THE SIERRA LEONE GOVERNMENT WHITEPAPER AND THE CONSTITUTIONAL REVIEW COMMITTEE RECOMMENDATIONS ON WOMEN’S RIGHTS

By
CAMPAIGN FOR GOOD GOVERNANCE

October 2022
THE SIERRA LEONE GOVERNMENT WHITEPAPER AND THE CONSTITUTIONAL REVIEW COMMITTEE RECOMMENDATIONS ON WOMEN’S RIGHTS

By CAMPAIGN FOR GOOD GOVERNANCE

Email: cgg@slcgg.org
ACKNOWLEDGEMENT

Campaign for Good Governance expresses its profound appreciation to Augustine Sorie-Sengbe Marrah for his professional consultancy services to this piece of work and especially for his analytical review of the proposed draft reviewed constitution 2016 vis-à-vis the Government of Sierra Leone’s Whitepaper of December 2021.

We are also grateful to the parliamentary female caucus and the several women’s rights activists and members of the Sierra Leone Women’s movement for their invaluable contributions in shaping the outcome of this work. We extend thanks to our partner organisations for their great suggestions and opinions on how to advance the rights and recognition of women especially in decision making spaces or leadership.

This work would not have been possible without the financial support and assistance of Trocaire Sierra Leone. We are exceedingly grateful for their support.
Table of Contents

01 Preface

02 Executive Summary

03 Women’s Rights or Gender Equality Issues in the Review of the 1991 Constitution Of Sierra Leone

04 Conclusion
PREFACE

ABOUT US
Campaign for Good Governance (CGG) exists to increase citizen participation in governance through advocacy, capacity building and civic education.
PREFACE

The fundamental rights of women, their participation in governance and leadership of critical decision-making processes are critical pillars of any representative government. It is for this that the constitution of any democracy or representative government must enshrine fundamental rights of women and guarantee their equal participation in the governance of that nation.

The 1991 Constitution is Sierra Leone’s first democratic Constitution. It came on the eve of the nation’s civil war, so its force and application were initially suspended. Though constitutional order was restored in 1996 through the first multiparty democratic elections, the raging civil conflict made it impossible for constitutional order to be cultivated.

At the end of the civil war, one of the twin transitional justice mechanisms was establishing a Truth and Reconciliation Commission (TRC). The TRC was meant to chronicle the causes, events, and lessons of the conflict. Chief amongst the recommendations of the TRC was for the 1991 Constitution to be reviewed considering the nation’s brutal history in achieving democratic governance. The emergence of the human rights movement and democratic world order made it compelling for countries like Sierra Leone to follow the governance trend.

The first attempt at reviewing the 1991 Constitution was in 2007 with the Peter Tucker commission. The Report of that exercise was concluded in 2008 but never implemented. In 2013, the Justice Edmond Cowan Review Committee was mandated to review the 1991 constitution in view of the Peter Tucker Report and to propose amendments. The Committee was comprised of representatives of all stakeholders in governance. The Committee received numerous position papers from citizens in various spheres of government, including individual women and gender equality groups.

In its executive summary\(^1\), the Cowan-led committee noted “...the gender-discriminatory effect of certain provisions of section 27 of the 1991 Constitution. The CRC recommended that they should be deleted and that discrimination on any ground should be prohibited.” The Committee also noted the enormous public support for increased women’s representation in governance, political processes, or decision-making spaces. It noted in its executive summary that “[t]o ensure greater participation of women in the political process, the CRC recommended that at least 30% of election nominees for each political party in national and local elections must be women.”\(^2\)

\(^1\) Page 3 of the Executive Summary of the CRC Report 2016
\(^2\) Page 4 of the Executive Summary of the CRC Report 2016
It further noted its recommendation that “[t]o address women’s long-standing demands for greater representation in Parliament, the CRC recommended an affirmative provision that not less than 30% of Members of Parliament must be women.”

The Cowan Review Committee, after a nationwide consultative process, submitted its report to the Government of Sierra Leone in 2016. The Government has developed and published a White Paper on the constitutional review report (dated December 2021 and launched in January 2022). The objective of the White Paper is to enumerate the position of the Sierra Leone government on the committee’s various recommendations. It is worthy of note that such political practice of editing or scrutinizing the wishes and aspirations of the people after lengthy and broad-based consultations should be discarded since it undermines the entire constitutional review process and gives the impression that the constitutional review process is subject to the whims of political leadership.

This work looks at the various recommendations proffered during the constitutional review exercise and documented in the report around women’s rights and gender equality. It analyses the government of Sierra Leone’s white paper vis-à-vis the recommendations in the CRC report to identify those recommendations which have been accepted or rejected by the government for a constitutional amendment or those which have been recommended for legislative enactment other than a constitutional amendment. Also, some portions of the currently debated Gender Empowerment bill of 2021 and recently passed Public Elections Act 2022\(^3\) on women’s rights or gender priority issues, as stated in the 2016 constitutional review report, are considered in this brief.

\(^3\) Passed by the Parliament of Sierra Leone but awaiting presidential assent
OBJECTIVES

1. To identify the critical recommendations by the Cowan-led Constitutional Review Committee Report of 2016 on the areas of women’s rights or essential gender governance.
2. To review the Government of Sierra Leone’s White Paper dated December 2021 in regard to the CRC Report on critical women's rights and gender priority issues.
3. To analyse portions of the Gender Empowerment Bill 2021 and the Public Elections Act 2022 that relate to women's rights and gender equity that were recommended in the CRC report.

4. To influence governance discussions on women's rights or priority matters and gender equality by engagement with leading women’s groups and critical political stakeholders to advocate for constitutional protection and recognition of women’s rights.

METHODOLOGY

1. Scrutinized the 2016 constitutional review report by the Cowan-led Constitutional Review Committee on women's rights issues and gender equity.
2. Analysed the Government of Sierra Leone’s White Paper dated December 2016 regarding its acceptance or rejection of those recommendations on women’s rights and gender equality.
3. Reviewed the Gender Empowerment Bill 2021 and the Public Elections Act 2022 regarding those recommendations by the CRC Report, which have been put forward for legislative enactment in the said bills.
EXECUTIVE SUMMARY
EXECUTIVE SUMMARY

A total of 16 recommendations were made by the CRC on major issues of women’s rights or gender equality matters for inclusion in the new/revised constitution. Twelve (12) of those critical recommendations were accepted by the government of Sierra Leone in their White Paper report, while four (4) significant recommendations were rejected.

3. Women’s Sexual, Health and Reproductive Rights—recommendation accepted by government.
5. Free and compulsory Education—recommendation accepted by government.
7. Women’s Right to non-discrimination generally and particularly with respect to adoption, marriage, divorce, burial & devolution of property on death of spouse—recommendation accepted by government.
10. Citizenship not lost after dissolution of Marriage—recommendation accepted by the government.
11. Regulatory function of PPRC—recommendation accepted by the government.
12. Thirty percent party nominees for national and local elections—recommendation accepted by the government.
13. Thirty percent membership of Parliament—recommendation accepted by the government.
14. Thirty percent membership of Local Government—recommendation accepted by the government.
15. Equality of land tenure rights (environmental rights)—recommendation rejected by the government.
16. Equality in leadership positions in commissions and independent offices—recommendation not addressed by the government.
WOMEN’S RIGHTS OR GENDER EQUALITY ISSUES IN THE REVIEW OF THE 1991 CONSTITUTION OF SIERRA LEONE
WOMEN’S RIGHTS OR GENDER EQUALITY ISSUES IN THE REVIEW OF THE 1991 CONSTITUTION OF SIERRA LEONE

1. GOVERNMENT AND THE PEOPLE (National Principles of Equality & Human Dignity) — Section 5(1)

a) Provision in Constitution

Section 5(1) of the 1991 Constitution states:

“The Republic of Sierra Leone shall be a State based on the principles of Democracy and Justice”

b) CRC Recommendation

i. The Sierra Leone Women in their position paper “Many Messages, and One Voice” proposed that:

“Issues and principles that we want the constitution to focus on this chapter are: statement of key national values: Equality, Accountability, Implementation, Service Delivery, Participation, Respect for One Another, Religious Tolerance, Honesty, Sincerity, Commitment”.

ii. CRC noted the proposals of the women’s group among others and stated that “it is imperative that the revised Constitution sends out a clear message that Sierra Leone is a State that respects human dignity and that it is a State which lays its foundation on the principles of equality for all its citizens”.

iii. Therefore, the CRC recommends the following amendment to section 5(1):

“The Republic of Sierra Leone shall be a State based on the principles of Human Dignity, Equality, Freedom, Democracy and Justice.”

c) The Govt. White Paper on the Recommendation to include the Principle of Equality

i. Govt accepts the recommendation of the CRC to include “human dignity” and “equality” to section 5(1) of the 1991 Constitution.

d) Analysis & recommendation

i. The acceptance of the principles of equality and human dignity as national principles of governance is critical to women’s right. State recognition of equality of gender and of persons and is the very first step towards achieving an equal and just society free from discriminatory practices.

---

Page 7
ii. CGG therefore recommends that gender equality in the new/revised constitution should be grounded on human dignity, the right of women to be treated as equals and not inferior to their male counterparts.

2. NATIONAL INTEGRATION AND UNITY—Section 6(2)

a) Provision in Constitution

Section 6(2) of the 1991 Constitution states:

“(2) Accordingly, the State shall promote national integration and unity and discourage discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties.”

b) CRC Recommendation

i. The Sierra Leone People’s Party (SLPP) Women’s Wing in its recommendation stated that “All forms of discrimination against women must be abolished in the Constitution.”

ii. The Women’s Forum of Sierra Leone suggested in its position paper that the revised Constitution should ensure that “non–discrimination principles in political and public life should be strengthened and made more effective.”

iii. Women from Rural Sierra Leone proposed that “the principle of non-discrimination in political and public life to be strengthened and made more effective.”

iv. The CRC noted that the wording of section 6(2) was not consistent with the effort towards eliminating discrimination. It accordingly recommends amending this section to state that discrimination is prohibited in Sierra Leone.

v. Section 6(2) is recommended to be amended to read as follows:

“Accordingly, the State shall promote national integration and unity and prohibit discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties.”

c) The Govt. White Paper on the Recommendation to prohibit discrimination to foster national integration and unity

i. Government accepts the recommendation to replace the word “discourage” with “prohibit” as the later places obligation on the State to take positive or proactive steps to tackle discrimination.

---

5 SLPP Women’s Wing Recommendations Page 2, point 11
6 Women’s Forum position paper page 3 bullet 9
7 Port Loko District Women’s Recommendation for the CRC, page 1, point f
8 Page 46 of the Report.
d) **Analysis & recommendation**

i. The acceptance of prohibition of discrimination is essential to foster national unity and integration.

ii. CGG recommends that non-discrimination on the grounds of gender should be a critical element for national unity and integration in the new/revised constitution.

3. **WOMEN’S RIGHT TO HEALTH—Section 8(3)(c)**

a) **Provision in Constitution**

Section 8(3)(c) and (d) of the 1991 Constitution states: “The State shall direct its policy towards ensuring that—

(c) the health, safety, and welfare of all persons in employment are safeguarded and not endangered or abused, and in particular that special provisions be made for working women with children, having due regard to the resources of the State;

(d) there are adequate medical and health facilities for all persons, having due regard to the resources of the State”.

b) **CRC Recommendation**

i. The CRC noted the endemic infant and maternal mortality in Sierra Leone (one of the highest in the world). It alluded to the views of “The Governance Stakeholders’ Coordination Forum (GSCF)” that, as a minimum, a right to health should be provided in the Constitution: “every person has the right to the highest attainable standard of health, which includes the right to healthcare services including reproductive health care.”

ii. It also noted that at a Women’s Conference in Bo among other recommendations, the women called for an amendment to sections 8(3)(c) and (d) of the 1991 Constitution to remove the expression ‘having due regard to resources of the state’ from the section.

iii. In a position paper presented following a Kenema district consultative meeting with the All People’s Congress (APC), the recommendation was made that “free healthcare must be maintained and should be grafted into the new constitution.”

iv. The SLPP Women’s Wing recommended that “State Policy should give priority to spending money on providing services for the people not on costs of

---

9 GSCF report pages 14 and 15 para 7.7.4 A
11 APC District Consultative Meeting of the CRC-Kenema District position paper 6th May 2015 page 2 issue 6
government” and that a “new right to health, including sexual and reproductive health” to be included in the revised Constitution as a human right.\(^\text{12}\)

v. The Women’s Forum in Sierra Leone recommended that “women and girls’sexual and reproductive health rights should be included,” as did the Port Loko Women’s Association Women’s position paper.\(^\text{13}\)

vi. The CRC, based on the overwhelming call for a right to health, especially to address the dangers to women’s health and reproductive safety, recommended the revision of section 8(3)(c) as follows:

“(3) The State shall direct its policy towards ensuring that—

(c) the health, safety, and welfare of all persons in employment are safeguarded and not endangered or abused, and in particular that special provisions be made for working women with children;

vii. The CRC also recommended the amendment of section 14 of the Constitution so that Chapter II shall not only serve as a guiding principle but also be justiciable to give effect to, among other provisions, section 8(3)(c). The proposed wording of section 14 should therefore read as follows:

“The principles contained in this Chapter are fundamental in the governance of the State.”

c) The Govt. White Paper on the Right to women’s health

i. Govt accepts the recommendation of the CRC to delete the qualifying words “having due regard to the resources of the State” in paragraphs (c) of section 8(3) and to amend section 8(3)(c) accordingly.\(^\text{14}\)

ii. However, the Govt. retains section 14 of the Constitution, which renders Chapter II provisions non-enforceable or non-justiciable.\(^\text{15}\)

d) Analysis & recommendation

i. The effect of the Govt.’s rejection of the amendment of section 14 of the Constitution as recommended in the CRC Report is that the right to health which has been overwhelmingly recommended for constitutional protection and which would benefit women and girls particularly, considering the high

\(^{12}\) Sierra Leone Women’s position paper page 9 para 1  
\(^{13}\) Women’s Forum position paper page 3; Port Loko Women’s District Women’s recommendations page 2  
\(^{14}\) Page 3 of the Govt. White Paper on the CRC Report  
\(^{15}\) Page 6 of the Govt. White Paper on the CRC Report
incidents of maternal mortality and sexual and gender-based violence is rendered unenforceable under the constitution of Sierra Leone.

ii. There are also no provisions in the Gender Empowerment bill 2021 on health, sexual or reproductive rights.

iii. CGG recommends that the right to health (sexual and reproductive rights included) should be made justiciable in the new/revised constitution.

iv. CGG also recommends that the Gender Empowerment Bill includes provisions on the right of women to access sexual and reproductive protection and facilities.

4. FREE & COMPULSORY EDUCATION — Section 9(1)

a) Provision in Constitution

“9. (1) The Government shall direct its policy towards ensuring that there are equal rights and adequate educational opportunities for all citizens at all levels by-

(a) ensuring that every citizen is given the opportunity to be educated to the best of his ability, aptitude and inclination by providing educational facilities at all levels and aspects of education such as primary, secondary, vocational, technical, college and university;

(b) safeguarding the rights of vulnerable groups, such as children, women and the disabled in security educational facilities; and

(c) providing the necessary structures, finance and supportive facilities for education as and when practicable.”

(d) there are adequate medical and health facilities for all persons, having due regard to the resources of the State”.

b) CRC Recommendation

i. The CRC noted the All Political Parties Youth Association (APPYA) call for “free and equal opportunity of education for women and girls from primary school to University, with adequate teaching and learning materials”.

ii. It also noted the Sierra Leone Women’s (SLW) call “for a constitutional right to compulsory free education and training for women and girls at primary, secondary and tertiary levels” and for “protection by Government of school girls /teenage mothers...”.

iii. The Port Loko Women’s Association Women’s position paper also reiterated that free education should be a human right.

---

16 Political Parties Engagement with CRC Report page 5
17 Sierra Leone Women’s position paper “Many Messages, One Voice” page 9
18 Port Loko District Women’s position paper page 2
iv. The CRC recommended deletion of the phrase "as and when practicable" from section 9(1) and 9(2). The amended section 9(1) and 9(2) should therefore read as follows:

9. (1) The Government shall direct its policy towards ensuring that there are equal rights and adequate educational opportunities for all citizens at all levels by-
   (a) ensuring that every citizen is given the opportunity to be educated to the best of his/her ability, aptitude and inclination by providing educational facilities at all levels and aspects of education such as primary, secondary, vocational, technical, college and university;
   (b) safeguarding the rights of vulnerable groups, such as children, women and persons with disability in securing educational facilities; and
   (c) Providing the necessary structures, finance and supportive facilities for education.

(2) The Government shall strive to eradicate illiteracy, and to this end, shall direct its educational policy towards achieving-
   (a) free adult literacy programmes;
   (b) free compulsory basic education at primary and junior secondary school levels;
   (c) And free senior secondary education.

c) The Govt. White Paper on the Right to Free and Compulsory Education
i. Govt accepts the recommendation of the CRC to delete the qualifying words "as and when necessary" in sections 9(1)(c) and 9(2) and that necessary structures will involve policy formulation to help Government address challenges where there are limited resources.  

19

19 Page 4 of the Govt. White Paper on the CRC Report

d) Analysis & recommendation
i. Government’s acceptance of free education especially for women and vulnerable groups is critical to empowerment and achieving equality. Education is the most potent tool to achieve equality in society.

ii. While there are provisions in the Education Act of 2004 for free education for basic and secondary education, framing such right in the Constitution is recognising the importance of education as a fundamental right especially to women and girls.

iii. CGG recommends that the provision on the right to education especially for women and girls should feature in the new/revised constitution.
5. **SECURE PROTECTION OF THE LAW — Section 23(1)**

a) **Provision in Constitution**

23. (1) Whenever any person is charged with a criminal offence he shall unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

b) **CRC Recommendation**

i. The CRC noted the Sierra Leone Women’s position paper “Many Messages, One Voice” calls for SGBV to be prohibited in the revised Constitution. It calls for all rights of victims and survivors of violence to be given equal and full protection under the law.\(^{20}\)

ii. It also noted that Oxfam and the 50/50 Group recommended that “the provision to secure protection of the law—victims and survivors of violence (especially of SGBV) are to be given equal and full recognition and protection under the law. Impunity for SGBV is to be expressly condemned by the Constitution.”\(^{21}\)

iii. The CRC recommended addition of the right to remain silent and for conditions of detention to be consistent with human dignity.

*Section 23(10) of the 1991 Constitution should be deleted, and a new subsection should be added, dealing with the right to remain silent.*

*The new subsection should read as follows:*-

“*Everyone who is detained, including every sentenced prisoner and detained person awaiting trial, has the right:*

(a) *to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and* 

\(^{20}\) Sierra Leone Women’s position paper “Many Messages, One Voice” page 10

\(^{21}\) Oxfam and 50/50 position paper on women’s rights page 8 (CRC Report page 125)

\(^{22}\) Page 9 of the Govt. White Paper on the CRC Report

c) **The Govt. White Paper on Secure Protection of the Law**

ii. Govt rejects the recommendation of the CRC to have a new subsection 10 of section 23 noting that such matters should be dealt with in other legislations.\(^{22}\)
d) **Analysis & recommendation**

i. Women in conflict with the law are mostly in need of adequate protection especially in detention or pre-trial detention. It is pertinent that such rights are guaranteed in the Constitution.

ii. CGG therefore recommends that the right to remain silent including the right of accused persons (some of whom are women and vulnerable women in conflict with the law) to conditions of detention that are consistent with human dignity should be included in the new/revised constitution.

6. **Provision Against Discrimination—Section 27(4)(d)&(e)**

a) **Provision in Constitution**

“27. (1) Subject to the provisions of subsection (4), (5), and (7), no law shall make provision which is discriminatory either of itself or in its effect.

(4) Subsection (1) shall not apply to any law so far as that law makes provision—
(d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law;
(e) for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons;

b) **CRC Recommendation**

i. The CRC noted that there is an “inherent contradiction between the inclusion of the prohibition of discrimination on grounds of sex (which was only inserted in subsection 27(3) as a ground for discrimination in the Constitution) and the continuation of section 27(4)(d) which largely applies to gender issues”.

ii. The CRC stated that various position papers called for the review of sections 27(4) (d) & (e) since they affected women’s enjoyment of fundamental rights. The CRC quoted Women’s Forum (Sierra Leone) that sections 27(4)(d) and (e) was regarded as a significant source of discrimination against women.23

iii. The CRC recommended the amendment of section 27 by removing subsection 4. It proposes a new section 27, which does not subject or circumscribe the equality right provision to customary, devolution, burial, and marriage rights, among other things. 24

---

23 CRC Report page 135-136
24 CRC Report page 137-138
c) **The Govt. White Paper on the discriminatory provisions of section 27**

i. Govt accepts the recommendation of the CRC to amend section 27 of the Constitution. It states in its White Paper that “a new section 27 of the 1991 Constitution to provide for gender inclusivity, protection from discrimination and promotion of the rights and empowerment of women in line with Government’s policy” shall be formulated.

d) **The Gender Empowerment Bill 2021**

i. There is no provision in the Gender Empowerment bill 2021 addressing the discriminatory clauses in sections 27(4)(d) and (e). The entire bill cannot be construed to have that effect.

ii. The recently passed Customary Land Rights Act 2022²⁵ removes the barriers in customary laws for women’s access and use of land.

e) **Analysis & recommendation**

i. The Govt has accepted the recommendation to amend section 27 of the Constitution by inserting a new section as proposed by the CRC. The Gender Empowerment bill is not a constitutional amendment instrument. It does not have the force of law to alter the constitutional provision on non-discrimination.

ii. Unless there is a constitutional amendment of section 27(4)(d) & (e), they will continue to have the force of law and undermine any legislative provisions such as the Customary Land Rights Act 2022 and the Gender Empowerment Bill sought to be passed into law.

iii. CGG therefore recommends in view of the Government’s acceptance to amend section 27(4) (d) & (e), that the new/revised constitution does not have such discriminatory provisions.


a) **Citizenship by birth**

i. Section 2(a) of the 1973 Act limited acquisition of citizenship by birth by reference to paternal ancestry. This was later amended by the Sierra Leone Citizenship (Amendment) Act 2006 to add maternal ancestry.

ii. However, both the 1973 Act and the 2006 Act retain the requirement of being of African Negro Descent as the addition criterion for acquiring citizenship.

²⁵ Passed by Parliament but not yet assented by the President.
iii. The Women’s Forum of Sierra Leone stated “that the forum wants a state that guarantees protection from discrimination.”

iv. The Sierra Leone Women’s position paper expressed the group’s wishes: “any person born in Sierra Leone has the right to be a citizen at birth; all racial qualifications to be abolished. The Right to Sierra Leonean Citizenship belongs to every individual person and does not depend on the status or condition of her or his parent.”

v. The SLPP’s position paper reiterated that acquisition of citizenship should be without reference to race or gender:

“We therefore accept and support the recommendation in the working document for the extant review that this new chapter should ‘provide that no citizenship law shall contain any provision, requirement or condition which is discriminatory on grounds of race, colour or gender.”

b) Citizenship through Marriage

i. Section 7 of the 1973 Citizenship Act states that:

“7. Citizenship by naturalization of married women

Every woman who is not a Sierra Leonean and who is or has been married to a Sierra Leone citizen, may, on application being made by her in the manner prescribed, be granted a certificate of naturalization”.

ii. The CRC Report noted that:

“All the women’s organisations called for gender parity in relation to citizenship:

They called for both male and female citizens to have the right to confer citizenship on spouse and on their children. They recommended that anyone legally married to a citizen, lawfully resident in Sierra Leone and gainfully employed, should have the right to apply for Sierra Leonean citizenship, irrespective of who they married to. They also proposed that children and grandchildren of Sierra Leoneans (by birth or naturalization) born outside of Sierra Leone shall have the right to apply for citizenship or become a permanent resident in the same way as a foreign spouse.”

iii. The CRC Report noted that the CRC held consultations with women’s groups, during which they made recommendations on citizenship. The women’s groups

---

26 CRC Report page 170
27 Sierra Leone Women’s position paper “Many Messages, One Voice” page 13 para 1
28 SLPP position paper page 3
29 CRC Report page 183
called for both male and female citizens to have the right to confer citizenship on their spouse and children."³⁰

c) Citizenship not lost through Marriage

i. The CRC noted that the Sierra Leone Citizenship Act 1973 and the Sierra Leone Citizenship (Amendment) 2006 are silent on the matter of dissolution of marriage and how marriage to a foreign citizen affects the status of a Sierra Leonean citizen.

ii. The CRC Report noted that:³¹

“All the women’s organisations called for gender parity in relation to citizenship:

d) CRC Recommendations

i. The CRC Report noted that women’s groups demanded that the chapter in the Constitution should be non-discriminatory on grounds of gender and race. Women’s groups were unanimous in demanding the abolition of discriminatory provisions in the current citizenship laws.³²

ii. The All Political Parties Women’s Association (APPWA) called for the repeal of citizenship laws that are discriminatory.³³

iii. Oxfam and 50/50 Group of Sierra Leone submitted that: “All women agreed that a new chapter on Citizenship (as recommended by the PTC Report) is necessary because the current citizenship law is discriminatory, unjust and exploitative."³⁴

iv. The CRC recommends removing any reference to race and gender in relation to the criteria for acquisition of citizenship, and proposes that the following provision be included in the chapter on citizenship of the revised Constitution:

“Acquisition of Citizenship:
Citizenship may be acquired by birth, naturalisation, marriage or adoption.”

v. CRC also noted that the provision which limits the benefit of marriage only to male citizens is discriminatory against women. It further pointed out that the view “...has been echoed by women groups, human rights experts, civil society organisations and concerned citizens."³⁵

vi. The CRC recommended a constitutional provision on citizenship by marriage as follows:

³⁰ CRC Engagement with Women – Feb 2016 page 2
³¹ CRC Report page 183
³² CRC Report page 159
³³ APPWA position paper page 8 - Culture
³⁴ CRC Report page 159
³⁵ CRC Report page 181
“Citizenship by Marriage

A person may apply to be a citizen by marriage if that person has been married to a citizen for at least five years.”

vii. The Sierra Leone Women’s position paper “Many Messages, One Voice” signed by all women’s organisations in Sierra Leone recommended to the CRC that “anyone legally married to a citizen lawfully resident in Sierra Leone and gainfully employed should have the right to apply for Sierra Leonean citizenship irrespective of the person they are married to and that “Citizenship acquired through marriage should be retained in the event of the dissolution of that marriage, and there should be gender parity on marriage and dissolution of marriage.”

viii. The CRC proposes that the following provision should be included in the new citizenship chapter:

“Citizenship not lost through Marriage
“Citizenship shall not be lost through marriage or the dissolution of marriage”.

e) The Govt. White Paper on the non-discriminatory provisions of citizenship
i. Govt accepts the recommendation of the CRC to have a new chapter in the Constitution on citizenship. It also agrees with the recommendation to have a non-discriminatory provisions for citizenship.

f) Analysis & recommendation
i. It should be noted that there is not yet any constitutional amendment or legislative steps on this issue of non-discriminatory citizenship.
ii. CGG recommends that gender-equal citizenship rights should be included in the new/revised constitution or any constitution amendments on matters of citizenship.

8. REGISTRATION AND CONDUCT OF POLITICAL PARTIES—Sections 34 & 35

a) Provision in Constitution

“34. (1) There shall be a Political Parties Registration Commission which shall consist of four members appointed by the President, namely—

---

36 CRC Report pages 188 & 189
37 Govt White Paper page 12
b) CRC Recommendation

i. The CRC noted that the All Political Parties Women’s Association (APPWA) showed cross-party support for the regulatory function of the PPRC should be recognised in the revised Constitution.38

“APPWA agreed that the Political Party Registration Commission should be changed to Political Party Registration and Regulatory Commission.”37

ii. The CRC recommended the inclusion of a regulatory mandate of PPRC and an amendment of section 34(1) of the Constitution to reflect that.

iii. The CRC also noted the consensus amongst women’s groups following a nineteen-point resolution in relation to women’s representation and a resolution that at least 30% of election nominees for each political party must be women.

iv. The CRC recommended section 35(2) should be amended to read as follows:-

“(e) The internal organisation of a political party shall conform to democratic principles, and its aims, objectives, purposes and programmes shall not contravene, or be inconsistent with, any provisions of this Constitution. At least 30% of the party’s nominees for national and local government elections shall be women.”

c) The Govt. White Paper on the Representation and Conduct of Political Parties

i. Govt accepts the recommendation to extend the mandate of the PPRC to regulation of political parties and notes that the Constitution shall be amended accordingly.

ii. Govt also accepts the recommendation to amend section 35(2) of the Constitution to make provision for at least thirty percent party’s nominees for national and local government elections to be women.39

d) Analysis & Recommendation

i. There are no constitutional amendments yet to give effect to these. There is currently a Political Parties Regulatory Commission Bill 2022 being debated by the Parliament.

ii. CGG recommends that in addition to the passage of a Political Parties Regulatory Commission Bill 2022, the new/revised constitution should include a provision that extends the mandate of the PPRC to regulation of political parties since it (PPRC) is a creature of the Constitution.

---

38 CRC Report page 249
9. **Thirty-percent membership of Parliament—Section 74 of the Constitution**

a) **Provision in Constitution**

“74. (1) Members of Parliament shall comprise the following—

(a) one Member of Parliament for each District who shall, subject to the provisions of this Constitution, be elected in such manner as may be prescribed by or under any law from among the persons who, under any law, are for the time being Paramount Chiefs;”

b) **CRC Recommendation**

i. The CRC recommended the amendment of section 74(1) by adding a new paragraph (b) to make provision for a thirty percent (30%) minimum women’s membership in parliament. The CRC further recommended legislative prescriptions of the details.40

74. (1) Members of Parliament shall comprise the following—

(a) such number of Members as Parliament as may be prescribed who, subject to the provisions of this Constitution, shall be elected in such manner as may be prescribed by or under any law;

(b) not less than 30% of Members of Parliament shall be women, details of which must be prescribed by Act of Parliament

c) **The Govt. White Paper on the thirty percent women’s representation in parliament**

i. The Govt White Paper rejects the recommendation of the CRC to amend the Constitution to provide for a minimum of thirty percent of women’s representation in parliament. It states that such a provision shall be in a subordinate legislation.41

d) **The Gender Empowerment Bill 2021/Public Elections Act 2022 on women’s representation in Parliament**

i. Section 2(1) of the Gender Empowerment Bill 2021 provides for thirty percent (30%) reserved seats for female candidates contesting parliamentary and local elections:

---

40 CRC Report page 260  
41 Govt White Paper page 20
2. (1) There shall be, in public elections, the following reserved seats-

(a) 30% constituency seat in each district, specified in the First Schedule, shall be reserved exclusively for female candidates contesting parliamentary election;

(b) 30% ward seat reserved in each locality, specified in the Second Schedule, shall be reserved exclusively for female candidates contesting local council election.

ii. Section 6(1) of the Gender Empowerment Bill 2021 provides for a thirty percent (30%) quota for appointive or leadership positions:

6. (1) There shall be a minimum of 30% of each gender in appointive positions in public office, at each level or category of governance, including the following-
(a) Government Ministers;
(b) Ambassadors and High Commissioners;
(c) Government Boards, Committees and Commissions, and
(d) fully or partially government funded institutions.

iii. Section 55(c) of the Public Elections Bill 2022 which proposed thirty percent (30%) of reserved seats in each district was rejected by Parliament.

iv. Section 59 of the Public Elections Act 2022 mandates that a third of political parties’ nomination for public elections should be women.

e) Analysis

i. Membership of Parliament is provided for by the Constitution of Sierra Leone, which is the grund norm. This means no other legislation can alter or amend the character of Parliament in the area of membership without amending section 74(1). This is in fact the reason why Parliament rejected the provision of at least thirty-percent women membership of parliament.

ii. CGG therefore recommends that despite government’s rejection of the recommendation of the CRC to include the thirty-percent minimum women’s membership of parliament, the new/revised constitution should feature such provision to give effect to any similar provisions in subordinate legislations.

10. Thirty-percent gender-minimum membership of local government—Chapter 11-Local Government and Decentralisation
a) **CRC Recommendation**

i. The CRC recommended a new chapter on local government and decentralisation in the revised constitution. This proposal is to amend section 4 of the Local Government Act 2004, which provides for the composition of local councils.

ii. The CRC considered the issue of gender representation in local councils and therefore recommended the following provision:42

“Composition of Local Council

5. A local council shall consist of-

(a) a General Assembly ---

Comprising all councillors of the council, which shall be headed by a Chairperson elected from amongst them; and

(b) an Executive body—comprising of all chairmen of committees, core staff, Mayor, and deputy mayor, responsible for the execution of the policies of the council, which shall be headed by a mayor in the case of a City Council and a Chairperson in the case of a District Council;

c) a council elected under this section shall consist of not less than 12 members and not less than 30% of whom shall be of one gender.

b) **The Govt. White Paper on the gender minimum (thirty percent) representation in local councils**

i. The Govt White Paper accepts the recommendation of the CRC to have a new chapter on local government and decentralisation in the new Constitution.43

c) **The Gender Empowerment Bill 2021/Public Elections Bill 2022**

i. Section 2(1)(b) of the Gender Empowerment Bill 2021 provides for thirty percent (30%) reserved seats for female candidates contesting parliamentary and local elections:

2. (1) There shall be, in public elections, the following reserved seats-

(b) 30% ward seat reserved in each locality, specified in the Second Schedule, shall be reserved exclusively for female candidates contesting local council election

---

42 CRC Report page 362
43 Govt White Paper page 34
ii. However since Parliament did not approve the thirty-percent women’s membership of parliament, it would be difficult for such provision to be enacted in the proposed Gender Empowerment law.

d) Analysis & recommendation
i. While membership of Parliament is provided for in the Constitution of Sierra Leone, there is no such provision for local government. In effect, the Gender Empowerment Bill 2021 can amend section 4 of the Local Government Act 2004 to change the composition of local councils.
ii. CGG recommends that for minimum gender membership of parliament, the new/revised constitution should provide constitutional recognition and protection.

11. LAND TENURE (PROPERTY RIGHTS)

a) Provision in Constitution
i. The 1991 Constitution makes no provision regarding the definition, classification, and management of lands.

b) CRC Recommendation
i. The CRC noted The Sierra Leone Women’s “Many Messages, One Voice” recommendation that a reformed non-discriminatory gender-sensitive communal land tenure system should be adopted across the whole of Sierra Leone, with title to all non-State land to be vested in land-owning families in perpetuity, and that the right of individual permanent alienation should be abolished.  
ii. The Sierra Leone Women’s position paper “Many Messages, One Voice” proposed that women’s right to be consulted within land-owning families should be guaranteed.
iii. The 50-50 Group in partnership with Oxfam in their position paper recommended that women and men should have right to own land anywhere in the country. They further recommended that land committees should be representative of the community, and should comprise both men and women.
iv. The CRC recommended a new chapter on lands, natural resources, and the environment in the revised Constitution. It recommended the following provision:
   “2. (1) Lands in Sierra Leone shall be classified as--
   (a) Government lands (inclusive of State and public lands);
   (b) Private lands (inclusive of lands under customary law); and

44 CRC Report page 427
CRC Recommendations on Women’s Right

(c) Freehold and leasehold lands.
(2) All lands in Sierra Leone share equal value regardless of the tenure system.

v. The CRC also recommended equality in the right of ownership, acquisition, use and transfer of land in Sierra Leone:45

“Every Citizen has the right to acquire, inherit, transfer or receive as gift any right or interest in land in Sierra Leone.”

c) The Govt. White Paper on Land Tenure Rights
i. Govt rejects the recommendation for a new chapter on land and environment rights noting that “these issues are to be addressed in other legislations”.46

d) Analysis & recommendation
i. Equality of property rights is critical for empowerment. Historically, women have been deprived of ownership and use of land to grow food and businesses. To achieve empowerment, women should be given equal rights to acquisition, use and disposal of land.
ii. CGG notes that Parliament has recently passed a National Land Commission Act 2022 and the Customary Land Rights Act 2022, the latter removing barriers to women’s access and use of communal lands and establishing land use committees with at least thirty-percent women’s membership.
iii. CGG recommends despite the passage of the National Land Commission Act 2022 and the Customary Land Rights Act 2022, that gender-equal land rights should be provided for in the new/revised constitution.

12. GENDER EQUALITY IN LEADERSHIP POSITIONS OF COMMISSIONS & INDEPENDENT OFFICES

a) Proposed provision in New Constitution
i. The CRC recommended a new chapter on commissions and independent offices.
ii. It recommends that the Chairperson and Vice-Chairperson of a Commission shall not be of the same gender.47

b) The Govt. White Paper on Land Tenure Rights
i. The Govt. White Paper does not address this recommendation.

45 CRC Report page 432
46 Page 3 of the Govt White Paper on the CRC Report
47 CRC Report page 572
c) **Analysis & recommendation**

i. This is a significant provision which would increase the number of women in decision-making or leadership positions in Sierra Leone.

ii. CGG therefore recommends that such provision be included in the new/revised constitution and in the proposed Gender Empowerment law to have more women play critical roles in governance.
CONCLUSION
CONCLUSION

The above provisions are critical women's rights or gender equality issues extensively debated and recommended in the CRC Report of 2016. It is pertinent that appropriate legislative steps are taken to give effect to the aspirations of the people. The fundamental rights, such as the provisions covered in this work, should be granted constitutional protection to advance women's rights. The legislative efforts of the government through the Public Elections Act 2022, the National Land Commission Act Gender Empowerment bill 2021 and are not steps in the right direction such as they seek to remove rights that have been debated and proposed to be in the Constitution of Sierra Leone and to have them enacted in legislations subordinate to the Constitution.

Gender equality is a critical component of governance, and appropriate legislative steps should be taken to enshrine women's fundamental rights in the highest law. This represents the wishes and aspirations of the people of Sierra Leone, as documented in the CRC Report. The very first step toward equality should be the constitutional amendment of section 27(4) (d) & (e), which represents the constitutional sanctioning of discrimination against women. Any legislation passed toward women's rights and gender equality without repealing those provisions would not have the desired effect since the discriminatory clauses in the Constitution would overshadow it.