communal system of child protection is averse to this meaning of child labour since “many Africans consider children’s work and domestic duties as a part of the socialization process through which children learn important skills which are necessary for survival in the future” (Admassie, 2002). It is therefore not surprising for the communal system of child protection in Sierra Leone to regard the formal definition of child labour as an imposition of alien norms that denigrate traditional practices and beliefs. These definitional issues make the topic of child labour a sensitive one to the extent that the implementation of the provisions of the CRA has met strong resistance from indigenous people.

The interviews revealed that the contents of the CRA lacks a sense of communal ownership, it does not reflect cultural values relative to Sierra Leone. The Act, as revealed by a respondent:

Is a usurpation of our traditional believes and cultural heritage. It is an imposition and this is unacceptable. It is unacceptable principally because too much protective rights are given to children with little or no societal responsibilities at all. But again these are mere laws (Village chief).

A UNICEF report states that: “there is doubt among stakeholders that the CRA will achieve substantial impact on attitudes and practices regarding child labour at the household level” (MICS4, 2010 p102). According to the MICS report, 50% of children aged 5-14 are involved in child labour and 63% of children aged 5-11 years have been exploited especially in rural communities, poor households and among parents or guardians with low levels of formal education (MICS4, 2010, p 101-103). In the alluvial diamond communities in Kono district and Tonko fields, child exploitative labour is the norm. Three categories of child labour in the alluvial diamond mining fields are usually identified; direct child miners/workers (normally 12years and above) – these are active in digging and in the processes involved in extracting diamonds; support workers (errand boys) - children involved in preparing food, fetching water etc., and ‘child petty traders’ – children at mining sites selling items such as cigarette, rum etc., often for an older family member or on commission for a more established trader (Bøås and Hatløy, 2008).

The study further reveals that child labour is not unconnected to endemic poverty. Hope, argues that: “as poverty deepens in Africa, more and more children at younger ages have been engaging in paid economic activities” (Hope, 2005). This argument is further

pinpointed by Anker arguing that “in many African countries, there is declining capacity of both immediate and extended families to support children. Consequently, children with jobs make a major contribution to the household livelihood security... The survival of many poor families depends on the cash and in-kind income generated by children” (Anker 2000). A critical analysis of the MICS4 statistics on the situation of child labourers in Sierra Leone shows a generation of children striped off their civil liberties, puerility, and social capital development. Invariably, this practice perpetuates the cycle of poverty in the country since child labourers are denied education and therefore, the nation is deprived of human capital formation.

Human capital formation of the Sierra Leonean children is further threatened by the unending increase in the menace of ‘street children’ especially so after the civil war. There is no universally acceptable definition of a street child. For this study, I choose to use the Inter – NGO definition of street children which defines street child as: “any girl or boy who has not reached adulthood, for whom the street (in the broadest sense of the word, including unoccupied dwellings, wasteland, etc.) has become her or his habitual abode and/or sources of livelihood, and who is inadequately protected, supervised or directed by responsible adults” (Inter-NGO, 1985). Two categories of street children have been identified by UNICEF: those “of the street” and those “on the street”. The first category, children of the street; are homeless children who live and sleep on the streets in urban areas; living with other street children or homeless adults. On the other hand, “children on the street” earn their living or beg for money on the street and return home at night. They maintain contact with their families (UNICEF, 2001).

Street children in Sierra Leone, like their counterparts in other African countries, are more vulnerable to worst forms of exploitative labour and abuse than children living with parents, guardians or caregivers. Street children, more often than not, are objects of inhuman treatment, neglect, and molestation. It is common in post war and war torn countries to have high numbers of street children (Murray 2010). Sierra Leone is no exception to this trend. Tens of thousands of children who could not be reunified with their parents have turned to street urchins; waifs are trafficked internally for exploitative economic labour and/or sexual exploitation. The study reveals that “street ‘children hood’ remains wide spread and prevalent across provincial capitals and the city of Freetown” (NGO Manager). Endemic poverty is identified as a key push factor for the increase in street children in Sierra Leone. Other factors identified include the following push factors: lack of appropriate parental care within family

settings; high incidence of child domestic violence, low income of families and weak community support for children. As Noam points out: “in situations of poverty, neglect, abuse, and desperation -children run away from home and seek a better life on the street” (Noam, 2006). The pull factors include the following; the absence of or weak laws to stem street children, the availability of employment/work on the streets (providing cheap labour e.g. loading and unloading stalls or vehicles and carrying loads from one place to another), peer pressure and weak gate keeping in institutionalised homes.

A national head count of street children reveals that 50,000 children are ‘children of the street’ and ‘children on the street’ engaged in different forms of labour (bonded labour, sexual exploitation), begging, petty trading, pickpocketing and some used by criminal gangs and armed robbers to rob people at night (Street Children of Sierra Leone, 2012). In principle, the government through the CRA prohibits child labour: “No person shall subject a child to exploitative labour...” (CRA, 2007, section 32). However, in practice, enforcement measures are weak as one respondent puts it:

There is weak commitment to enforce the law on child labour and the CRA as a whole. The MSWGCA, the custodian of the CRA has no strategic plan; it lacks qualified personnel; since the enactment of the CRA, there is no monitoring plan and efforts by civil society organizations to amend the CRA have not received the attention and political will it desires (NGO Manager).

3.3.3 Participation rights of children in Sierra Leone

Participation rights are generally regarded as civil liberties of children. Whereas the provision and protection rights are considered to be social, economic and cultural rights of children, participation rights are considered to be children’s civil and political rights. Participation rights of children are perhaps the least ranked rights among the ‘3ps’ in terms of acceptance, protection and implementation by states parties to the CRC. According to Franklin:

While children’s claims to provision and protection rights have rarely been contested, their claims for liberty rights invariably are contested (Franklin, 2002: 21).

Much as Franklin’s position could be true with regards to private participation rights of children, this is untrue to public participation rights of children in post war Sierra Leone. For a better understanding of participation rights, two types of participation rights would normally be identified; public participation rights (participation in decision making at national level, freedom of express etc.) versus private participation rights (within the family,

at communal levels etc.,). The study reveals that attempts by the government of Sierra Leone, INGOs and NGOs to progressively realize public participation right is under way, but the private domain (the family domain), is prejudicial to children's participation rights. Private participation rights suffer from the claws and strangled grids of cultural values; children are denied individualism, independence and privacy.

At the public sphere, the study finds evidences of children's participation in decision making after the civil war in 2002. A key finding reveals that at the hearings of testimonies and statement taking by the Sierra Leone Truth and Reconciliation Commission (SLTRC), established at the end of the war (2000 – 2004), children were given the opportunity to testify both as ex child soldiers as well victims of atrocities. Children played integral role in the processes of truth seeking and national reconciliation as evident in the final report:

The Commission resolved that it would reach out proactively to children so as to ensure their full participation in all of the Commission's work...taking statements from them, participating in hearings and involving them in special hearings on children...to ensure that their voices be heard in the final report and recommendations (SLTRC, 2004)

Prior to this period, public participation rights of children was emboldened when in 2001, the MSWGCA in collaboration with UNICEF and other international child protection agencies launched for the first time in the history of Sierra Leone, a children's forum – The Children's Forum Network (CFN). Since 2001, CFN has served as a formidable platform for children's participation in post war recovery and peace building. Further, the study shows that, through advocacy, campaign and sensitization, CFN creates the enabling environment for the realization of freedoms of thought, assembly, association and expression by children in Sierra Leone. Respondents expressed that:

Government commitment to promoting participation rights is manifest especially children's freedom of expression and freedom of thought by allowing the establishment of Children's Forum Network; participating in the nationwide Fambul Tok program and weekly children's programs on different broadcasting outlets discussing issues affecting them and on child unfriendly policies of government.

Further, children form an integral part of Sierra Leone's anti-graft campaign. The Sierra Leone Anti-Corruption Commission (ACC) involves children in its work to eradicate corruption. In order to facilitate children's participation, the ACC works in partnership with the CFN and have further established integrity clubs in 27 secondary schools across the country .

While progress is made at the public participation level, on the contrary, in the private sphere, participation rights of children is regarded as an anathema and an antithesis to cultural values and parental role in guiding their children to adulthood. The rights to conscience, expression or thought and religion, conflict with traditional child rearing norms or practices in Sierra Leone. The culture of obedience, respect to parents and elderly people in communities in all matters affecting children, are moral virtues akin to indigenous Sierra Leoneans. The study reveals that, within the private domain, children are denied participation rights. One respondent opined that: “it is unthinkable to allow my children contribute to making family decisions”. At the family and community levels, it suffices to say that children are regarded as properties of the male household head and as such, the household head commands and dictates the pattern of life/growth of children. Children do not have status and are denied human dignity within the family and communities. Total subservient and obedience to parents and the elderly is the norm. The culture of obedience to parents and the elderly was made vivid by one respondent who holds that:

Children should not argue with their parents or the elderly; negotiation on family decision making with children is forbidden in our tradition. Children are expected to take orders and live by the wisdom of parents, anything contrary to the wisdom and authority of parents or community elders amounts to disregard, disobedience, and disrespect to our social values. These acts demands severe correctional punishments.

Under the present circumstances in Sierra Leone, the study further shows that children’s right to practice religion of their choice is limited by parents. Freedom of religion is not allowed for children. In fact at the mention of religious freedom of children, a respondent expressed total disregard for the concept of children’s rights. Religious fanatics among respondents would want us to believe and respect what the Holy Books of both Islam and Christianity command. To them:

The Holy Books mandated them to bring up their children morally pure and that their children should follow their ways of worshipping God, that their decisions are unquestionable and irrevocable. Contravening the principles of the Holy Books is tantamount to parental and family disconnection.

3.4 Discussion

The findings on provision rights of children in Sierra Leone reveal that in principle, there exists a protective government commitment to making available protective essential services for effective child protection but in practice, the government lacks the capacity to enforce legislations as well as required resources to making available and accessible essential services. Protective government commitment is manifest in the Government of Sierra Leone's ratification of international human rights instrument on children. As mentioned earlier, Sierra Leone is a state party to the CRC and its Optional Protocols as well as the continental instrument on children the ACRWC. Beyond these international ratifications, the government further shows its commitment to providing protective environment for children by domesticating CRC in the form of the CRA. The CRA is the national legal framework for child protection in the country. However, the study reveals that government lacks the capacity to implement provisions of the CRA and other international human rights instrument. As Landgren argues: "bringing about improved protection and sustaining it requires both commitment and capacity on the part of the government" (Landgren, 2005). The MSWGCA charged with the responsibility to ensuring child protection and the custodian of the CRA operates on a meagre budget and inadequate capacity to implement the tasks of providing a protective environment for child survival and development. According to Child frontiers, national laws on child protection and government's international commitment do not meet practice:

The formal system established under the CRA redefines the responsibilities of the government in a manner that is unachievable under the current circumstances. Currently, key child protection and welfare funding comes primarily from the international community, which has become a kind of "surrogate" social welfare provider (Child Frontiers Ltd, 2010)

Inadequate budgetary provisions impede the implementation of the Free Health Care Initiative. The government relies on the international community for the sustainability of the FHCI. This over reliance and dependency on donor support invariably "undermine the authority of the government and, at times, fosters an agenda that perhaps responds more to external pressures than to local concerns" (Ibid). The government evinces semblance of protective government commitment and protective legislations on child protection, but the lack of capacity and unwillingness to enforce legislations undermine the existence of a protective environment for effective child protection. Further, the inadequate budgetary allocations to the MSWGCA, to improving access to quality education and to diminishing infant and child mortality rates hinders progress on the realization of the provision rights of

children in Sierra Leone. It is worthwhile to indicate at this juncture that to fully address the numerous issues pertinent to provision rights of children as enshrined in the CRC is far from being achieved overnight; rather realization of these rights should be seen to be a process of progression. As the findings revealed, Sierra Leone has made gains and there are prospects for progressive realization of these rights although reaching a comfortable level of protective essential services is farfetched but not beyond reach. Suffice it to say that enjoyment of the provision rights by children in Sierra Leone is underway. The status of child survival, development, diminishing IMR and U5MR is being improved over the years but especially during the post war recovery years.

Universal access to primary education seems to be a recognized and acceptable norm in Sierra Leone. However, access to primary education by all children – the surge in net enrolment over the years has had little impact in assuring quality education. Public acknowledgment and policy commitments in the ‘Agenda for Change’ are yet to be translated into tangible and substantive measures to improving quality primary education for children. Taking the existing circumstances into account, the educational sector in Sierra Leone is under siege – poor conditions of service, poor infrastructure, and poor learning environment among others hinder access to quality primary education. The government of Sierra Leone has failed to provide protective essential services for the education of children. Public school systems in rural communities lack “trained teachers, safe and supportive classrooms” (Landgren, 2005). The existing frameworks of the provision rights of children are inconsistent with its implementation. In fact, the legislative framework (the CRA) is inadequate; it makes no remedial or redress provisions for children in cases of non-compliance, abuse and violations of rights. In sum, the provision rights of children are not justiciable in Sierra Leone since for children’s rights to be justiciable, it is essential that domestic law sets out entitlements in sufficient detail to enable remedies for non-compliance to be effective. The lack of individual complaints mechanism, especially so, for victims of FGM and other harmful traditional practices, leads to the argument that the government is not sincere in its international commitment to safeguarding the rights of children. The CRA for example, makes provision for the establishment of a National Commission for Children to monitor, enforce the provisions of the CRC and the CRA, advise government on policies aimed at the improvement of the condition or welfare of children, review legislation and customary law practices relating to children with a view to advising government to adopt appropriate measures in consonance with the CRC (CRA Part II section 11). The failure of

the government of Sierra Leone to establish the Commission for children, five years after the enactment of the CRA, demonstrates government's unwillingness to make children's rights justiciable. I argue that the government of Sierra Leone, in enacting the CRA with a view to establishing a children's commission, adopted a process of instrumental adaption to pressures from civil societies, NGOs, both within and without the country (Risse and Sikkink 1999, p 12). Until the Commission for children is effectively established and assumes independent role in child protection, realization and enjoyment of core protection, provision and participation rights of children is a forlorn hope.

Chapter 4

4.1 Conclusion

This study set out to investigate the Government of Sierra Leone's commitment to fulfilling fundamental human rights of children in post war Sierra Leone. In this investigation, the broad aim was to examine the protective environment framework for realization of the "3Ps" - provision, protection and participation rights of children enshrined in the CRC and the country's municipal child protection law – the Child Rights Act 2007. The study identified and examined the status of implementation and enjoyment of the following provision rights of children; child survival and development, infant and child mortality rates; provision of affordable drinking water; accessibility to primary education, and political and judicial measures taken to stem female genital circumcision/cutting. Further, the study investigated government's commitment to protecting children from economic exploitation; in particular, child labour. The status of participation rights of children both in the public and private spheres was examined. Three key research questions were developed; firstly, the study enquired whether the government implements a parallel or hierarchical model of the "3Ps". Secondly, the study considered measures taken by the government to create a protective environment for the enjoyment of rights, and thirdly, whether challenges exist between the formal and informal child protection regimes in Sierra Leone.

In Sierra Leone, like in many African countries, the government and child protection agencies have undertaken a gruelling campaign to realize the provisions of the CRC. The following conclusions can be drawn from this study; firstly, the Government of Sierra Leone implements a parallel model of the '3ps' rather than a hierarchical model. The study has shown that the "3Ps" are implemented simultaneously in the country. Although a parallel model is implemented, it suffices to conclude that government policies and resources are directed to reducing infant and child mortality rates and, to promoting child survival and development. Further, cultural inclinations and the unwillingness of the country's political leadership are identified as key factors that inhibit judicial or administrative measures to tackle traditional practices prejudicial to the health of children. Protective government legislation and enforcement is generally weak; as protection and participation rights are contested by the informal child rearing framework in the country.

The enjoyment of protection from exploitative child labour is farfetched. The law on child labour is weakened by the lack of political will, the lack of capacity to monitor and

prosecute perpetrators. The growing poverty level serves as a causal factor for child labour coupled with the incidence of street children hustling for subsistence. A protective covering for the incidence of child labour is dysfunctional. The legislation and enforcement framework is weakened by government's inability and/or unwillingness to stem the causal factors of child labour and street children. Although a contravention of the law on child labour including street children, is punishable under section 35 of the CRA, however, no case law exists on prosecution of contraveners of the law even though a significant number of children are victims of child labour.

Culture and customs - attitudes, traditions, behaviour and practices, (Landgren, 2005), are key indigenous pillars that stifle and suffocate participation rights of children in Sierra Leone. The study shows a mixture of willingness of government to uphold children's rights in the public domain but unwillingness of the informal regimes of child protection to allow enjoyment of participation rights of children at the family and community levels. Culture and religious inclinations are crucial factors that impede the full enjoyment of participation rights within the family and communities.

4.2 Recommendations

The top-bottom approach adopted by the government and child protection agencies to secure culturally sensitive children's human rights such as FGM and child labour proves to be unsuccessful since the informal regimes of child protection consider children's rights issues as imposition of western norms and denigration of traditional values of Sierra Leone. Against this backdrop, I recommend the following;

- (a) The government and child protection agencies to adopt a bottom-top approach to child protection. Efforts by the government and partners to effectively create protective environment must be community driven. Community ownership of the processes and issues (traditional/cultural) surrounding child protection in Sierra Leone is crucial.
- (b) The government, through the MSWGCA and child protection agencies should undertake a nationwide community sensitization and capacity building to create "social environment that protects children from exploitation and abuse"(Landgren, 2005).
- (c) Government to seek funding through international cooperation and support to establish a National Commission for Children.

- (d) Government to enforce legislations that protect children's rights. In doing so, Judges and Magistrates must undergo training on international best practices on child rights justice.
- (e) Government to increase budgetary allocation to the MSWGCA to enable the Ministry to perform its social functions
- (f) Child protection agencies must include children in the design, implementation and evaluation of projects that affect children. A participatory approach will enable children to relate and discuss issues affecting them in families and communities.

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Appendix I

Interview Guide for MSWGCA

My name is Alimamy Conteh, a Sierra Leonean student at the Institute of Commonwealth Studies, studying human rights. This interview guide has been developed to provide answers to research questions in my dissertation. The dissertation is a partial requirement for award of MA Understanding and Securing human rights. I kindly request an interview with you as your responses to the following questions will be invaluable.

Sierra Leone is a state party to a number of human rights instruments relating to the human rights of children in particular; the CRC and its optional protocols and the ACRWC. In 2007, the CRC was domesticated under the Child Rights Act 2007. It is against this background that this study sets out to investigate child protection practice in Sierra Leone. In particular, I am interested in discussing the applicability and the enjoyment of the ‘3Ps’ (Provision Rights, Protection Rights and Participation Rights of children) as enshrined in the CRC and other treaties ratified by Sierra Leone, whether or not the government adopts a hierarchical or parallel model of Provision, Protection and participation rights. In other words, this study would measure the government of Sierra Leone’s commitment to ensuring the human rights of children are enjoyed not only in principle but in policy, practice and outcome.

Provision Rights of Children

(1)As a Ministry directly involved in the protection of human rights of children, how would you describe government’s roles with regards to:

Right to life of children – survival and development, in particular, diminishing infant and child mortality

(a)Abolishing traditional practices prejudicial to the health of children

(b)Provision of safe drinking water

(c)Access to quality educational learning environment

Protection Rights of Children

How proactive is the government in protecting children from economic exploitation with particular reference to child labour?

What measures exist to stem/manage/control child labour?

What penalties exist for child economic exploitation?

Participation Rights of Children

In what ways have the government assured the full enjoyment of freedom of expression and access to information, freedom of thought, conscience and religion?

From a cultural standpoint, how do you strike the balance between children's human rights and cultural or traditional values?

Do you offer training/capacity building to local communities on reconciling the tensions between traditional norms on child rearing and international norms on human rights of children?

Appendix II

Interview guide for child protection agencies and community respondents

My name is Alimamy Conteh, a Sierra Leonean student at the Institute of Commonwealth Studies, studying human rights. This interview guide has been developed to provide answers to research questions in my dissertation. The dissertation is a partial requirement for award of MA Understanding and Securing human rights. I kindly request an interview with you as your responses to the following questions will be invaluable.

Sierra Leone is a state party to a number of human rights instruments relating to the human rights of children in particular; the CRC and its optional protocols and the ACRWC. In 2007, the CRC was domesticated under the Child Rights Act 2007. It is against this background that this study sets out to investigate child protection practice in Sierra Leone. In particular, I am interested in discussing the applicability and the enjoyment of the '3Ps' (Provision Rights, Protection Rights and Participation Rights of children) as enshrined in the CRC and other treaties ratified by Sierra Leone, whether or not the government adopts a hierarchical or parallel model of Provision, Protection and participation rights. In other words, this study would measure the government of Sierra Leone's commitment to ensuring the human rights of children are enjoyed not only in principle but in policy, practice and outcome.

Provision Rights

How would you describe the right to life of children – survival and development, in particular, diminishing infant and child mortality?

What measures have the government taken to abolishing traditional practices prejudicial to the health of children (FGM). How effective are these measures?

Do your community have access to safe drinking water?

How would you describe the status of access to quality educational learning environment?

Protection Rights of Children

How proactive is the government in protecting children from economic exploitation with particular reference to child labour?

What measures exist to stem/manage/control child labour?

What penalties exist for child economic exploitation?

Your comments on the menace of Street Children: Why the increase? Any protection/provision rights for them as government's intervention?

Is the government committed to implementing the Child Rights Act?

Do you think children in Sierra Leone live in a protective environment for the enjoyment of their rights?

What are the roles of HRCSL in promoting a protective environment for children?

Participation Rights of Children

a. In what ways have the government assured the full enjoyment of freedom of expression and access to information, freedom of thought, conscience and religion of children? How do these rights conflict with traditional child rearing?

1. From a cultural standpoint, how do you strike the balance between children's human rights and cultural or traditional values?

2. Do you offer training/capacity building to local communities on reconciling the tensions between traditional norms on child rearing and international norms on human rights of children?