

Breakthrough for incarcerated children

When well-known Malawian judge Fiona Mwale addressed dignitaries at the opening of the Child Justice Court in Lilongwe 18 months ago, she raised an issue close to her heart: deep concern about the number of children detained in adult prisons rather than in specialised homes for youngsters in conflict with the law. Carmel Rickard notes on the [Trading Places](#) site that the law in Malawi is clear and provides that no child shall be detained in a prison, neither while awaiting trial nor even after conviction. Instead, they must be kept in a place of safety or a reformatory. 'But despite these provisions the number of children in adult prisons has continued to mount, much to the concern of Mwale, her judicial colleagues and others involved in child justice issues. It has taken a year and a half since the issue was raised at that official court opening, but last week saw a giant leap towards correcting the problem of children unlawfully held in adult prisons. In what one civil rights organisation described as a remarkable breakthrough, Judge Sylvester Kalembera sitting in the high court, Blantyre, has now confirmed the illegality of holding any child in prison.' In his judgment, notes Rickard, **he stressed that the law 'upholds the best interests of the child at all times'** and that this had to be the basis of how children were treated. Reviewing the law on children and justice, he pointed out that no child was to be imprisoned for any offence but was instead to be housed at a reformatory or a 'safety home'. It was thus 'improper and illegal to remand a child in a prison or to imprison a child for any offence'.