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FGM...
let's end it.

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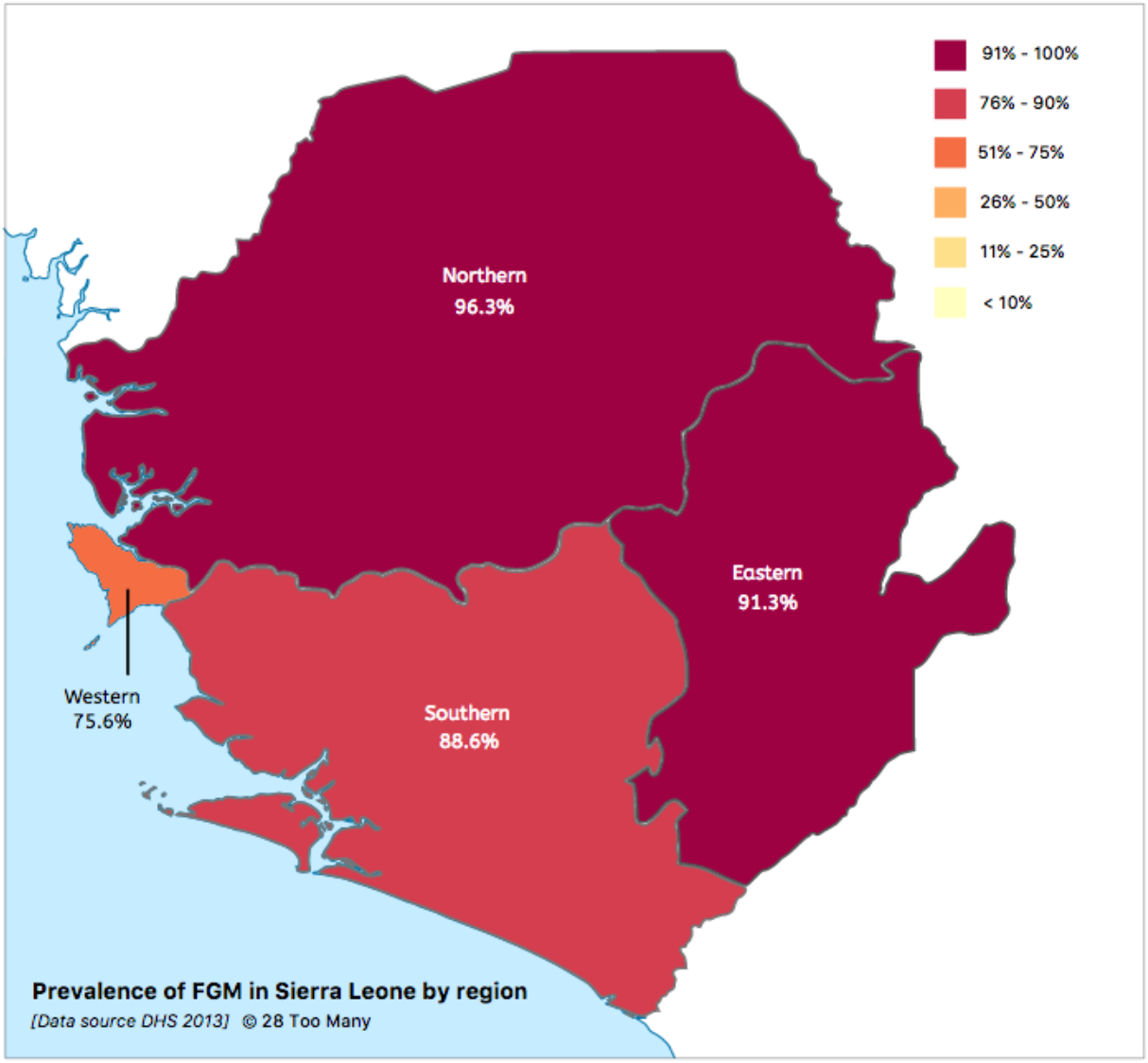


SIERRA LEONE:
THE LAW AND FGM/C

September 2018

In Sierra Leone, the prevalence of FGM/C in women aged 15–49 is 89.6%.

The Northern region has the highest prevalence, at 96.3%, and the Western the lowest, at 75.6%



- 40.2% of women aged 15–49 who have undergone FGM/C were cut between the ages of 10 and 14.
- 'Cut, flesh removed' is the most common type of FGM/C practised.
- Almost all instances of FGM/C are performed by traditional cutters (*soweis*).
- FGM/C is closely linked with the Bondo secret society; the practice forms part of the initiation ritual.
- 69.2% of women and 46.3% of men aged 15–49 believe that the practice should continue.

Source of data: Statistics Sierra Leone (SSL) and ICF International (2014) *Sierra Leone Demographic and Health Survey 2013*, p.301. Freetown, Sierra Leone and Rockville, Maryland, USA: SSL and ICF International. Available at **https://www.dhsprogram.com/pubs/pdf/FR297/FR297.pdf.**

For further information on FGM/C in Sierra Leone, see ***https://www.fgmcri.org/country/sierra-leone/****.*

Domestic Legal Framework

Overview of Domestic Legal Framework in Sierra Leone	
The Constitution explicitly prohibits:	
X	Violence against women and girls
X	Harmful practices
X	Female genital mutilation/cutting (FGM/C)
National legislation:	
X	Provides a clear definition of FGM/C
X	Criminalises the performance of FGM/C
X	Criminalises the procurement, arrangement and/or assistance of acts of FGM/C
X	Criminalises the failure to report incidents of FGM/C
X	Criminalises the participation of medical professionals in acts of FGM/C
X	Criminalises the practice of cross-border FGM/C
X*	***Government has a strategy in place to end FGM/C***

* *No evidence of a national action plan currently in place.*

What is The Law Against FGM/C?

An overview of the international and regional treaties signed and ratified by Sierra Leone can be found in Appendix I of this report.

Sierra Leone has a mixed legal system of English common law and customary law.

The Constitution of Sierra Leone (1991)[1] is very limited in its commitment to equality and protection of human dignity; it also does not specifically address violence against women and girls, harmful practices or FGM/C. **Article 20(1)** is the only section of relevance, stating, 'No person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading.'

In July 2013 a review of the Constitution was launched, and a total of 134 recommendations were put forward by the people of Sierra Leone via a review committee in 2017. It is reported, however, that over a hundred of these recommendations were subsequently rejected by the Government. Although the Government agreed to include an obligation to promote human rights and insert terms such as 'human dignity' and 'equality', it did not accept recommendations to ensure equality of women and men in political, economic, cultural and social spheres or to include the rights of children in the Constitution.[2]

There is currently no national legislation in Sierra Leone that expressly criminalises and punishes the practice of FGM/C.

On a local level, in some chiefdoms (including in the districts of Bo, Bonthe, Kambia, Kailahun, Port Loko, Pujehun, Western Area Rural and Western Area Urban), paramount chiefs and local practitioners (*soweis*) have signed **'Memoranda of Understanding'** (*MOUs*). These agreements ban FGM/C for girls under the age of 18 and require the consent of women over the age of 18. These MOUs are entirely voluntary, however, and, though a positive step forward in the community dialogue, have no legal standing.[3]

What The Law Covers

In the absence of national legislation prohibiting FGM/C in Sierra Leone, there is other national legislation in place which could be considered relevant to the practice, including the following.

- **The Child Rights Act 2007** sets out the legislative framework to protect persons below the age of 18 years in Sierra Leone.[4] **Section 2** defines FGM/C as including 'cutting or removal of any part of the female genitalia' (although FGM/C is not referred to by name anywhere else in the Act). **Section 33(1)** states:

  > No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental welfare of a child.

  However, under pressure from the paramount chiefs of practising communities throughout Sierra Leone, during the legislative process FGM/C was removed from **Section 46** of the Act, which sets out customary practices that are specifically prohibited and criminalised in respect of children.[5] The final consensus was that parliament would not criminalise FGM/C due to its strong and widespread cultural acceptance.

- **The Domestic Violence Act 2007**[6] protects women and children from domestic violence, which is defined under **Section 2(2)(e)** as including conduct 'that in any way harms or may harm another person' and either '**(i)** endangers the safety, health or wellbeing of another person' or '**(ii)** undermines another person's privacy, integrity or security'. FGM/C is not directly mentioned in the Act, however. This law also provides for a person to apply to the court for a prevention order if domestic violence is foreseen.

- **The Prevention and Control of HIV and AIDS Act 2007**[7] under **Section 10(1)** criminalises anyone who 'knowingly or negligently causes another person to be infected with HIV through unsafe or unsanitary practices or procedures'. This may be relevant in terms of unclean instruments being used during FGM/C procedures.

- **The Offences Against the Person Act 1861**[8], which is originally a British act and is now part of Sierra Leone's common law, prohibits the wounding or bodily harm of another person (of any age or gender). However, again, FGM/C is not directly mentioned.

There is no evidence to date that any of the laws mentioned above have been, or are, used in relation to prosecuting acts of FGM/C in Sierra Leone.

Medicalised FGM/C

Medicalised FGM/C is not widespread in Sierra Leone: almost all FGM/C continues to be carried out by traditional cutters (*soweis*).

Current national legislation does not criminalise FGM/C if it is carried out by a health professional or in a medical setting.

Cross-Border FGM/C

In some countries where FGM/C has become illegal, the practice has been pushed underground and across borders to avoid prosecution. Sierra Leone shares borders with Guinea and Liberia, where the prevalence of FGM/C and the existence of laws vary widely.

The absence of any national legislation banning FGM/C in both Sierra Leone and neighbouring Liberia gives families and cutters the opportunity to move across borders to avoid prosecution. There is no available data on the number of girls in the region who are taken across borders to be cut.

The existing national laws in Sierra Leone make no provision for punishment of cross-border FGM/C.

Penalties

There are currently no penalties set out in the laws of Sierra Leone for practising FGM/C. Penalties for causing harm in general are set out under other national laws as follows.

- Under the **Child Rights Act 2007**, for offences set out in **Section 33** (which includes harm caused to a child by any cultural practice, but not FGM/C), the punishment under **Section 35** is a fine of up to 30,000,000 Leones (US$3,717[9]) or imprisonment for up to two years, or both.
- Under the **Domestic Violence Act 2007**, the offence of domestic violence is punishable under **Section 2(3)** by a fine of up to 5,000,000 Leones (US$620[10]) or imprisonment for up to two years, or both. Anyone who contravenes a protection order is punishable under **Article 19(1)** by a fine up to 5,000,000 Leones (US$620[11]) or imprisonment for up to three years, or both.
- Anyone committing crimes relating to unsafe practices and procedures under **Section 10(1) of the Prevention and Control of HIV and AIDS Act 2007** is punishable under **Section 34** by a fine of up to 3,000,000 Leones (US$372[12]) or imprisonment for up to two years, or both.

From November 2014, during the Ebola epidemic in West Africa, a nationwide ban on FGM/C was imposed across Sierra Leone to control the spread of infection. Fourteen districts enforced the ban, and an average penalty of 500,000 Leones (US$62[13]) was imposed on any *sowei* found performing the procedure. During this period, local chiefs and medical staff provided vital information to communities on the implications of the practice for the spread of Ebola; incidences of FGM/C fell dramatically during this time.

Although the ban remained in place once the infection was under control, it was not enforced long-term, and the practice resumed as before.[14]

Implementation of The Law

Cases

In the absence of national legislation banning FGM/C, there are no reported prosecutions or court proceedings in Sierra Leone. There is also no evidence that other national legislation has been used in any way to prosecute perpetrators of FGM/C. Additionally, there is generally weak implementation and enforcement of both international and regional instruments that are meant to protect women and girls.

There have been isolated reports in the media regarding arrests for performing FGM/C, although information is limited.

- In September 2016 a *sowei* was arrested in the eastern district of Kenema for breaking the ban during the Ebola crisis and forcing FGM/C on a 28-year-old woman. The accused was released without charge after protests from a large group of traditional cutters.[15]
- In August 2016, three *soweis* and a nurse were arrested in the northern town of Makeni following the death of a 19-year-old woman after undergoing FGM/C during the ban.[16] No further details are available. Police also reported that some children were rescued from a disused house in Magburaka, also in the north, after undergoing an initiation ceremony.

It has also been reported that, between January and August 2016, of six recorded cases of FGM/C during initiation of girls under 18 years of age, four were investigated, but no charges were filed.[17]

Relevant Government Authorities and Strategies

The leading government department responsible for gender issues in Sierra Leone, including work to end FGM/C, is the **Ministry of Social Welfare, Gender and Children's Affairs**. The Government set out in its 'Third Generation Poverty Reduction Strategy Paper (2013-2018)' under Pillar 8 (Gender Equality and Women's Empowerment) its aim for 'Enactment of law against underage initiation rites of passage for girls' and stated that it had already undertaken various legislative reforms to address gender equality, as required by CEDAW, including to the Domestic Violence Act 2007, Child Rights Act 2007 and the Sexual Offenses Act 2012.[18] None of these, however, legislate against FGM/C.

Section 18 of the sixth periodic report from CEDAW in March 2014[19] noted with concern:

> **(b)** The continued prevalence of female genital mutilation and the lack of legal prohibition of this harmful practice and the rejection of a provision criminalizing child female genital mutilation during the adoption of the Child Rights Act, despite the memorandum of understanding signed between the 'Soweis', local chiefs and civil society organizations on the banning of child female genital mutilation throughout the country . . .

The Committee continued in **Section 19** to recommend that the Government

> **(c)** Explicitly prohibit female genital mutilation and other harmful practices. To this end, it should intensify its efforts in holding consultations with civil society and women's

> organizations and traditional leaders, at the provincial and local levels, with a view to fostering a dialogue on eliminating female genital mutilation and other harmful practices, and changing stereotypes, discriminatory attitudes and practices . . .

Both the international Human Rights Committee in 2014 and the Committee on the Rights of the Child in 2016 reiterated their concerns at the continuing lack of legal prohibition of FGM/C in Sierra Leone.

In 2016 it was reported that the Ministry of Social Welfare, Gender and Children's Affairs had drafted, together with strategic partners such as non-governmental organisations (*NGOs*) and UN agencies, a **National Strategy for the Reduction of FGM/C 2016–2020**; however, there have been many obstacles to gaining political approval and finalising the Strategy and, at the time of writing, it appears that it still has not been implemented.[20] The Strategy also planned for a new **National Steering Committee for FGM/C Abandonment**, but, again, this remains to be established.[21] In February 2017 the United Nations in Sierra Leone urged the Government to finalise and implement the National Strategy as a matter of urgency.[22]

It is also noted that the Government's **National Referral Protocol on Gender Based Violence (2012)**[23], which sets out the roles and responsibilities of the key government ministries, departments and agencies, including the Ministries for Social Welfare, Gender and Children's Affairs, Health and Sanitation, Internal Affairs, and the Sierra Leone Police, refers to 'harmful traditional practices such as female genital mutilation' within the definitions of gender-based violence (*GBV*) in **Section 2**. However, this is not legislation, but a 'technical guidance document' issued by the Government for pathways to service-provision for victims and survivors of GBV.

Civil Society Observations

There are many international and national non-governmental organisations, including partnerships such as the **Forum against Harmful Practices** (*FAHP*) and the **National Movement for Emancipation and Progress** (*NaMEP*), working at the grassroots level across Sierra Leone to mobilise communities to end FGM/C. Some positive changes have been observed in terms of increased awareness and dialogue around the subject. These efforts, however, still face considerable challenges and are not being fully supported because of the continued absence of national policy and legislation addressing FGM/C.

Challenges reported include the ongoing resistance of *soweis* to international pressure to end the practice, which they feel threatens the basis of traditional Bondo society. Many traditional leaders also remain reluctant to publicly support abandonment of FGM/C as they, along with the *soweis*, wish to maintain their statuses in communities as well as gain financially from the initiation fees paid by families each time a girl is cut. Women and girls, in general, continue to have low awareness of their rights and poor access to both legal support and the judiciary regarding GBV crimes; laws and policies are poorly implemented and very few GBV cases reach court or result in convictions.

Civil society expresses ongoing concern that the political focus remains on girls under 18 years of age, yet women of all ages continue to be at risk of FGM/C in Sierra Leone. Community pressure to be cut and conform to tradition remains deeply entrenched and it is argued that it is not a question of women giving 'consent' to be cut; rather, they do not have a choice and face stigmatisation from society if they do not have FGM/C. They are accused of being unclean, promiscuous and even

diseased, and one *sowei* reportedly said, 'The girls want it . . . If they have not had it done, other women won't talk to them. They'll be mocked in the streets.'[24] Without policies and legislation to protect uncut women and girls from such abusive language and behaviour, societal pressure to have FGM/C will continue to be as strong as it has always been.

Local NGOs and activists in Sierra Leone continue to face huge challenges in their work to protect women and children from FGM/C and urgently call on the new Government to introduce national legislation criminalising the practice. At the time of writing, this urgency is highlighted by a reported case of three girls under the age of 15 in the Kambia District being forcibly initiated by their family, against the wishes of their father. While the police and local judiciary are involved in the case, there is no legal recourse (beyond the MOU for underage girls) to bring charges against the *sowei* and those that procured her services.

Conclusions and Suggestions for Improvement

Conclusions

- FGM/C prevalence in Sierra Leone remains high and pressure to maintain the practice as part of Bondo society continues to be a challenge for all those working to protect the health and rights of women and girls.
- Although Sierra Leone has signed many of the international and regional treaties that are relevant to protecting women and girls from GBV and harmful practices, there is weak implementation and policy development: to date, amendments to existing national laws have failed to include protection from FGM/C.
- While both international and grassroots NGOs and activists continue to work in communities to advocate for an end to harmful practices, the absence of formalised government policy and the failure to pass national legislation specifically banning FGM/C undermines these efforts.

Suggestions for Improvement

National Legislation

- There is an urgent need to adopt robust national policy and pass legislation in Sierra Leone to protect women and girls, of all ages, from FGM/C. Laws need to be drafted after full consultation with all members of society, and the Government should draw on the experience of other FGM/C-practising countries that have implemented legislation, to ensure the content of the law is applicable and enforceable in the context of Sierra Leone.
- The Government is urged to agree and fully implement the National Strategy and establish the proposed National Committee to work closely with all activists and communities and achieve long-lasting and positive change.
- Laws need to criminalise and punish all perpetrators of the practice (including those who perform, procure, aid or abet FGM/C). Instances of medicalised FGM/C and cross-border FGM/C need to be included, too.

- Addressing the failure to report FGM/C that is planned or has taken place is a further key consideration in protecting women and girls through national laws.
- The Government also has a responsibility to protect uncut women and girls (and their families) from verbal abuse, physical threats and exclusion from society. Such provisions are included in the laws of some other countries (for example, Uganda).
- Laws also need to protect all victims of FGM/C: women and girls who are pressured by society into agreeing to FGM/C should not be subject to prosecution and further punishment.
- All relevant laws need to be made accessible to all members of society and easy to understand in all local languages.

Implementation of the Law

Once national legislation is in place to protect women and girls from FGM/C, the following actions will contribute to efforts to end the practice in Sierra Leone.

- Anti-FGM/C programmes should disseminate clear, easy-to-understand and accurate information around any new law.
- Judges and local law enforcers need adequate support and training around the law and should be encouraged to fully apply the sentences provided for by the legislation.
- Increased involvement of local and religious leaders in education around the law, including their responsibilities and the importance of the law in protecting women and girls in their communities, would also be beneficial.
- Adequate monitoring and reporting of FGM/C cases in Sierra Leone would improve efficiency and inform policy-makers, the judiciary, the police, civil society and all those working to implement and enforce the law.
- All professions (including those in health and education) need training around the law and their responsibilities to respond to women and girls who are affected by or at risk of FGM/C.
- Support and protection for victims and witnesses in FGM/C cases will be essential.
- Tribunals could be encouraged to make sure any prosecutions relating to FGM/C are clearly reported, including through local media such as community radio, and made available in local languages.
- Where literacy rates are low, information around the law needs to be made available through different media channels and resources.
- Mandatory reporting of instances of FGM/C by medical staff in hospitals and health centres could be considered.
- Where these are currently unavailable and a need is identified, appropriate protection measures (for example, the provision of emergency telephone helplines and safe spaces) should be put in place for girls at risk of FGM/C.

Appendix I: International and Regional Treaties

SIERRA LEONE	Signed	Ratified	Acceded	Reservations on reporting?
International				
International Covenant on Civil & Political Rights (1966) (*ICCPR*)			✓ 1996	
International Covenant on Economic, Social & Cultural Rights (1966) (*ICESCR*)			✓ 1996	
Convention on the Elimination of All forms of Discrimination Against Women (1979) (*CEDAW*)	✓ 1988	✓ 1988		
Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (*CTOCIDTP*)	✓ 1985	✓ 2001		
Convention on the Rights of the Child (1989) (*CRC*)	✓ 1990	✓ 1990		
Regional				
African Charter on Human & Peoples' Rights (1981) (*ACHPR*) (Banjul Charter)	✓ 1981	✓ 1983		
African Charter on the Rights and Welfare of the Child (1990) (*ACRWC*)	✓ 1992	✓ 2002		
African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (*ACHPRRWA*) (Maputo Protocol)	✓ 2003	✓ 2015		Reservation placed on Article 5*

* *No formal reservation has been placed by Sierra Leone on implementation of the treaties listed above upon ratification. However, there are significant factual reservations on the adoption of legislation aimed at eradicating FGM/C (such as Article 5, Elimination of Harmful Practices, in the Maputo Protocol).*

'**Signed**': a treaty is signed by countries following negotiation and agreement of its contents.

'**Ratified**': once signed, most treaties and conventions must be ratified (i.e. approved through the standard national legislative procedure) to be legally effective in that country.

'**Acceded**': when a country ratifies a treaty that has already been negotiated by other states.

#NOFGM

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1 *The Constitution of Sierra Leone, 1991* (1991) Available at http://www.sierra-leone.org/Laws/constitution1991.pdf.
2 Sonkita Conteh (2017) 'Sierra Leone: Constitutional Review Goes Up in Smoke – And the People Lose Again', *AllAfrica*, 14 December. Available at http://allafrica.com/stories/201712140081.html.
3 Amnesty International (2014) *Communities in Sierra Leone turn their backs on female genital mutilation*, 22 July. Available at https://www.amnesty.org/en/latest/news/2014/07/communities-sierra-leone-turn-their-backs-female-genital-mutilation/.
4 *The Child Right Act, 2007* (2007) Available at http://www.sierra-leone.org/Laws/2007-7p.pdf.
5 Lisa O'Carroll (2015) 'Sierra Leone's secret FGM societies spread silent fear and sleepless nights', *The Guardian*, 24 August. Available at https://www.theguardian.com/global-development/2015/aug/24/sierra-leone-female-genital-mutilation-soweis-secret-societies-fear.
6 *The Domestic Violence Act, 2007* (2007) Available at http://www.sierra-leone.org/Laws/2007-20p.pdf.
7 *The Prevention and Control of HIV and AIDS Act, 2007* (2007) Available at http://www.sierra-leone.org/Laws/2007-8p.pdf.
8 *Offences Against the Person Act 1861* (1861) Available at http://www.legislation.gov.uk/ukpga/Vict/24-25/100/data.pdf.
9 *Currency conversion as at 22 June 2018 (https://www.xe.com/currencyconverter/).*
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21 UNFPA Regional Office for West and Central Africa (undated) *Analysis of Legal Frameworks on Female Genital Mutilation in Selected Countries in West Africa*, p.39. Available at http://wcaro.unfpa.org/sites/default/files/pub-pdf/EN-UNFPA-ANALYSIS-ON-FGM.pdf.
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23 Government of Sierra Leone (undated) *National Referral Protocol on Gender Based Violence*, p.6. Available at http://amnet-online.org/assets/The-National-Referral-Protocol-Launch-19-10-12.pdf.
24 Olivia Acland, *op. cit.*

Cover image: robertonencini (2013) Yongoro, *Sierra Leone – June 03, 2013: West Africa, the village of Yongoro in front of Freetown, young girl listen to the lesson at school.* Shutterstock photo ID 460826296.

Please note that the use of a photograph of any girl or woman in this report does not imply that she has, nor has not, undergone FGM/C.

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