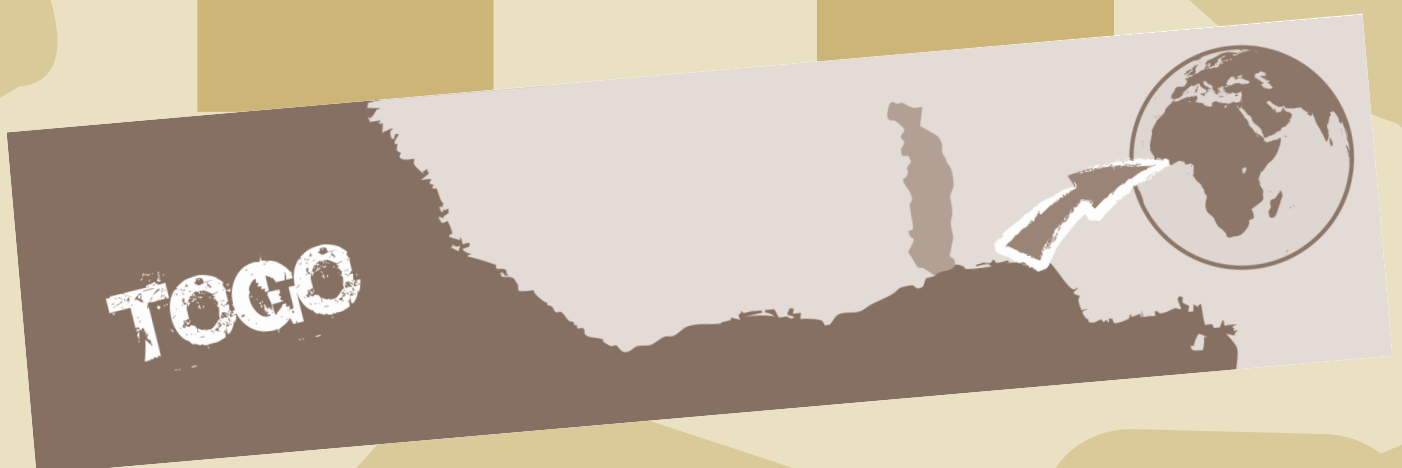


# THE JUST YOUTH JUSTICE IN ACTION



**CAMPAIGN COUNTRY REPORT**

2007



**VCARE**  
INTERNATIONAL

IN PARTNERSHIP WITH THE YMCA OF TOGO



## **ACKNOWLEDGEMENTS**

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## PREFACE

# YOUTH JUSTICE IN ACTION

Youth Justice in Action is an international campaign of Y Care International, which aims to improve the condition and prospects of young people in conflict with the law by effecting positive changes in law, policy and practice. The campaign also provides an opportunity for young people to voice their opinions on what they consider to be the main youth justice issues and to propose solutions to these problems. Y Care International is facilitating this by:

- empowering young people to increase their levels of participation in local and national government structures;
- providing young people with the skills to engage effectively with decision makers and policy makers; and
- supporting young people and local YMCAs to raise awareness of youth justice issues.

As a follow up to the 2006 Campaign Report, young people in each of the campaign countries, through their YMCAs, carried out local research on youth justice issues affecting them and their communities. For example, many young people involved in the research helped to choose the topics and questions asked as well as leading some research efforts and results reporting. The research therefore attempts to reflect the voices of young people. The research plan for each project was developed locally, with the YMCAs determining their own approach. Young people conducted surveys, questionnaires and interviews, and focus group discussions were held with young people in conflict with the law, the general public and other relevant youth justice stakeholders. The research projects also included desk based research on the national and local youth justice context.

This is one of five reports relating to the countries on which the campaign has focused (Honduras, Sierra Leone, South Africa, Togo and the combined United Kingdom and Ireland report). They provide country-specific detail on some of the key problems nationally and locally, looking at what is being done to effect change. Each report concludes with a set of country-specific recommendations on which to base campaign actions.

### Using the research

The research compiled here can be used in a number of ways, including:

- identifying areas for concern;
- developing broader research on public opinions and practices; and
- building awareness-raising and advocacy campaigns.

The report is not intended to illustrate country wide opinion and the views expressed in the report should not be extrapolated in this way. However, the findings provide a valuable snapshot of how people (young and old) view crime, crime control and young offenders.

### THE TOGO RESEARCH

This research focused on the causes and consequences of young people coming into conflict with the law, conditions in detention, and the status and insufficiencies of the youth justice system in Togo.

The key questions examined in the research include:

- What circumstances lead young people into conflict with the law?
- How are they treated in detention?
- How are they perceived by society?
- Do appropriate measures exist for reintegrating young offenders into their family and into society?

Togo YMCA's research attempts to find answers to these questions through a combination of desk research and community surveys. Based on this research, the staff and young people developed recommendations. These recommendations are intended to be used for advocating with state authorities and for community awareness-raising activities within the Youth Justice in Action campaign.

# PART ONE: THE YOUTH JUSTICE FRAMEWORK IN TOGO

## BACKGROUND

“The situation of children in conflict with the law is increasingly dependent on economic and social conditions in the country, which have led to a rise in crime and a growing need for social care for young people at risk.”<sup>1</sup> The Government of Togo has admitted that the current system of juvenile justice is not working effectively and is suffering from problems related to the lack of human, material and financial resources<sup>2</sup>.

These problems were highlighted by the Committee on the Rights of the Child in its most recent Concluding Observations on Togo’s implementation of the CRC. The Committee noted that the juvenile justice system in Togo is not compatible with the Convention’s principles, and criticised:

- the very limited number of qualified judges for juveniles;
- the long pretrial detention periods;
- the lack of alternatives to detention for persons under 18 in conflict with the law;
- the lack of access to free legal advice; and
- the fact that persons under 18 are often detained with adults and in very poor conditions.<sup>3</sup>

The Committee recommended that the Government of Togo review its laws, policies and procedures to ensure full implementation of international juvenile justice standards.<sup>4</sup>

## THE LEGAL FRAMEWORK

### International standards on juvenile justice

International human rights law separates protection and rights of under-18s from over-18s and has developed a comprehensive set of standards governing under-18s in conflict with the law. These standards include:

- The United Nations Convention on the Rights of the Child (CRC, 1989);
- United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990);
- United Nations Standard Minimum Rules on the Administration of Juvenile Justice (Beijing Rules, 1985);
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990); and
- Vienna Guidelines for Action on Children in the Criminal Justice System (1997).

Whilst these standards apply to under 18s, they also provide a clear set of principles and desirable practice for dealing with young adults in conflict with the law. For more information on the standards and applying them to young adult offenders, see Annex A of this report.

The Convention on the Rights of the Child obliges States to develop separate laws, procedures, authorities and institutions to deal specifically with children in conflict with the law (Article 40(3)).

The protection of children who come into conflict with the law in Togo is governed by:

- Togolese Constitution of 14 October 1992, which integrated at its core all the universal principles contained in the international human rights instruments;
- Penal Code of 13 August 1980;
- Code of Criminal Procedure of 2 March 1983 (which includes measures of protection for child offenders);
- Ordinance of 13 February 1969 (which created the office of juvenile judge); and
- Ordinance No. 78/35 of 7 September 1978 (which includes juvenile courts amongst ‘specialised courts’).

Cases of juveniles in conflict with the law can be heard by juvenile judges (juvenile courts) or the Juvenile Tribunal.

Article 456 of the Code of Criminal Procedure specifies that cases of children who, at the time of the crime, are between 13 and 18 years of age shall be heard by a juvenile judge. The judges, however, can only deal with minor offences.<sup>5</sup> If the offence is serious, the juvenile judge sends the case to the Juvenile Tribunal.

The Tribunal is made up of a juvenile judge, a President and two assessors. The Juvenile Tribunal also deals with cases involving young people aged 16 and over, and can also deal with repeat offenders.

Currently there is an insufficient number of trained juvenile judges in Togo, especially in the rural areas. In addition, there is only one Juvenile Tribunal, which is located in Lomé.<sup>6</sup>

As a result, young offenders often face lengthy pre-trial detentions.<sup>7</sup>

## Age of criminal responsibility

The Beijing Rules state that the minimum age of criminal responsibility in a country “shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity”.<sup>8</sup> While the CRC does not set a minimum age for criminal responsibility, in its recent General Comment (No. 10) the Committee on the Rights of the Child (Committee) stated that the absolute minimum age of criminal responsibility is 12 years – ages of less than 12 are not considered internationally acceptable. A minimum age of 14-16, the Committee said, contributes to a more child-right compliant juvenile justice system.

The age of criminal responsibility in Togo is 13, meaning that those under the age of 13 cannot be prosecuted for a crime. This does not mean that the child offender necessarily escapes all responsibility, but that he or she would be dealt with through a non-criminal procedure.

Above the age of 18, no special protections apply for young offenders, as they are treated and held responsible as adults. However, under Article 15 of the Penal Code, a judge can take age and maturity into consideration as ‘extenuating circumstances’ in determining punishments.<sup>9</sup>

## Administration of justice

“Every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner... which reinforces... the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”<sup>10</sup> To this end, the Convention promotes diversionary measures which allow children to be dealt with outside the formal criminal justice system<sup>11</sup> and obliges the State to develop a range of sentences to ensure that children are dealt with in the most effective manner<sup>12</sup>.

Juvenile judges can only hand down educational penalties (*mesures éducatives*) and cannot impose prison sentences, although they can forward more serious cases to the Juvenile Tribunal. While the Juvenile Tribunal is normally limited to educational penalties, it can sentence young people over the age of 16 to prison in exceptional circumstances.

A network of social services exists for implementing these measures. The Ministry for Social Affairs includes a section on ‘Protection of Youth’, which supervises these services. However, despite the existence of this framework, there are significant gaps in practice.<sup>13</sup> The Government of Togo has acknowledged that the social services attached to the courts do not have

properly functioning systems for monitoring children are the subject of non-custodial sentences.<sup>14</sup>

A 2001 study by UNICEF Togo found that, from 1990-2001, of the 228 young offenders coming before the juvenile judges or Juvenile Tribunal in Lomé, 69% were cautioned and released to the care of their parents, 10% received a fine, and 5% were fined, cautioned and released to the care of their parents.

## Deprivation of liberty

Deprivation of liberty includes detention for arrest, investigation, pre-trial and as a sentence. Under the CRC, children must only be deprived of liberty as a last resort and for the shortest appropriate period.<sup>15</sup> The primary purpose of depriving a child of their liberty must be their rehabilitation and reintegration.<sup>16</sup>

The Committee on the Rights of the Child expressed its concern at the length of pre-trial detentions, lack of alternatives to detention, and the practice of detaining young people with adults and in poor conditions in Togo.<sup>17</sup>

## Pre-trial detention

Young offenders in Togo may be detained in local police stations or youth bureaux (*brigade de mineurs*). The brigade de mineurs was created in 1969 for the detention of young offenders, however only one such bureau exists—in the capital, Lomé. The Government of Togo has acknowledged that no alternatives to detention, such as close supervision or placement with a family or in an educational setting or home, are available before the young person comes before the juvenile judge.<sup>18</sup>

The 2001 UNICEF Togo study found that, apart from the *brigade de mineurs*, police stations and Gendarmerie units in Lomé and the rest of the country do not have suitable structures to house young people during preliminary investigations. According to the study, the minors are kept with adults under deplorable conditions. Food and medical attention are inadequate, and parents are often required to provide food for their children in custody.<sup>19</sup> Further, the length of detention reportedly often exceeds legal limits, with the excuse given that the young people’s parents cannot be found.<sup>20</sup>

## Post-trial detention

In exceptional circumstances, the Juvenile Tribunal can sentence over-16-year-olds to prison. When asked by the Committee on the Rights of the Child whether children and adults were held together in prisons, the Togo delegation responded that there were no children

in prisons for adults. If the offence required detention, the judge could place the child in detention in the *brigade de mineurs* in Lomé.<sup>21</sup> According to the 2001 UNICEF study, seven under-18s were imprisoned.<sup>22</sup> However, there is no children's prison, but rather 'youth sections' in adult prisons.

The Juvenile Tribunal can also refer young people to social rehabilitation centres ('*centres sociaux*'), which are centres for the reception, readjustment, education, and training of children and young people who have been in conflict with the law. Referral to these centres is meant as an intervention to prevent delinquency and promote reintegration of young offenders. Some young people spend only a short time at the centre, while others remain for longer periods, depending on what is needed to help them learn a trade and reintegrate into society. The UNICEF study indicated that 10 young people were placed either in the Cacavéli Orientation and Reintegration Centre (le Centre d'Orientation et de Réinsertion Sociale de Cacavéli) or the Kamina 'Tomorrow House' (Foyer Avenir de Kamina) in 2001.<sup>23</sup>

Few centres exist, however, and even fewer are fully operational. The Cacavéli Orientation and Reintegration Centre does not function effectively, has very limited capacity and only accepts boys, and the Kamina 'Tomorrow House' is no longer in operation.<sup>24</sup> The Government has acknowledged that there is a need for a centre for girls.<sup>25</sup>

There are also a number of small centres established by foundations, churches or NGOs, which are also encountering difficulties. For example, the Yao Kopé House in the central region has been very well run in the past, but is now encountering serious difficulties. The youth section opened thanks to a project financed by the European Union has just closed, with the completion of the project.

## CONCLUSION

International standards can and should guide the treatment of young people in conflict with the law. While Togo is bound by a number of international standards to protect children and national standards for children in conflict with the law do exist, by the government's own admission, the current system has many shortcomings. One of the main reasons for some (but not all) of the gaps is a lack of resources – both financial and professional.

Effective implementation of standards, however, is also partially based on knowledge of them – both by those charged with implementing them and those subject to them. It is interesting to note that, in the community research conducted by Togo YMCA and referenced below, nearly 75% of respondents were aware that laws for young people in conflict with the law exist and 63% were aware of national and international standards for protecting children's rights. However, when asked to name these standards, only 12.4% cited the Convention on the Rights of the Child, with virtually the same number citing the African Charter on the Rights and Welfare of the Child. Amongst national standards, only 12.8% cited the Constitution of the Republic of Togo as an instrument for protecting children's rights, while the Penal Code and Code of Criminal Procedure were mentioned by very few people.

## PART TWO: YOUNG PEOPLE IN CONFLICT WITH THE LAW IN TOGO

### THE CAUSES OF YOUTH OFFENDING

The following circumstances that may lead a young person to come into conflict with the law were considered for this research:

- **Drug use** – Use of narcotics is not well regarded in Togolese society. Marketing and consumption are prohibited and constitute an offence. Therefore, any young person engaging in drug use is considered to be in conflict with the law.
- **Crime** – Those committing criminal acts, for example theft, are in conflict with the law.
- **Keeping bad company** – Young people of the same age who hang out with others who dress a certain way, disobey their parents, are sexually promiscuous or prostitutes, skip school, run away, etc., are generally perceived as being in conflict with the law.
- **Non-compliance with rules** – Young people who deliberately do not comply with rules laid down to govern social life are considered in conflict with the law.<sup>26</sup>

According to the community surveys, weak economic power of parents was perceived as the most prominent cause of youth offending. Other causes receiving significant responses in the survey were keeping bad company, the lack of vocational training programmes and fighting between parents/divorce of parents.

### Developmental causes

Factors that affect young people's education and development have an impact on youth offending at two principal levels.

At the family level, problems between parents often result in a young person being left to their own devices. Out of those young people taking part in the survey a large proportion live in single parent families (147 of the 253 young people interviewed). Only 71 are living with both parents. If these figures are correlated with data on the respondents' ages, the number of respondents stating that they live with 'others' raises the fear that many young people live with neither parent.

Added to the findings of young people in single-parent families, this study reveals that the home environment of the young people questioned is not favourable for their development.<sup>27</sup> This situation and the precarious conditions that surround it predispose the children and young people to come into conflict with the law which, at times, arises in response to a number of needs.<sup>28</sup>

In Togolese society some feel that the legal status of the parents' union can damage young people. In cases where a marriage is not made in the legal sense of the term there is almost no legal protection afforded and no one is held accountable for the rights of the children involved.<sup>29</sup>

According to those surveyed for the Togo YMCA research, the systems for taking responsibility for and educating children – with variables including the home environment (both physical, emotional and economic) – are all seen to be failing. Although those interviewed felt that the weak economic power of parents is the leading cause of young people coming into conflict with the law, it must not be viewed in isolation. Coming into conflict with the law is the result of a number of intertwined factors.

In addition, on the state level, youth policies for education and training are insufficient. The majority of young people in conflict with the law are seen to be in search of a sanctum. They do not have anything to occupy them and are often what one would term 'street children'. They are the primary victims of a poor allocation of resources, which maintains the parents in poverty through weak purchasing power incapacities to deal with the situation.<sup>30</sup>

### Socio-anthropological causes

Bearing in mind the difficulties referred to above, coming into conflict with the law is often the reaction of an individual to the constraints of their situation. Sometimes coming into conflict with the law is the solution (although not the only one) that makes it possible to overcome a bad situation. As soon as a young person decides they are not bound by the constraints of the law, they begin to come into conflict with it (either social law or the substantive law). The law then becomes, for them, something completely arbitrary.<sup>31</sup>

Moreover, the stigmatisation and the labelling of young people who have behaviour problems are factors that often worsen such behaviours and push young people towards marginalised groups, in which they are accepted, included, and feel better understood.<sup>32</sup>

### **Causes linked to the development of standards**

This study revealed failures in the development and implementation of laws. Many respondents know that laws to deal with children in conflict with the law must exist. However, what these laws say is unknown to them.

The research thus revealed that certain acts and behaviours are considered only 'moral' violations by many people, and legal infractions and penalties are not really known. Therefore, crimes are often viewed as those actions and behaviour considered 'bad' by society, without the offender understanding which actions are legally prohibited under criminal law.<sup>33</sup>

Moreover, the content of the laws is punitive. Young offenders are considered troublemakers, who need to be removed from society rather than treated as patients who should be cured. This contributes to the mechanical application of the law.

### **Causes linked to failed social reintegration**

The purpose of detaining young offenders, in theory, is to correct their behaviour and reintegrate them into society. However, conditions in detention and the absence of an adequate structure for welcoming ex-offenders back into the community prevent them from developing.

There was a perception among many of those surveyed that young prisoners are badly treated, and that detention conditions and the law regulating justice for young people need to be re-examined.

## PART THREE: CONCLUSIONS AND RECOMMENDATIONS

Young people (defined for this study as those between 12 and 30 years of age) are vulnerable members of society. Young people often find themselves in conflict with the law, for a variety of reasons. Sometimes they are abandoned by their families or close relations when they most need help. They experience deplorable conditions in detention and do not receive the attention they need from state authorities. However, many national and international legal provisions can be used to guarantee their rights, even in detention.

### CONCLUSIONS

This research has highlighted problems with the current youth justice system in Togo. These findings are reinforced by the Committee on the Rights of the Child, and the Government of Togo's submissions to this body. Deprivation of liberty is not used as a last resort (especially prior to trial), there are insufficient numbers of juvenile judges and the capacity and resources of existing rehabilitation and reintegration programmes do not meet the needs of the young offenders.

Furthermore, there is little national focus on preventing youth coming into conflict with the law in the first place.

### RECOMMENDATIONS

The fight against youth offending relies on both prevention and rehabilitation. While the recommendations below highlight these two spheres, recommendations regarding the existing structures for dealing with youth in conflict with the law are also included.

#### Prevention

- Youth offending must be addressed even before it occurs.
- Civil society, and particularly organisations working with young people, should promote awareness-raising campaigns to sensitise young people to the consequences of coming into conflict with the law on their futures, their families, and communities.
- Education should place particular emphasis on teaching tolerance and peaceful means of settling differences, and on how young people can protect themselves and others from violence.
- All stakeholders should work for better application of the national and international child rights standards in order to put children in the best position to lead productive and rewarding lives.
- Organisations working with young people and official bodies should work together to implement anti-offending campaigns which could be conducted through various channels, including the media, local councils and youth centres.
- Better resources should be allocated to destitute children and young people.
- There should be greater availability of education, employment and leisure opportunities to help keep young people away from crime.

#### Reintegration

- Taking into account the vulnerability of young offenders, reintegration should begin while they are held in prisons and detention centres. Organisations working with young people can become part of this process and continue to assist in the reintegration of the young person once they are released.
- Centres for the social rehabilitation of young offenders, as well as their effective operation, should be strengthened, as they are important components of a reintegration programme.
- Organisations working with young people and state bodies should work together to find resources and develop programmes for ex-offenders, to ensure the necessary training, placement in families, and other services are available for their self-development.

#### The justice system

- Additional Juvenile Tribunals should be established outside the capital.
- The training and work of juvenile judges and legal representatives for young people should be adequately supported and funded.
- The number of young people in detention should be decreased. Alternatives to detention, and in particular pre-trial detention, should be developed to ensure that deprivation of liberty is only used as a last resort, in conformity with international standards.
- Resources should be dedicated to improving conditions for young people in detention.

## ANNEX A: DEFINING YOUTH JUSTICE IN THE INTERNATIONAL FRAMEWORK

A widely-held understanding of ‘youth’ groups 15-24 year olds together (with slight regional and national variations of this age range). The concept of ‘youth’ represents the period in which young people are in transition to adulthood and are establishing themselves to live a fully independent life from their family. During this transition, they have needs and requirements that are distinct from both children and adults.

However, international human rights law does not recognise ‘youth’ as a distinct group but has clearly separated under-18s from over-18s in terms of protection and rights. The international community has developed a comprehensive set of standards governing the treatment of children and young people (under-18s) in conflict with the law. These standards include:

- The *UN Convention on the Rights of the Child (CRC)* is the most important children’s human rights treat<sup>34</sup>, which defines children as all those under the age of 18 years, unless majority is attained earlier and includes several provisions specifically enshrining the rights of children in conflict with the law<sup>35</sup>;
- *UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990)*, which detail the proactive approach (including the development of laws, polices and programmes) that States should take to prevent juvenile delinquency, identified as an essential part of crime prevention in society;
- *UN Standard Minimum Rules on the Administration of Juvenile Justice (Beijing Rules, 1985)*, which focus on the rights of children in conflict with the law, setting out standards for arrest, the trial process and sentencing, as well as the aims of a juvenile justice system;
- *UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990)*, which provide a detailed set of standards for the treatment, protection and care of under-18s in detention centres; and

- *Vienna Guidelines for Action on Children in the Criminal Justice System (1997)*, which provide a set of guidelines for implementing juvenile justice standards, specifically setting out priorities for States in developing a child-centred juvenile justice process, including establishing juvenile courts, developing diversion schemes, reducing the number of children in closed detention centres and providing legal assistance to children.

This comprehensive set of universal standards sets out desirable practices for dealing with children and young people (under-18s) in conflict with the law and the Committee on the Rights of the Child uses the whole framework to evaluate the juvenile justice legislation, policy and practice of States.

There are no binding international provisions specifically applicable to young adults/youth (over 18s). Young adults can only claim the same rights and protection as the rest of the population. However, because of particular vulnerability of young people, the *Beijing Rules* specify that States should make efforts to extend its standards to all young adult offenders.

Despite this comprehensive international juvenile justice framework that promotes a restorative approach based on welfare, rehabilitation and reintegration, States all over the world have retained an overwhelmingly punitive response to young offenders, dominated by institutionalisation and influenced hugely by public opinion.

# ANNEX B: THE RESEARCH PROCESS

## METHODOLOGY

### Target population

Young people between the ages of 15 and 30 were the target population for this research. However, the basis for an advocacy strategy such as Togo YMCA will engage in led it to consider the preventative and punitive dimensions of juvenile justice, without passing over the problem of social reintegration and rehabilitation of former offenders.

In order to achieve this, the research targeted:

- young people in conflict with the law (both those in detention and those placed in social rehabilitation centres (*centres sociaux*));
- young students and apprentices in workshops and training centres;
- families of young people in detention;
- young people at big markets, road stations and public buildings;
- civil society organisations;
- men and women with different trades (retailers, drivers, teachers, trade unionists, social workers); and
- men and women working in the law (lawyers, judges, prison authorities, etc.)

### Research sampling

In total 395 individuals were surveyed for the project. The participants' ages ranged from under 20 to over 70, with 64% of the respondents under the age of 30. Gender was considered a factor in the sampling. Ultimately, 61.5% of the participants were male and 38.5% were female.

Age group	Men	Women	Total	Percentage
Under 20	35	29	64	16.2%
20-24	70	42	112	28.35%
25-29	52	25	77	19.5%
30-34	36	20	56	14.17%
35-39	14	15	29	7.34%
40-44	19	16	35	8.87%
45-49	9	1	10	2.55%
50-54	5	2	7	1.77%
55-59	1	2	3	0.75%
60-64	0	0	0	0%
65-69	1	0	1	0.25%
70+	1	0	1	0.25%
<b>Totals</b>	<b>243</b>	<b>152</b>	<b>395</b>	

Of those interviewed, 136 had children. All of the young people interviewed had an 'occupation', either as student, apprentice or in another job. Most commonly individuals interviewed identified themselves as merchants, artisans, taxi drivers and teachers.

## ORGANISATION OF THE SURVEY

### Identification of young people for the research, constitution and organisation of the team

Meetings to explain the objectives of the project were held at headquarters with the 12 young people (mostly students) recruited from the Local Unions (*Unions Locales*) in Lomé and Sokodé to carry out the research and the rest of the campaign.

The research activities were planned together with these young people, some of whom worked with YMCA staff to develop the questionnaire and the interview guides. Background research was entrusted to two of the young people, with training by the staff Project Coordinator. Their report was studied and adopted at the workshop organised to familiarise participants with the tools, which took place at the YMCA Centre d'Accueil et de Formation Agro Pastorale (CAFAP/Bagbé) on 3 February 2007.

### Creation of the tools (questionnaire and interview guides)

The staff and several young people worked in a team to create the tools. The team benefited from the support of individuals with expertise in statistics to finalise the tools.

### Informational visit and contact in Sokodé

From 13 – 15 December 2006, two members of staff made a visit to Sokodé in preparation for the research there. They used this visit to have discussions with the young people who were going to conduct the surveys in Sokodé, meet with officials from local authorities, trade-unions, religious and traditional leaders, security agents, heads of organisations, NGOs and associations, etc., who all welcomed the objectives of the work. They also hoped that the activity would not end with the collection of information, hoping that the YMCA would find the means to campaign based on the results of the research.

### Desk research

The desk research involved two young people visiting documentation centres, libraries and cultural centres to gather publications relating to youth offending. They also conducted supplementary research on the internet.

### Training workshop

The workshop took place at CAFAP/Bagbé on 3 February 2007. It brought together the young people and staff involved in the project and sought to introduce them to the research tools. To ingrain in them the objectives of the project, two presentations were made, one on the causes of youth offending and the other on national and international standards for the protection of children.

With the aim of ensuring good data collection and to facilitate the administration of the questionnaire, the research tools were the subject of a meticulous study, which made it possible to harmonise understanding of the concept. The workshop also made it possible to test the questionnaire and the interview guides through simulated exercises.

### Data collection

The surveys were conducted in Lomé and Sokodé on 5 February 2007. In Lomé, four youth-led research teams of three young people each conducted the surveys. Each team was assigned to a specific area and a target group and a total of 244 individuals were interviewed. Two supervisors supported the youth-led teams on the ground. In Sokodé, three research teams of two young people each worked with the support of two supervisors to interview a total of 151 members of the community.

The questionnaire responses were reviewed at a meeting a week later, with the responses then collated and examined.

## CONCEPTUAL FRAMEWORK

### Objectives

The general objective of the research was to identify constant issues in youth offending in order to develop approaches to solve them. Specifically, the research sought to:

- identify and analyse the situations that push young people to come into conflict with the law on the basis of existing research and public perception;
- study criminal legislation and the Togolese penal system in order to index and analyse the mechanisms for dealing with young people in conflict with the law; and
- establish the broad strokes of an advocacy strategy.

### Hypotheses

- The home and social environment are factors that can push young people into conflict with the law. This assumption includes educational, emotional and economic factors.
- The creation of standards generally and punitive laws in particular, are causes of youth offending.
- Ignorance of the rights of children and young people in conflict with the law result in the non-application of national and international standards that exist for their benefit.
- The prison system for young people cultivates recidivism.
- The labelling, stigmatisation, and discrimination against former young offenders are factors in the persistence of offending.

# ANNEX C: SURVEY QUESTIONNAIRE

The following questionnaire was used by the YMCA interviewers in both Lomé and Sokodé.

## Demographic background

1. Gender
2. Age
3. Marital status (single, married, divorced, widowed)
4. Type of marriage (monogamous or polygamous)
5. How many children do you have?
6. Who do you live with? (mother, father, mother and father, others)
7. What is your occupation? (apprentice, artisan, merchant, student, other – please specify)

## Causes of youth offending

8. What is the main cause of youth offending (breakdown in relationship/divorce of parents, weak economic power of parents, bad company, lack of structure for training, other, do not know)?
9. Do you know that there are laws that punish delinquent acts by young people?

## Knowledge of judicial provisions for the protection and defence of children's and young people's rights

10. Are there national or international norms for the protection and defence of the rights of children and young people?
11. What are the international norms for protecting the rights of children and young people?
12. What are the national norms for protecting the rights of children and young people?

## Detention conditions for young offenders

13. How are children and young people detained in juvenile remand centres and social rehabilitation centres (*centres sociaux*) treated (well treated, not well treated, mistreated, other, do not know)?
14. Are there aspects of the law regulating juvenile justice that could be improved?
15. Are there deficiencies linked to the functioning of juvenile justice in Togo?

## Social reintegration of young offenders and approaches to solve youth offending

16. Do you believe that an ex-offender can lead a normal life in society?
17. When should social reintegration of young people in detention begin (in prison, when they leave prison, other, do not know)?

ENDNOTES

- <sup>1</sup> Togo, 'Second periodic report to the Committee on the Rights of the Child', U.N. Doc. CRC/C/65/Add.27, 11 May 2004.at para 74
- <sup>2</sup> Ibid., para 73
- <sup>3</sup> Concluding Observations of the Committee on the Rights of the Child: Togo, U.N. Doc. CRC/C/15/Add.255, 2005, para. 74.
- <sup>4</sup> Ibid., paras. 74-75.
- <sup>5</sup> Etat Sommaire sur la Justice Juvenile au Togo, p. 3; Togo, 'First Periodic Report to the Committee on the Rights of the Child, U.N. Doc. CRC/C/3/Add.42, 27 February 1996.
- <sup>6</sup> Ibid.
- <sup>7</sup> Togo, 'Second Periodic Report to the Committee on the Rights of the Child, U.N. Doc. CRC/C/65/Add.27, 11 May 2004.
- <sup>8</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly Resolution 40/33 of 29 November 1985, Rule 4.1.
- <sup>9</sup> Etat Sommaire sur la Justice Juvenile au Togo, p. 3.
- <sup>10</sup> Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2 1990, art. 40(1) [CRC].
- <sup>11</sup> Ibid., art. 40(3)(b).
- <sup>12</sup> Ibid., art. 40(4) .
- <sup>13</sup> UNICEF Togo, 'Etude sur la Situation des Mineurs Detenus au Togo', 2001, p. 37.
- <sup>14</sup> Government of Togo, Second periodic report to the Committee on the Rights of the Child, U.N. Doc. CRC/C/65/Add.27, 11 May 2004.
- <sup>15</sup> CRC, op. cit., art. 37(b). 16 UN Standard Minimum Rules on the Administration of Juvenile Justice (Beijing Rules), 1985, Rule 26.1.
- <sup>16</sup> UN Standard Minimum Rules on the Administration of Juvenile Justice (Beijing Rules), 1985, Rule 26.1.
- <sup>17</sup> Concluding Observations of the Committee on the Rights of the Child: Togo, U.N. Doc. CRC/C/15/Add.255, 2005, paras. 74-75.
- <sup>18</sup> Togo, Second periodic report to the Committee on the Rights of the Child, U.N. Doc. CRC/C/65/Add.27, 11 May 2004, para 74.
- <sup>19</sup> UNICEF Togo, 'Etude sur la Situation des Mineurs Detenus au Togo', 2001, p. 38.
- <sup>20</sup> Ibid.
- <sup>21</sup> Summary record CRC/C/SR.1018 01/02/2005, para 33 per Ms. Boyotin'Dandiya
- <sup>22</sup> UNICEF Togo, 'Etude sur la Situation des Mineurs Detenus au Togo', 2001.
- <sup>23</sup> Ibid.
- <sup>24</sup> Togo, Second periodic report to the Committee on the Rights of the Child, U.N. Doc. CRC/C/65/Add.27, 11 May 2004; UNICEF, 'Etude Sur La Situation Des Mineurs Detenus Au Togo', 2001.
- <sup>25</sup> Ibid.
- <sup>26</sup> These situations were chosen based on survey responses to the question "What is the main cause of youth coming into conflict with the law?". It is important to note, however that these responses were selected from a list, with only 6.5% of respondents naming a cause not listed. Drug usage or criminal acts are infractions punishable under the Penal Code of Togo, whilst non-respect for the rules and 'keeping bad company' are socially unacceptable acts (which may lead to crime).
- <sup>27</sup> The researchers deduced that family environment plays a role in the likelihood of offending, as most of those interviewed were from single parent families and it was felt that this has an impact on their behaviour.
- <sup>28</sup> Based on the theories of Raymond Boudon, who suggests that the choices and motivations of individuals depend on the constraints of their situation. (Therefore the intentions and rationality of a young person depends on the constraints of the situation in which they find themselves.)
- <sup>29</sup> Young people born out of wedlock are not well protected under Togolese law, according to the United Nations 'rapport mondial sur la jeunesse' 2005, p 80. "Les jeunes qui vivent dans la précarité sont souvent exposés à la délinquance. Il a été démontré que la pauvreté, les problèmes familiaux, la toxicomanie et le décès d'un ou de plusieurs membres de la famille étaient des facteurs de risque."
- <sup>30</sup> This is an assessment of the researchers, based on the lack of reintegration services for young offenders in Togo.
- <sup>31</sup> Based on the theories of Raymond Boudon, who suggests that the choices and motivations of individuals depend on the constraints of their situation. (Therefore the intentions and rationality of a young person depends on the constraints of the situation in which they find themselves.)
- <sup>32</sup> This is a factor that has been recognised by YMCA staff working with ex-offenders in Togo. They feel that labelling and stigmatisation hampers young offenders' reintegration into society.
- <sup>33</sup> This was demonstrated in the surveys which showed that there was little public knowledge of existing criminal laws.
- <sup>34</sup> However, just because the international community has developed a child specific human rights treaty (CRC), under-18s are not excluded from the enjoyment of the rights contained in other human rights treaties, such as the 1965 Convention on the Elimination of Racial Discrimination (CERD), 1966 International Covenant on Civil and Political Rights (ICCPR), 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), 1979 Convention on the Elimination of Discrimination against Women (CEDAW), and 1984 Convention Against Torture (CAT). 35 These include Article 37, which protects the rights of children who are arrested, detained and deprived of their liberty and Article 40, which provides principles for a child rights compliant juvenile justice system and a set of standards for the protection of children during the trial and sentencing process.

The YMCA of Togo works to improve the quality of young people's lives through participatory projects on issues including youth justice, agricultural training and adolescent reproductive health.

The YMCA has been present in Togo since 1905, and Y Care International has been working in Togo in partnership with the YMCA since 1989.

Since 2004 Y Care International has been supporting the YMCA of Togo in its work with young people in prisons in Lomé and Atakpamé. The YMCA provides psychosocial support, facilitates legal representation, and enables family reunion and social reintegration.

It also helps train prison staff in child protection and the political, social and economic issues that affect young people in prisons and when released, and on how to work effectively and ethically with them.

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Y Care International is the international relief and development agency of the YMCA in the UK and Ireland. It works in partnership with YMCAs in Africa, Asia, Latin America and the Middle East to empower young people and their communities to find alternatives to a future of poverty and disadvantage, and to build lives and communities marked by hope and positive change.

Every day Y Care International's work with young people in the developing world shows that change is urgently needed – so the charity's campaigns go hand in hand with its international development projects.

In the UK and Ireland Y Care International works with young people through the YMCA movement to raise awareness of and interest in international issues, through a creative programme of global youth work and encouraging them to work for change by participating in campaigning and lobbying.

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This is part of a series of campaign reports produced by Y Care International and its international YMCA partners involved in the Youth Justice in Action campaign.

# YOUTH

## ACROSS THE WORLD JUSTICE SYSTEMS ARE FAILING YOUNG PEOPLE AND SOCIETY

Despite a comprehensive set of international juvenile justice standards promoting rehabilitation over punishment, countries all over the world have retained an overwhelmingly punitive response to young offending.

Every State which has appeared before the Committee on the Rights of the Child has been criticised for its failure to implement juvenile justice standards. Violations range from a failure to uphold procedural guarantees, such as fair trial rights, to a failure to protect young people from maltreatment, abuse and murder.

To bring about change Y Care International and its international partners have launched a campaign calling for governments to:

- stop the killing, torture and maltreatment of children and young people in conflict with the law;
- ensure that the needs and vulnerabilities of children and young people are addressed in accordance with international standards on juvenile justice;
- not break international standards and laws in order to combat gangs, and children and young people should not be discriminated against because they are, or have been, a member of a gang;
- ensure that a full range of alternatives to detention is available for children and young people, with detention only being used as a last resort and in line with international standards;

and calling on the media and politicians to:

- take a responsible approach to the portrayal of young people, reflecting the reality of young people and crime and not exploiting negative stereotypes of young people.

To add your voice to the Youth Justice in Action campaign and take action, visit [youthjusticeinaction.org](http://youthjusticeinaction.org)