



YOUNG PEOPLE IN CONFLICT WITH THE LAW IN TOGO, WEST AFRICA

For ten years, Y Care International (YCI) and the Young Men's Christian Association of Togo (YMCA Togo) have been working together to protect and promote the rights of young people in conflict with the law in Togo.

In November 2013, YCI and YMCA Togo launched a new three-year programme to reduce human rights violations and improve access to fair trials for young people in detention in five prisons: the juvenile detention centre in Lomé and the public jails in Lomé, Atakpamé, Sokodé, and Kara.

This summary highlights the key findings from the baseline conducted in 2014 to establish the current situation for young people detained in Togolese prisons.

The Institutional Framework

The State of Togo has a substantive legislative framework for the protection of human rights which includes international instruments, regional charters, and national laws. The constitution recognises that detainees are entitled to treatment that 'upholds their dignity, their physical and mental health, and which helps their rehabilitation into society' and in 2007 laws were introduced to specifically protect children.

However, many of these laws are still at the planning stage and are held back by a lack of funding. The new Penal Code and Internal Prison Regulations are ready to be adopted by the National Assembly but their adoption has been significantly delayed. The government spends less than 0.7 per cent of the national budget on justice, despite calls from international actors and national civil society organisations to increase this to at least 1 per cent.

As a result of the minimal government spending on justice, there are insufficient resources to cover basic needs for detainees: for each detainee, only CFA270 (£0.32) per day is allocated for food – just over half the International Committee of the Red Cross’s recommended allocation – and CFA512 (£0.61) per month for healthcare (source: Direction of the Penitentiary Administration and Reinsertion).

Access to justice and legal assistance

According to prison records obtained in September 2014, there were 4,068 detainees across the 12 prisons in Togo; 2,294 of whom are held in the five prisons where YCI/YMCA are working. Over 60 per cent of these detainees were still awaiting trial. The majority of those who have received sentencing had been seen by a judge within six months, however, one in ten had been held without a trial for between seven months and up to five years.

Nearly half of detainees were arrested for petty theft, and close to 90 per cent of detainees were sentenced to less than five years. Among female detainees, the most common cause of detention was ‘brawling’. Overall, one in ten detainees did not know what they were accused of; some detainees stated that they were forced to sign documents without reading their content during their police interrogation.

Among the detainees surveyed who had been tried, only 7 per cent were assisted by a lawyer, despite their constitutional right to legal assistance. The provision of legal assistance was found to be highly dysfunctional because detainees cannot afford a lawyer and state-funded legal aid is not implemented. Less than one third of respondents believed they had received a fair trial and only 41 per cent said they trusted the justice system.

Detention conditions and abuse in Togolese prisons

In 2008 a UN special rapporteur on torture concluded that detention conditions in police and

gendarmerie custody as well as in prisons in Togo amounted to inhuman treatment.

Over-crowding is a critical issue in Lomé prison; three quarters of detainees share a cell with over 50 people and 95 per cent of them stated that their cell, which rarely exceeds 6 metres x 5 metres, is too small. The majority of detainees (70 per cent) are in Lomé prison which is over three times its stated capacity. The Atakpamé prison, a smaller site, has a 175 per cent occupation rate.

In Lomé, Atakpamé and Kara prisons, an overwhelming majority of detainees complain of their cell’s poor air circulation. *‘[The Atakpamé prison] is the archetype of a traumatising place: no space, the courtyard is cramped and overcrowded’* denounced a local Civil Society Organisation.

Women, because they are fewer in numbers, have relatively more space and fewer cellmates. However, they are often detained with young children.

In Togo an individual should legally only be held in police custody for 48 hours. But the majority of respondents (54 per cent) had been held for more than 72 hours. This was particularly true in Lomé, Atakpamé, and Kara, and affected women more than men.

During their detention, 92 per cent of male respondents and 87 per cent of females said they were treated badly. They described being caned, humiliated and intimidated and receiving punishments such as beatings, physical chores, food deprivation, and isolation.

44 per cent of detainees who had been in police custody had been subjected to mistreatment by the police. *‘When the person has been chased and arrested after having exhausted the policemen, it can happen that they experience somewhat rough acts’* says a police captain.

The legal clubs set up in the prisons by Togo YMCA to provide support to and raise awareness amongst their peers monitor the arrival of new detainees and record experiences of injuries or torture in police or gendarmerie custody.

Conditions in prisons are equally poor and are denounced by Human Rights defenders. Though Sokodé and Kara are better viewed, a large majority of detainees in Atakpamé (85 per cent) and Lomé (77 per cent in the public prison and 63 per cent in the Juvenile Detention Centre) said they felt their living conditions were squalid.

When asked how often they ate, over 9 in 10 respondents said they only received one meal a day and 84 per cent of people said the meals were of poor quality. Women reported eating more and better than men, because they are more likely to prepare food themselves.

Finally, healthcare standards are alarmingly poor. Magistrates have said that prison facilities are unable to provide care to sick detainees, or even to evacuate them to a hospital for urgent treatment. Between 2011 and 2013, 120 detainees died in Togolese prisons (source: Direction of the Penitentiary Administration and Reinsertion).

The dire conditions are described by a Human Rights defender in Atakpamé: *'There is no doctor*

assigned to the prison... Even if the Red Cross comes with its doctor or its assistant, when they prescribe medication, there is no way to buy it. Those are the health conditions. Meanwhile there have been two deaths in the prison. These deaths are caused by the conditions I have described...I say they have been left to die.'

Capacity of justice system actors

Prison staff interviewed appeared aware of their responsibilities towards detainees, in particular over human rights protection and judicial processes, and seemed to have good relationships with Civil Society Organisations and Human Rights defenders having received trainings from YMCA and other organisations.

A prison Director told researchers he made sure detainees' files were well managed so their cases would be dealt with swiftly, while another said part of his role involved supporting YMCA-established legal clubs to enable detainees to lobby for hearings, maintaining their security, and acting as a point of contact between the prison and legal entities.

Magistrates and other justice actors are facing significant financial, material, and logistical constraints in performing their duties which contribute to slowing down judicial processes and limiting access to justice for citizens.

JUSTICE IN TOGO



EXPENDITURE

0.7%

of the national budget

(data source: Direction of the Penitentiary Administration and Reinsertion)



DETAINEES

60%

still await trial

(data source: YCI)

7%

provided with legal assistance

90%

receive only one meal a day

ACTIONS AND RECOMMENDATIONS

Togo YMCA and YCI are tackling these important obstacles to ensure justice for young people who come into conflict with the law.

Within the prisons, detainee-led legal clubs should support other inmates to understand their rights and responsibilities and provide paralegal support to help detainees access justice via letter writing, lobbying and awareness raising. Togo YMCA also **works with prominent judges and lawyers to provide legal counsel** to detainees and organise ad-hoc hearings to speed up the judicial process and shorten pre-trial detention.

Togo YMCA must continue its **collaborative work with civil society networks** comprising the Togolese Human Rights League, Christian Action Against Torture, the International Catholic Child Bureau, Lawyers Without Borders, and the Group for Women, Democracy and Development. These networks, along with youth-led advocacy groups, provide an effective platform for lobbying the Ministry of Justice and other key national and local government authorities to improve detention conditions.

The Togolese Government must act swiftly in adopting the **new Penal Code** and associated procedures which include alternatives to detention, construction of new prisons, provision of legal services in prisons and the improvement of prison staff's working conditions.

Human rights and the national, international and regional mechanisms through which they are defended should be strengthened and national-level actions need to be multiplied to increase the rights of young people in conflict with the law.

Due to high rates of poverty and discrimination suffered by young ex-detainees in Togo, re-offending rates are around 55% (source: Direction of the Penitentiary Administration and Reinsertion). It is therefore essential to increase investment in **programmes that support the socio-economic rehabilitation of detainees** and promote their integration back into their community and wider society.

PROJECT DASHBOARD YOUNG PEOPLE IN CONFLICT WITH THE LAW IN TOGO, WEST AFRICA

Goal

To support human rights defenders to improve access to justice for young people in conflict with the law in Togo

Implementing partners

Togo YMCA, Y Care International

Funders

European Union, Forest YMCA, Y Care International

Duration

November 2013 – October 2016

Cost

£420,166



The report **Justice and rehabilitation for young people in prison or at risk of offending in Togo** is available from Y Care International.

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