

Kinshasa, 3rd July 2011 — Two years after the Democratic Republic of Congo (DRC) promulgated the Law on Child Protection, an estimated 3,000 children remain in prisons across the country.

The law, which came into effect in January 2009, replaced a 1950 colonial law on juvenile delinquency that set the age of criminal responsibility at 16, leading to a number of severe penalties against children, including life imprisonment and the death sentence.

The current law has provisions for judicial, penal and social protection of children under 18 and states that a judge can send child law-breakers to "a public or private institution of a social character, but only as a measure of last resort", and not to a prison.

"According to the law, it is absolutely illegal to have children in prison," Innocent Bugandwa, a legal protection officer for the UN Children's Fund (UNICEF), told IRIN. "The conditions are like in all prisons in DRC, very precarious. The children don't usually have health care; the link with the family is cut. They manage to survive there only thanks to donations and charity."

Some 158 children are living in a section of Kinshasa's Makala prison, according to UNICEF. Boys are separated from adult men, but girls remain in the same cells as adult women.

The Ministry of Justice did not grant permission for IRIN to visit the prison.

Vincent,\* 16, currently in the care of children's NGO the International Catholic Child Bureau (BICE), had been in prison before his arrival at BICE. "Every morning, you are forced to work. If you don't, they beat you, pour water on you or lock you in a room. If your friends or parents care to visit you, then maybe you will eat. Otherwise, you don't eat."

Floribert Kabeya, BICE's provincial coordinator in Kinshasa, said children in Makala are given prison food only about once a week, with BICE trying to provide food during the remaining days.

Kabeya said a number of the children arriving at BICE have been in prison too long to be able to adjust to life outside. "They are like caged birds that don't know how to fly and when they run away they get caught again by police and taken back to prison," he said.

Following the implementation of the Law on Child Protection, at least seven special tribunals for children aged 14-17 have been established across the country. On 29 April, 12 judges were appointed to deal with child offenders.

### **Lack of resources...?**

Lack of state resources is a major obstacle to implementing the Law on Child Protection, according to Floribert Kingeshi, director of child protection at the Ministry of Justice in Kinshasa.

In Kinshasa, the tribunal for children has been placed temporarily in the same building as the Peace Tribunals and the Superior Courts.

Mputa Daudet Ilua, president of the Kinshasa Children's Tribunal, told IRIN: "The law preceded the infrastructure. Until now we work with basic means. We don't have our own buildings or even a vehicle to transport the children here to the tribunal."

The lack of resources appears to be a problem at all levels of the justice system in the country.

"The first problem is physical accessibility; even the superior courts that are installed in rural areas are very difficult to access," said Pierre Kanika from the Justice Ministry's Justice Reform Committee. "Then there are [legal] fees to pay. These fees are not enormous for me or someone who works in the city. But if someone does not even have money for transport, how can they pay? The destitute are not supposed to pay for lawyers, but in reality this is not the case. And even at the level of jurisdiction, even just to find a piece of paper and a pen is difficult."

There are few functioning state institutions for children in conflict with the law in the DRC

Besides the absence of state investment in the justice system, Kanika added, funding at the international level is also in short supply.

"Few funders are interested in this subject of justice for children in conflict with the law," he said. "The international community is interested mainly in sexual violence... Also HIV/AIDS was a sexy subject for organizations. When it comes to implementing a concrete plan on child protection with preventive measures, no one is interested."

### **Or a mindset problem?**

Aliou Maiga, UNICEF's legal protection officer in Kinshasa, said it was more a question of mentality, rather than a lack of resources.

"Are you not going to start the process of justice because there is no building? Do we need a building or do we need instead someone to work?" he said. "We don't need to write a huge sign saying 'Tribunal for Children'. We have the minimum and we can have an approach of small steps with small means. Don't tell me the government does not have the resources."

On 16 June, UNICEF began an awareness campaign to inform different sectors of Congolese society about the importance of the child protection law.

According to UNICEF, "many observers have noted that the law has not produced the desired effects."

Even if the tribunals were to come into effect immediately, children judged to be in need of re-education or re-habilitation will have few choices.

One of the two state institutions near Kinshasa for the re-education and re-habilitation of children, the State Establishment for Care and Education (EGEE) in Mbenseke Futi, considered to be among the best of places for children, has no running water, limited infrastructure and the dormitory is in a decrepit state. The handful of children still living there told IRIN they do not eat regularly, but remain in the centre in order to attend school.

There are 11 such centres across the DRC, but many are no longer operational.

Source: [All Africa](#)