

STATE PARTY EXAMINATION OF JAMAICA'S THIRD AND FOURTH PERIODIC REPORT

68TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
12 JANUARY – 30 JANUARY 2015

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Jamaica ratified the Convention on the Rights of the Child (CRC) 14 May 1991. On 19 and 20 January 2015, the Committee on the Rights of the Child (the Committee) examined the combined third and fourth report of Jamaica. It was last examined on 30 May 2003.

Opening Comments

The delegation of Jamaica was led by Ms. Lisa Hanna, Minister of Youth and Culture. She was supported by a delegation consisting of representatives from the Child Development Agency, the Ministry of Youth and Culture, the Ministry of National Security and the Permanent Mission of Jamaica to the UN at Geneva.

Ms. Hanna, acknowledged that the State party still faced challenges in the fields of domestic abuse, peer pressure and parental neglect. In view of this, the State had increased its efforts in advancing children's rights to access education, protection against violence and administration of a justice system consistent with the provisions of the CRC.

Ms. Yasmeen Shariff and Ms. Amal Aldoseri, the Country Rapporteurs, welcomed the delegation, and commended the State party for making efforts to comply with several of the Committee's previous Concluding Observations, and for introducing several new pieces of legislation for children, as well as ratifying the OPSC.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

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General Measures of Implementation

Legislation and Policies

The Committee noted that the Child Care and Protection Act did not comprise the entirety of the legislation targeting children and failed to provide special provisions for children with specific needs, such as children affected by HIV/AIDS or children with disabilities. It also highlighted the lack of cohesiveness in the legislative framework for care and protection. The Committee noted the limited protection and fulfilment of the rights of children in conflict with the law. The Committee further noted that penalties and enforcement systems were ineffective and there was no clear penalty for violations of the Child Care and Protection Act. The Committee asked about the status and objectives of the National Framework for Action for Children, the National Compulsory Education Policy and the Policy on Special Education. The Committee also asked for updates on the work of the Joint Select Committee of Parliament, appointed to review various pieces of legislation including the Child Care and Protection Act. The Committee was pleased to note that the issue of “uncontrollable behaviour” was being looked at.

The delegation responded that the review of the Child Care and Protection Act had been completed last year, and had taken into consideration all the other pieces of information coming into it. Regarding children in conflict with the law, the delegation stated that there were no longer any children in adult correctional facilities. Furthermore, with the removal of the “uncontrollable behaviour” label a significant number of children were now out of the juvenile correction system (from 283 to 203, in 2014). Those children had been reintegrated, either with their families through parental support, or had been put in other places of safety, getting therapeutic care. The delegation also stated that it was presently implementing the National Child Diversion Policy, which guided children in contact or conflict with the law away from the criminal justice system. With regard to the National Framework of the Plan of Action for Children, it was now completed and would go before Cabinet shortly. The delegation further explained that this was an overarching plan that crossed over on health, education, work, national security, social security and linked the child care and protection sector with family rehabilitation activities. It also needed an overseeing body and required financial resources. Regarding penalties for violations of the Child Care and Protection Act, the delegation said that there were very clear penalties outlined in the State’s laws, especially for sexual abuse of children and for neglect of children, and some of the penalties had been strengthened under the Sexual Offenses Act. As it related to the implementation of child protection legislation, the delegation said that the post-2011 results showed a downward trends in crime, violence and missing reports among children which could be attributed to better law enforcement.

Coordination and monitoring

The Committee noted that the State party had yet to establish an identifiable body for the coordination of all activities relating to the implementation of the CRC. The Committee also reminded the State party that there was currently no NHRI in compliance with the Paris Principles. It then asked whether the Office of the Children's Advocate - responsible for protecting the rights and best interests of children in the State party - had been assessed and evaluated since its establishment. The delegation responded that an Inter-ministerial Committee, established in 2012 and chaired by the Minister of Youth and Culture, pooled together the Ministry of National Security, the Ministry of Justice, the Ministry of Health, the Ministry of Education, all the agencies related to children including the Children's Advocate, and made sure that there was policy and decision-making cohesion. There was also collaboration with the NGOs, and there was the Children's Taskforce where most of the

NGOs were involved in discussing the government's plans. With regard to the Office of the Children's Advocate, the delegation said that it was an independent arm of parliament that was resourced by the Government, and presented reviews on the situation of children in the State party. The delegation also said that the Ministry of Justice was currently holding consultations and was anchoring a review process on the establishment of an NHRI.

Dissemination, awareness raising and training

The Committee acknowledged the efforts by the State party to disseminate information on the CRC. It asked whether this was done systematically and to all the segments of the society, as well as to professionals including law-enforcement personnel, judges, and social workers. In relation to corporal punishment, the Committee asked the delegation what measures had been adopted to raise awareness on the damaging consequences of corporal punishment of children. With regard to campaigns encouraging child victims of sexual abuse to press charges in a court of law, the Office of the Children's Registry, together with the Ministry of Justice, the Child Development Agency and the Office of the Children's Advocate went into schools and communities and organised workshops with parents sharing with them the statistics, indicators and penalties of child abuse. In terms of training of parents on the best interest of the child, there was a National Parenting Support Commission under the Ministry of Education together with a National Parenting Policy.

Budget

The Committee asked about the current budget and resources allocated for children. The Committee was concerned that 41.7 per cent of the State party's poor citizens were children, which equated to 1 of every 4 children living in poverty. It was further worried that the current global economic crisis might have a negative impact on the implementation of the State's social policies for children. The Committee then asked about the objectives and assessment of the Social Investment for Children Initiative (2004). The delegation said that the education budget accounted for 17 per cent of the State's national budget and assured the Committee that, although the State party was under a strict fiscal programme, the Government had not cut the social safety net and the social protection for children and had increased the subventions under the Programme for the Advancement Through Health and education (PATH). With regard to the Social Investment Programme for Children, the delegation explained that it had been done by the Planning Institute of Jamaica (PIOJ) in 2006. This institute released numerous studies which guided the government in terms of how funding was addressed.

Data collection

Although the State party had a fairly comprehensive database, the Committee noted that there were gaps in the overall data collection apparatus. Data was generally collected cross-section, which made the ability to target specific interventions difficult. Furthermore, data on children with disabilities was lacking. In terms of child labour, the Committee asked the State party for statistical data on the number of reported cases. The delegation stated that one of the issues was that the State had several data collection mechanisms which the Inter-ministerial Committee helped to guide. This problem was currently being addressed through coordination and examination of all the relevant pieces of data and legislation in order to identify the gaps. As a result, resources across ministries were used better, and, for example, progress was made in the manipulation of the rehabilitation efforts in the juvenile centres.

Definition of the Child

The Committee noted that in the State party's Marriage Act, the minimum age of marriage was 16 (with parental consent). It therefore invited the State party to raise the minimum age of marriage to 18. The delegation responded that public consultations and reviews of relevant laws were taking place regarding moving the minimal ages for sexual consent and marriage to 18. The Committee clarified that it had interpreted the CRC as setting a minimum age for marriage at 18 as the main rule, because otherwise would be a harmful practice. The head of delegation said that she would take back the comments and have the interpretation of the CRC brought to the attention of the Attorney General's Office and the Ministry of Justice.

General Principles

Non – discrimination

The Committee noted that the Child Care and Protection Act did not cover children with HIV/AIDS and children with disabilities and asked what was being done to end this kind of discrimination. The delegation responded that a Disabilities Act had just been passed in 2014, and the Children's Adoption Policy was being reviewed in order to promote the adoption of children with HIV/AIDS.

Best interests of the child

The Committee asked how the best interest of the child was taken into account into criminal proceedings concerning the parents, especially in cases of imprisonment and capital punishment. The Committee also asked how the best interest of the child was taken into consideration in the juvenile justice system. The delegation responded that based on the State party's system, if a person that was sentenced had a child, this was communicated to various agencies. It added that the judges were trained by the Office of the Children's Advocate on the CRC and how to deal with sentencing particularly of parents, minors, etc. Typically, the Child Development Agency and other social workers would ask the judge for mediation, and would try to work with the parents so that the judge did not penalise or imprison the parent.

Right to life, survival and development

Though the Committee recognised that child protection from violence was on top of the State's agenda, crime and violence rates were still high and this had a negative impact on the enjoyment of children's right to life, survival and development.

Respect for the views of the child

The Committee acknowledged that the views of the child were being promoted in homes and schools. However, it also noted that there was resistance on the part of some care staff to adopting participatory approaches. The Committee asked how the State party ensured that parents, guardians, practitioners, caregivers and professionals had a clear understanding of and valued child participation.

Civil Rights and Freedoms

Corporal punishment

The Committee noted that, as part the National Plan of Action for an Integrated Response to Children and Violence (2012-2017), the State party aimed to reduce the number of reported cases of violence against children in targeted communities, and it asked whether this objective included cases of corporal punishment. The Committee also asked whether the

State party's law explicitly prohibited corporal punishment of all children in all settings since, reportedly, the practice was still lawful in schools and at home. The delegation did not directly respond to these questions.

Child labour

The Committee noted that the State party had increased the minimum working age from 12 to 15 years and prohibited the employment of children under 13 in any type of work. Despite this, child labour was still being used in agriculture, fishing and the informal sector. The Committee asked about the status of the Occupational Health and Safety Bill. The Committee was also concerned about the limited resources and capacity of the Child Labour Unit of the Ministry of Labour and Social Security, to effectively enforce the Child Care and Protection Act. The Committee noticed the low level of arrests and prosecutions for child labour offenses as well as the lack of legislative provisions requiring employers to maintain a register of employees. The Committee then asked about the ways in which the National Plan of Action on Child Labour (2009) had helped in the reduction or elimination of child labour, especially its worst forms. The Committee also inquired if the exploitation of children in labour had been criminalised. The delegation responded that with the increased places and attendance in schools, child labour in the State party had diminished. According to the anonymous reports submitted to the Office of the Children's Registry from 2007 to 2013, the total number of children in child labour was 699.

Missing children

The Committee was concerned about the large and increasing number of children reported missing (6410 children from 2011 to 2013). Yet, there was no investigation into the reasons for this issue. The delegation responded that the government had managed to arrest the development of this issue and reduce the number of children reported missing by 10 per cent. This was due to an integrated response by the Ministry of Youth and Culture, the Ministry of National Security, the Ministry of Justice, and the Ministry of Education. In terms of the reasons behind this problem, the delegation responded that, from the consultations on the local level, parenting and community issues (such as discipline, parenting styles, domestic violence, etc.) accounted for the most part of the children reported missing.

Children living on the street

The Committee asked if the State party had an updated statistics on the number of children in street situations (6500 children in 2002). It also asked what measures were adopted to remove these children from the streets. The delegation acknowledged that the data on children in street situations was dated. The State had since moved the age for light work from 13 to 15. Furthermore, the government, in collaboration with the International Labour Organisation (ILO), was currently conducting a survey that would look into broader issues of child labour including children in street situations.

Child abuse

The Committee asked what steps the State party had taken to address the issue of murders of children. In relation to this, the Committee asked whether arrests and convictions had been made. The Committee also asked about the kind of support that was given to victims of violence and their families. The Committee noted with concern the increased number of child abuse reports received by the Office of the Children's Registry. Furthermore, many reports of abuse and neglect came from within State or privately run care facilities. In relation to the number of arrests and convictions for child abuse, the delegation responded that one of the problems was the fact that a lot of the children did not come forward with evidence after

anonymous child abuse report was made. This was especially the case in sexual abuse reports where the families did not want to be embarrassed, and despite the efforts of the government it would take some time before a change in mind-set and behaviour could be observed. As a result, the government had introduced confidential videoconferencing techniques for child victims in courts and had raised awareness among parents and in communities. In relation to child abuse in care facilities, the delegation said that there was a zero tolerance policy and any such incident was treated as critical. If the perpetrator was an adult the matter could be referred to the police, to the Office of the Children's Registry. Other measures included the dismissal of staff, suspension without pay and verbal and written warning.

Family Environment and Alternative Care

Family support

The Committee asked whether financial assistance was available to help poor families with children, especially girls, in order to prevent child prostitution as an income-generating activity. The delegation responded that there were robust public service campaigns, as well as takeaway materials at the clinics with information on HIV/AIDS, STIs and STDs.

Family-based care

The Committee noted with concern that very little resources were committed to foster care in the State party. Payments to foster parents were sometimes late and insufficient to cover for the expenses of the children. The Committee was also concerned that there were no visits of the foster care families made by the social welfare officers. The delegation responded that monthly stipends as well as yearly grants for school were given to the foster parents and the payments were made electronically. Furthermore, social workers did visit the families once every 6 months or on a needs basis.

Adoption

The Committee asked whether the adoption system had been streamlined and reformed, particularly in regard to the backlog of cases. The delegation responded that adoption was actually streamlined, and the backlog of 500 cases had been cleared. Currently there were 40 cases pending. The adoption process took between 6 months and a year once the parent signed away their parenting rights. The review of the Adoption Law, conducted by a multisectoral group of government and NGO actors, was completed and recommendations for the amendment of the law had been submitted to Cabinet for consideration.

Disabilities, Basic Health and Welfare

Children with disabilities

The Committee asked about the coverage of the Early Stimulation Programme. The Committee was concerned that there were still more than 4000 children with disabilities attending special schools and asked the delegation if the State had a time-bound plan on inclusive education. The delegation responded that 1539 persons were involved in the Early Stimulation Programme, 922 from urban and 610 from rural areas. 70 per cent of the children on the programme were from lower socio-economic backgrounds. In terms of inclusive education, the delegation said that the primary schools curriculum was revised in order to facilitate learners with mild disabilities. Additionally, a survey was conducted by the Ministry of Labour and Social Security in order to collate data on children with disabilities, especially in the rural areas, in order to better coordinate the mainstreaming effort.

Suicide

The Committee was concerned about the high percentage of children aged 13 to 15 who admitted attempting suicide and asked about the measures taken in this respect. The delegation responded that the results of a recent study funded by UNICEF indicated that 19.8 per cent of the 1191 children who participated in the study were at risk for suicidal behaviour. The findings suggested that the State's overall rate of completed suicides was low, but the level of risk for suicidal behaviour was of some concern. In response, the Ministry of Health formed a taskforce to explore the study's recommendations and a series of training and teaching tools on suicide prevention for health workers, children, teachers and guidance counsellors arose from this effort.

Education, Leisure and Cultural Activities

Access to education

The Committee asked whether there were fees for secondary schools in the State. It further inquired whether there were enough secondary schools throughout the State. The Committee also requested more information on the reintegration process of all school-aged mothers. With regard to fees in secondary schools, the delegation confirmed that there were auxiliary fees, but at the same time schools were heavily subsidised by the government, and no child was turned away because s/he could not pay those fees. The delegation said that State party was committed to building new schools and expanding the capacity of the existing ones. Finally, regarding school-aged mothers, as a matter of policy, pregnant teenagers were temporarily placed in Women's Centres where education, health, social and other services were provided. After the delivery every child was reintegrated into the regular schools system.

Special Protection Measures

Juvenile justice

The Committee asked whether children could still legally be detained in police lockups for extended periods of time. The delegation responded that usually around 15 children were in lockups, at any given week. Only children above 12 could legally be kept in lockups for no more than 48 hours, separated from adult detainees, and only as a measure of last resort. The Office of the Children's Advocate, the Office of the Children's Registry and the Child Development Agency examined the weekly lists to assess the reasons for the lockup and provide legal assistance when necessary with the ultimate objective of moving children as quickly as possible from lockups to appropriate juvenile remand facilities or places of safety. Under law, social workers assigned to the Child Development Agency were required to make periodic visits to the lockup facilities and there were 1000 of such visits per year.

Concluding Remarks

Ms. Amal Aldoseri, one of the Country Rapporteurs, thanked the delegation for the dialogue. She commended the adoption of many new relevant laws and noted that violence still remained a challenge that needed to be addressed.

The head of the delegation, Ms. Lisa Hanna, thanked the Committee for the open and objective discussion and reiterated the State party's commitment to continue to work in the best interest of the child.