Infants Residing with Their Mothers at

Mpimba Prison, Burundi: Do They Have Rights
to Be Protected?

Ildephonse Sindayigaya

Université du Burundi, Ecole doctorale
Orcid : https://orcid.org/0000-0002-9727-7182
Tel : (+257 61) 79423543/61 113723

André Nyabenda

Université du Burundi, Ecole doctorale
Université Saint-Louis Bruxelles
Tel: +257 79 942622

This article is distributed under the Creative Commons by-nc-nd Attribution License.
Copyright © 2022 Hikari Ltd.

Abstract

Children's life, while they reside with their mothers in prisons, must be kept at least at the same level as one of their peers outside custody. However, this is not the same as what we remarked at Mpimba through observation inside the prison and the semi-structured interview with mothers and officials. There are 11 nonregistered children out of 32. The government's budget does not provide the amount for clothes, special food, or leisure instruments for children living with their mothers there. They lie on the floor of the room of the pregnant women and others accompanied by their little children. Children are fed once a day with maize flour and beans. No cooking oil, fruits, or porridge is told inside Mpimba prison. They need to buy them for themselves despite they lost their economic power. If not possible, they wait for the arrival of good-doers

Keywords: Burundi, infants, prison, right to birth registration, right to health, right to quality food, right to leisure
1. Introduction

Universal, regional, and national legal instruments regarding children's rights agree that infants residing with their mothers in jail are free and they live there for the only purpose of their best interest. We have a clear version of the Nelson Mandela Rules (The United Nations standards Minimum Rules for the Treatment of Prisoners) and Bangkok rules (United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders) concerning children's life organization while residing with their mothers in prison. A decision to allow a child to stay with his or her parent in prison refers to the best interests of the child concerned. The provision of children's allowance to remain in prison with parent targets to fulfill:

1. (a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;
   (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.

2. Children in prison with a parent shall never be treated as prisoners [1], [2].

This provision obliges countries to keep their eye on the implementation of children's rights while their mothers are in jail for justice purposes. African countries do not have obligatory instruments for the governance of custodian life. However, many declarations govern this domain. We cite Kampala declaration [3], Ouagadougou declaration [4], Arusha declaration [5] etc. Insisting on the principle of the best interest of the child, African countries agree that the child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines following the appropriate law that such separation is in the best interest of the child [6]. Through the Children's Charter, they organize the issue of child's rights when their mothers are in prison. It disposes these countries must ensure that a mother shall not be imprisoned with her child [6]. For this purpose, children should not stay together in the custody in the idea that the child is not a prisoner but an innocent free person living inside the prison. There should then be erected a home accustomed to receiving such children. The most frequent of these children's rights are the provisions of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child in its article 20 paragraph 2. The latter states that:

'States Parties to the present Charter shall, following their means and national conditions, take all appropriate measures:

a. to assist parents and other persons responsible for the child and in case of need provide material assistance and support, particularly concerning nutrition, health, education, clothing, and housing;

b. to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care to children; and
Infants residing with their mothers at Mpimba prison, Burundi

2. Method

After requesting authorization from the general director of penitentiary affairs in the ministry of justice in the government of Burundi, we visited Mpimba central prison, located in Bujumbura, Burundian economic capital. We got an admittance from the custodian offices to pursue the visit in the women accompanied by their children and the pregnant ones’ cells. There were 31 mothers among whom one had twins, one she came in with, and another borne there. In total, there are 32 children. We got individual oral information after requesting and receiving their prompt consent. A semi-structured individual interview was then set up, based on questions developed by the research group. After a presentation of the research team to the mothers accompanied by children at Mpimba, we led the dialogue. During the visit, we, altogether got an interview with the officials and some police agents in charge of the security at MPIMBA prison to get a balanced point of view about the life of children in Mpimba prison in Burundi.

The analysis of the results was conducted using the SPSS tool and references with the Zotero tool.

3. Results

Ten out of 32 children residing with their mothers at Mpimba prison do not rejoice in the right to birth registration. Eight out of those nonregistered children’s mothers are from provinces (Kirundo, Karuzi, Muramvya) far from Mpimba prison and was borne while their mothers were already jailed. This case is opposite to Bangkok rules.
Table 1: Nonregistered children residing with their mothers at Mpimba prison

<table>
<thead>
<tr>
<th>Birth registered, yes or no</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>10</td>
<td>31.2</td>
</tr>
<tr>
<td>Yes</td>
<td>22</td>
<td>68.8</td>
</tr>
<tr>
<td>Total</td>
<td>32</td>
<td>100.0</td>
</tr>
</tbody>
</table>

10 (representing 31.1%) out of 32 children residing with their mothers at Mpimba prison, did not get birth registration.

Figure 1: Natal provinces of women accompanied with nonregistered children at Mpimba prison

Pregnant women and the ones accompanied by their infants, officials and police agents in charge of the security of Mpimba prison agreed there are sleeping rooms for these categories of women. However, they all converge that there are neither proper beds nor mattresses worth helping infants sleep well. The quality of food these infants are fed does not consider they are infants needing porridge or fruit. Children and mothers receive the same quantity of food made of 350 grams of maize or cassava flour not cooked, cooked beans equivalent to 350 grams a day for each person. They often get salt but not always. They do not get cooking oil. Children do not get fruits, meat, leaves, or milk. Only two mothers agree they get porridge for their children a few days randomly while officials of Mpimba prison tell children to get always porridge. We noticed, however, that the day we visited Mpimba prison, there was no porridge given to children. The national budget does not cover children's needs in clothes or leisure apparel.
Infants residing with their mothers at Mpimba prison, Burundi

4. Discussion

Among 32 infants residing with their mothers at Mpimba prison, 10 were not rejoicing in their right to birth registration. Things are this way despite the consideration of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) that the registration of birth is a basic right providing legal proof of age and identity. The ACERWC confirms it is a prerequisite for access to basic services, such as health and education, to claim inheritance rights, or to curb child marriage and ensure age-appropriate treatment by the justice system. Birth registration is also an important source of data, required to properly plan for social services[8]. It should be very ration to apply non-custodial measures for such mothers accompanied by their children as applied by the African Charter on the rights and welfare of the child (ACRWC) [7] in its article 30 applying the Tokyo rules, to let those children enjoy their rights to universal birth registration.

8 out of those 10 nonregistered children are from provinces such as Karusi, Kirundo, and Muramvya, far from Mpimba prison. This violates United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). These rules target that prisoners’ custodial location should be close to their homes or places of social reintegration, to facilitate communication with their families, as well as agencies and services used to enhance their social rehabilitation, to provide the maintenance and improvement of relations between the prisoners and their families[1]. Mpimba prison officials do not proceed to birth registration as the only legally responsible for birth registration are civil office agents in a different zone of Bujumbura town who do not visit Mpimba for this purpose. Another obstacle is due to the impossibility to register children in hospitals where children are borne as in England and Tanzania [9], [10] or using mobile phone software as in Kenya and Liberia [11], [12].

The right to clothes for children is one of the obligations of the African Children's Charter to African countries in its article 20 paragraph I[7] as much as parents cannot provide them. However, the officials and mothers at Mpimba prison confirm that the Burundi budget booked for the penitentiary system does not take into account it. This is common in many Sub-Saharan countries. Former researchers notice the lack of provision of adequate clean and warm baby clothes in Cameroon, Ethiopia, Kenya, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, South Africa, Tanzania, Zambia, and Zimbabwe [13]. The situation is opposite to what is done in Zambia where "the infant child up to age four years residing with their mothers in prison may be supplied with clothing and necessities at the public expense[14]." We send for Burundi to follow the example of Zambia and accomplish the requirements of the African Charter on the Rights and Welfare of the child.

At Mpimba prison, pregnant and accompanied women sleep in a room separated from others women offenders. Housing is one of the most essential rights of children that the State must prepare especially, establishing special alternative institutions for holding such mothers according to article 30 §.I (c) of ACRWC [7]. This is the implementation of Nelson Mandela's rules saying that 'mothers living with their children in prison must be given special separate accommodation from
I. Sindayigaya and A. Nyabenda

other inmates'[15] Rule 8. However, they do not lie on the proper bed yet on the floor. Burundi is in advance to Zambia where this is not done and fails to the goals of reducing re-offending, improving mother-child attachment, and protecting and promoting child health, well-being, and development [16]. The accommodation of children by their mothers in prison must convey the best interest of the child. During our research at Mpimba prison, the quality of food provided to infants residing with their mothers is lamentable. However, African countries among which Burundi have agreed to be in charge of ensuring the provision of adequate nutrition and safe drinking water and supporting all sectors of the society in the basic knowledge of child health and nutrition and breastfeeding as provided in article 14 §2 (c) and (h) of the ACRWC[7]. This is a general consideration for all children in Africa. Locally, article 47 of the law on custodian organization guarantees there must be some facilities for such children responding to the needs of their situation [17]. In Kenya, nutritional requirements for a child residing with their mothers in prison include adequate quantities of meat, poultry, fish, or eggs, as well as vitamin A-rich fruits and vegetables every day in which at least a meal has to contain four groups[18], [19]. In Kenya, women’s prisons have a welfare department in charge of catering to health care needs, nutrition, and entertainment and facilitating communication between prisoners, their families, and nongovernmental organization for any additional support [20]. Children residing in prison with their mothers require adequate nutrition indispensable for the healthy growth and development of children to fulfill their potential [21]. In this situation, children residing with their mothers at Mpimba prison, due to poor nutrition, suffer, directly or indirectly, the risk of illness. Burundi is not alone, for generally in all sub-Saharan Africa as in Zambia, Uganda, and Ivory Coast, the national budget does not allocate funds for specific food for children residing with their mother offenders[13, p. 7].

By the ratification of the African Charter on the Rights and Welfare of the Child, African countries recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child, and to participate freely in cultural life and the arts. They agree to respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational, and leisure activity[7] art.12.

At Mpimba prison, apart from a television available to all imprisoned women, there are no games for children, as agreed by the women prisoners and officials of the prison who did not allow us to enter the room. Showing her child suffering from malnutrition, and then stunting, a child's mother told us, with a sad tone: "My child does not need to play when she doesn't have anything to eat." Mothers do not even recognize the child's right to leisure but rather need first the implementation of the right to nutrition. Children, leisure may include sport, music, plastic arts, or theatre, among others[22].

The children’s dignity at Mpimba prison is not implemented, regarding the right to leisure. No leisure time is reserved for mothers accompanied by their children. The national budget for penitentiary services does not book a portion to provide the
Infants residing with their mothers at Mpimba prison, Burundi

children's rights despite they are recognized as free. However, the situation in Burundi is not the same as it is in the Netherlands. There, mothers in joint physical custody arrangements experience fewer constraints in combining work, care, and leisure in daily life than single mothers do[23]. Rule 5 of the Bangkok rules oblige prison administrations to make reasonable accommodations and adjustments to ensure that prisoners with physical, mental, or other disabilities have full and effective access to prison life on an equitable basis[15]. Yet all countries that have ratified the African Charter on the Rights and Welfare of the Child (including Burundi) should respect and promote the right of the child to leisure.

Conclusion

At Mpimba prison, using semi-structured interviews with 31 mothers accompanied by 32 infants and officials of custody, 11 are not registered. Children's rights to adequate nutrition, housing, and leisure are not implemented in the way international children's rights and custodian organization instruments are. Even the provision of the custodian organization in Burundi, in the chapter regarding children residing with mothers prisoners, is not fulfilled.

References


Infants residing with their mothers at Mpimba prison, Burundi


Received: September 7, 2022; Published: November 4, 2022