

KENYA: Fighting for justice for sexually abused children



Achieving justice for children is a challenge.
Credit: IRIN

NAIROBI, 4 August - Stories about violence against children have become commonplace in Kenya's news media, but the lack of justice for the victims is just as shocking as the crimes.

The recent case of Isaiah Gakuyo, 15, an orphan allegedly stabbed to death with a pitchfork by his guardian uncle for being HIV-positive, is one of the more gruesome incidents.

His death has led to protest marches in the capital, Nairobi, but for many the question is, 'why did Isaiah have to die before the injustices against him became an issue?'

"Achieving justice for children has been particularly difficult for several reasons, among them the gaps that have existed in the law. For instance, until recently, there has been no law against deliberate transmission of HIV/AIDS,

and also, defilers have been able to get away with very light sentences," said Tony Odera, an advocate and legal aid programme officer with the child Rights Advisory, Documentation and Legal Centre (CRADLE).

"In addition, there is the problem of lack of information - millions of Kenyans, especially children, are unaware of their rights as regards sexual violence, and rarely report the crimes to the relevant authorities," he pointed out. "When they do, they are sometimes ignored, as the police tend to trivialise gender violence and tell them that such cases are domestic issues."

It also is not unusual for poor families to accept hush money from defilers - sometimes as little as US\$20 or a bicycle in exchange for their silence - to keep the matter out of the hands of the law. The abused child is left to deal with the psychological trauma and physical effects of the attack, which can range from internal injury to pregnancy and even HIV infection.

CRADLE provides free legal aid to child victims and represents them in court. It also promotes awareness of child rights across the country, teaching children about their rights and encouraging them to speak up when they are abused.

The organisation and other NGOs contributed to drafting the recent Sexual Offences Bill, which stipulates a mandatory 10-year prison term for "committing an indecent act with a child". This was a huge step for the rights of children, especially those who have suffered sexual violence, but much depends on implementation.

LONG ROAD AHEAD FOR CHILD RIGHTS

Magistrates and the police still do not know the various sections of the law, and the public needs to be made more aware of it. Perhaps those who are tempted to flout the law will be deterred by the harsh sentences.

Odera said he was dealing with a matter in which a father was suspected of defiling his nine-year-old daughter and infecting her with HIV, which could set a precedent if the father got life imprisonment for the crime. "This is a test case for us, and will enable us to know once and for all how workable this Bill is in the practical context," he said.

Another difficulty was reporting sexual crimes against children. CRADLE and other NGOs have been working with the government to put together a 'one-stop' centre where victims can report to the police, see a doctor, a counsellor and a lawyer, which would lessen the trauma and save costs.

"Some Nairobi police stations already have child helpdesks, and we are working on having a 'teddy bear room' for children at the juvenile court, where they can see a social worker," Odera said. "With more resources and funding for legal aid from the government, we can make even more progress."