

Sierra Leone's laws to protect women have unintended consequences

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Laws in Sierra Leone often leave young women in the lurch. robertonencini/Shutterstock

Age-of-consent law is complex. If it is set too high, there's a risk that it will undercut young people's agency. If it is set too low, it does not offer enough protection for vulnerable young people.

This is a conundrum Sierra Leone has faced in the last decade. In the aftermath of its civil war, the country has focused on ways to address sexual violence and protect young girls from sexual harassment and grooming. One approach was to create and enact laws designed to criminalise violence and empower women and girls.

The Sexual Offences Act is one example of such legislation. Here, the work of the country's lawmakers has yielded some positive results: the act protects children, especially girls, who are abused by adults.

But it also circumscribes teenagers' autonomy. The act raised the age of consent for girls and boys to 18. This effectively criminalises sexual activity between consenting young adults.

As I repeatedly witnessed in court cases during more than a year of fieldwork in the capital city, Freetown, it often results in boys from economically marginalised families being imprisoned after their consensual sexual relationships lead to a young woman falling pregnant. It is presumed by the girls' families and the wider community that such boys cannot afford to support his partner and their child.

This law, along with the country's ban on pregnant girls attending school, actually harms young women rather than protecting them.

Violence is not just a private matter between people. Regulating it is not the duty of communities or the state alone. Rather, it is the dialogue and the tensions between these different forces which expose not only how things are "supposed to work", but also how they "really work".

Lawmakers and those who craft policy that's meant to empower and protect women need to consider and take seriously the knowledge of grassroots women's groups and the criticism voiced by citizens and law enforcement. In this way, Sierra Leone can amend what doesn't work in its legal framework and strengthen what does, to engender real change.

Criminalising relationships

The Sexual Offences Act was passed in 2012. It raised the age to give sexual consent to 18: the idea was that since girls younger than 18 cannot consent to sex, they cannot be coerced into sexual relationships by much older, powerful men.

However, while conducting my research and observing court cases stemming from the law, I realised that the act's rigidity often undercuts the agency of young Sierra Leoneans and threatens their futures.

Under the act, men can receive a prison sentence of up to 15 years for having sex with a minor. Since consent is no longer considered, both rape and sexual acts that both parties have agreed to fall into the same category.

This meant some of the cases in Sierra Leone's courts involved 17-year-old girls (the alleged victim) and 19-year-old boys (the accused) who told the court they were in love. In these instances, the sexual relationship had often been reported by one of the teenagers' relatives, someone in their community, or a pastor or teacher when the girl became pregnant.

One lawyer I spoke to explained why this was the case:

... Usually the families knew and accepted the relationship but then report when the girl gets pregnant. It is mostly poor boys who are convicted, not rapists, because these boys do not have any money to offer the family of the girl. Often the families think that these boys cannot support their daughter and seek revenge for a spoiled future.

The boy's conviction and imprisonment sets off a chain of events that leaves young women compromised by the very laws that were apparently designed to help them.

Time to reframe

In cases like those I've described, the 19-year-old almost always goes to prison. His 17-year-old girlfriend loses her partner and cannot rely on his help to raise their child.

On top of this, she is also prevented from continuing her education. This is because of Sierra Leone's pregnancy ban, which was declared by the Ministry of Education, Science and Technology when schools re-opened after the Ebola pandemic in 2015.

According to Amnesty International and human rights lawyer Sabrina Mahtani, the ban – which may be enforced through physical checks – aims to protect “innocent girls” by separating them from pregnant girls, who are seen as negative influences. Temporary alternative classes are provided for pregnant girls, but these are limited and increase girls' feeling of stigma by isolating them from their peers who aren't pregnant. Many girls don't return to school once they've given birth.

In the example I've outlined here, the law has led to the policing of a young couple's relationship and put both their futures at risk. However, if the law would include these considerations it could refocus on criminalising rape and would not have to send boyfriends who are barely over 18 to prison.

But it can only include such considerations if it goes beyond reporting statistics and the law's theoretical intention. Local experts can expose the law's actual effects in relation to increasing existing inequality and power structures. For instance, a health worker at a Rape Crisis Centre told me

..If the SOA would allow people within a certain age range, like 16-21, to consent to sex and criminalise sex between persons of very different age groups and with very young people, it would stop stigmatising pregnant women, stop sending poor boys to prison but continue to protect small girls.

Through community meetings, focus group discussions and the knowledge of local grassroots organisations, law enforcement and service providers, such effects could be made visible and addressed. In this way Sierra Leone's laws would become both fairer and more relevant.