ASSESSMENT OF ONE CHILD RIGHT IN JAMAICA

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In 1991, Jamaica ratified the Convention on the Rights of the Child (CRC). By so doing, the government and people not only acknowledged the protective, general, civic and developmental rights of children but also the rights of children who need special care. Moreover, ratification of the CRC indicated intent to ensure that children’s rights are adhered to as much as possible. Adherence to the CRC helps the government to realize some of the Millennium Development Goals (MDG’s); these include the eradication of extreme poverty and hunger, reduction of child mortality and combating HIV/Aids. Like Jamaica, the government of Trinidad and Tobago also ratified the CRC in order to meet the standards of the United Nations that govern protection, provision for, and participation by children. This essay seeks to explore the extent to which Jamaica and Trinidad & Tobago adhere to the rights of the child within the paradigm of the ‘child-first’ policy framework and examines issues related to the governance of such framework. Such issues will be examined in relation to paradigm shifts relating to child rights, changing institutional arrangements, policy and cultural practices. An attempt will also be made at examining how these issues affect the level of adherence to the CRC in both countries. The essay ends with a framework for action which suggests ways in which adherence to the CRC may be improved.

According to Jamaica’s Child Care and Protection Act (CCPA) and Trinidad’s Children’s Act, a child is defined in terms of age to be an individual who has not yet attained the age of eighteen years (CDA 2004; Committee on the Rights of the Child 2006). Article 19 of the CRC further requests that state parties, through institutions, courts and other bodies, ensure that the best interest of the child are of primary consideration. One such ‘best interests’ of the child is the right to be protected from all forms of crime and violence including “...physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse...” (CRC 1989). Integral to the provision of these rights are the legislative, social and educational institutions of Jamaica and Trinidad & Tobago. A ‘child-first’ governance ensures that policy-making, budgeting, social planning, parenting and development strategies all focus on the rights of the child and in this case, on protection from crime and violence, as central to the nation’s development.

There are perhaps different ways in which adherence to the rights of the child to protection from violence may be measured but for the purposes of this essay, adherence will be assessed by looking at government actions, how well citizens and government comply and ways in which there is failure to adhere to the Article. Such assessment focuses, therefore, on issues
relating to parenting, justice, legislation and administration as well as social phenomena including culture (and the media) and education.

The Jamaican child is born into a challenging society defined by relatively high levels of crime and violence and challenging economic situations. Although privileged to universal education at the primary level and more recently, tuition subsidy at the high school level, the child in Jamaica faces challenges in the education sector. This is seen in the presence of crime and violence in schools as well as the output of most high schools. The Jamaican child is no longer born into a community; many persons are busy earning a living and so do not have time to socialize; the community no longer monitors the child and many children’s groups are associated with gang war fare and delinquency. Much has been done to alleviate these debilitating social conditions in the interest of the child; the Peace and Love in Schools (PALS) programme is aimed at teaching children dispute resolution without resorting to violence, the Child Development Agency (CDA) is responsible for legislative as well as administrative functions relating to children. The CDA incorporates many previous acts such as the Juvenile Act which targeted children. One notable action of the CDA is the establishing of a National Registry for the reporting of sexual offences against children.

The child born in Trinidad faces a society that is not very different from that of the child born in Jamaica. Economically sounder, the Trinidadian society also enjoys more pleasant educational prospects for their children. Not only does the government support universal education, each child in Trinidad is entitled to tuition subsidy up to the tertiary level. On the downside, the Trinidadian society is faced with serious acts of crime and violence ranging from abductions to poisoning to murder (Amnesty International 2007; World Bank 2007). According to the Committee on the Rights of the Child (2006), the government of Trinidad is also doing much to alleviate the harsh societal elements for the child. Such initiatives include establishment of various Acts in 2000 aimed at improving social conditions of the child. These include establishment of The Children’s Authority Act and Children’s Community Residence, Foster Homes and Nurseries Act. In addition, certain programmes have been initiated to foster better social development of children; these target adolescent mothers, young male offenders and child poverty (Committee on the Rights of the Child 2006). Despite these enactments and legislations, children in Jamaica and Trinidad & Tobago continue to experience abuse, violent deaths and increasingly are becoming perpetrators of crime and violence themselves. The fact that full adherence has not been achieved warrants investigation of issues that may affect the level of adherence desired particularly how these issues have changed or not changed over time.

Over the years, the notion of what constitutes a family has changed drastically as is evident in Jamaican society. No longer are the nuclear and extended families the most accepted or prevalent; many children are now being reared in single-parent, absentee-parent, sibling-headed or self-headed households. Some children live on the streets even though their parents are around. The change in the family type in Jamaica may be attributed to phenomenon such as internal or external migration of parent(s) in search of economic viability as well as death of one or both parents to crime and violence, HIV/AIDS or other illnesses (National AIDS Committee 2002). Apart from being in contravention of the right of the child to proper parenting, such situations clearly have direct
negative effects on the country’s level of adherence to the right of the child to protection from violence. Such children are usually at the mercy of the elements and are likely targets for, and perpetrators of crime and violence. The change in family structure reflects not just paradigm shifts but also changes in institutional arrangements as well as culture.

In Jamaica, community and the concept of what a community does has also undergone changes which affect adherence to the right of the child to protection from crime and violence. The communal aspect of community has disappeared; persons no longer look out for other persons’ children either out of fear of the parents, fear of the children’s responses or because they simply do not care. Child monitoring is no longer foremost in the minds of community members who often are not present very early after school due to work commitments or who themselves are involved in crime and violence. Many older youths who are part of community gangs practising ‘turfism’, could contribute to the protection of the child from crime and violence by becoming positive community leaders in such areas as youth, recreation and civic clubs. But cultural changes are also evident in communities where, such things as development of social graces and entrenching of values and attitudes no longer take priority in the minds of adults.

Another issue that may be factored in the level of adherence to the right of the child to protection from abuse and violence is that of justice. This involves such institutions as the justice system and the actual governance of the country. Jamaica’s justice system has undergone many shifts particularly in the way children have been viewed. It can be said that the intervention of various non-Governmental organizations such as the Jamaicans for Justice (JFJ) and Amnesty International have been instrumental in such changes. The establishment of the Office of the Children’s Advocate (OCA) has been instrumental as it guarantees representation for children who run afoul of the law. The CDA has spearheaded a paradigm shift in the way juvenile delinquents are treated in promoting intervention measures over child removal from homes. This change has contributed to the reduction in the number of children likely to be ill-treated in state homes and other places of safety. Although more evident at the institutional and administrative levels, the decision to promote interventions and monitoring instead of removing children from troublesome homes could be seen as a cultural change and may spur changes at other levels. Such far reaching cultural change could result in a reduction of the number of children who are sent to be reared by relatives or other persons simply because the parents cannot ‘manage’ them.

The justice system has also been of importance to the government of Trinidad who ran a two-year pilot programme starting in 2004 seeking to have persons involved in court cases practice less confrontational ways of dispute resolution. Institutionally, this involved various reforms such as the establishment of a court dedicated to children’s cases only (Committee on the Rights of the Child 2006). Comments made during Trinidad’s report to the 41st session of the CRC indicated however that the effectiveness of such judicial changes was challenged by shortfalls in data collection in matters pertaining to the administration of justice to children. Of note however, is the fact that the government of Trinidad and Tobago has established a judicial education institute aimed at giving judges special training in family affairs (Committee on the Rights of the Child 2006).
Another issue that challenges the level of adherence to the rights of the child is that of health and welfare. In order to promote a 'child-first' governance policy, it is imperative that the very persons we seek to put first are assured of longevity through proper health and welfare facilities. It can be said that the Jamaican government has done much towards ensuring that children are given access to proper healthcare. There are a number of clinics across the country which, along with hospitals, ensure that children are treated from the pre-natal stages to adulthood. In addition, there is a specialist children’s hospital that caters exclusively to children. Since 2008, the island’s children now have access to free health care. Of note is the fact that special provisions have also been put in place for children suffering from HIV/AIDS to protect them from discrimination in their schools and to assure them of treatment. It is therefore illegal to refuse a child admission to school because of his/her HIV status (National Aids Committee 2002). In Trinidad there is also legislation against the discrimination of children based on their HIV/AIDS status and schools guilty of such action face legal sanctions (Committee on the Rights of the Child 2006).

In times past, the education system in Jamaica played a significant role in protecting children from crime and violence as well as preventing them from becoming perpetrators of crime and violence themselves. The formal education system is normally considered a way to equip children with options so that they can become viable in adulthood. While Jamaica boasts universal education, participation is still below one hundred percent (UNICEF 2005). In addition, education is now available tuition free up to the secondary level and students attending the University of the West Indies pay only 20 percent of the full economic cost. The education system is however fraught with increasing crime and violence and sees children as both perpetrators and victims. This situation occasionally results in violence-related deaths of school children (Walker 2008). The presence of violence in schools is evidence of paradigm shifts as well as cultural and institutional changes with respect to education. Schools are no longer safe havens for children and violence is now so common-place in the Jamaican society, it is likely that children can come to normalize the presence of crime and violence in their schools. One particular form of violence in schools is that of corporal punishment which is one of the many ways in which discipline is administered in Jamaica’s schools. Often abusive in nature, there is now a ban on the administration of corporal punishment in schools and homes although this ban is yet to be enforced.

The education system in Trinidad is comparable to Jamaica’s with primary education being free and compulsory for children six to twelve years old (Committee on the Rights of the Child 2006). This report indicates high levels of attendance: 97% of children 5-14 years in 2000 and 97% enrolment in 2002. Despite these figures, Trinidad’s public education system falls short whereby only 71% of primary enrollees are likely to complete grade five. In addition, these schools are faced with problems of overcrowding and classroom violence.

An obvious paradigm shift that impacts adherence to the rights of the child is the change in belief that the government bears chief responsibility in administering legal, educational and other provisions for the child. This is evident in the number of NGO’s that now operate in the interest of children. Many government agencies have now been placed under the ambit of the CDA which operates as an executive agency. This change is in keeping with the move from a welfare model to one of social investment in the
adherence to the rights of the child. Not only are NGO's and churches instrumental in fostering adherence, they also operate as watchdogs for the government and often intervene on the behalf of vulnerable groups. This is particularly useful in the concept of a ‘child-first’ policy framework as it ensures to a greater extent adherence and increased focus through the formulation and enactment of policies directed towards protection of children from crime and violence. This is evidenced in the recent consideration of the “Ananda Alert”1 which is aimed at quicker action being taken by the police in the case of children who are reported missing. Such paradigm shifts in the area of administration necessitate institutional changes as seen in the collapsing of many previous laws relating to children into the Child Care and Protection Act (CCPA). The establishment of the National Registry by the CDA seeks to address sexual abuse of children by encouraging citizens to report suspected cases of child abuse; these reported cases are then investigated by the CDA.

It is seen that both Jamaica and Trinidad have done much to adhere to the right of the child to protection from all forms of abuse and violence. There is however need for improvement especially as there are some issues that are not yet adequately addressed. One such issue is that of the media particularly music and television. There is desperate need for a cultural as well as paradigm shift whereby people come to view certain music and television programmes (movies in particular) as acts of crime and violence against children. Seen this way, people would come to regard the airing of certain offensive lyrics and actions in the presence of children illegal. While there is no empirical evidence to support a direct relationship between offensive lyrics and crime and violence, there needs to be some control on the level to which children are exposed to the culture of guns and justification of violence. Moreover, although the government has enforced the rating of movies aired on television stations, there is yet to be control of access to DVD movies and material downloaded from the internet. While freedom of speech is acknowledged, a ‘child-first’ framework requires that the best interest of the child be considered at all times and therefore, care needs to be taken with respect to the kind of media to which children are exposed.

In seeking to adopt a ‘child-first’ policy, Jamaica’s governments have paid attention not only to able-bodied children but to special children as well. One area in which there has been a paradigm shift in the care for disabled children is that of education. While there are specialist schools such as the School for the Deaf, there has been great effort in recent times, towards having disabled children integrated in the normal school system. Many persons have expressed the belief that integration is in the best interest of the child. Jamaica also has non-governmental organizations such as the Abilities Foundation which help such children prepare for their adult working world. Another way in which special attention is paid to disabled children in Jamaica is that of transportation; the Jamaica Urban Transit Company, the state-owned transportation company, has a fleet of buses which cater to the transportation needs of these children. Despite these efforts however, the UN found that of over thirty-seven thousand

1 Editor’s note: This programme was named after Ananda Dean, an 11 year old girl who was found dead in St. Andrew after going missing in 2008.
disabled children in Jamaica, only about three thousand, seven hundred are enrolled in the formal education system (Francis 2006).

Child trafficking and child labour are issues to which not enough attention is paid. While the CDA has outlined punitive measures for persons found guilty of child trafficking, there is no law governing the practice. In its report to the Committee on Child Rights in 2006, the government of Trinidad and Tobago indicated that as many as 4.4% of boys and 1% of girls aged 5 – 14 years were involved in paid labour ranging from agriculture to car washing to vending on the streets. Although this report was based on 2006 data, child labour remains a problem in Trinidad. The same applies to Jamaica where children are faced with more strenuous economic situations than in Trinidad (Francis 2006). Moreover, this report indicates that many students are forced into paid labour due to factors such as parental exclusion and poverty. Male youths 15 – 17 years are more likely to be involved in child labour and comprise approximately twenty thousand children who live on the streets fending for themselves.

Under the proposed framework for action, parents would be urged to practise better parenting by participating in activities that concern their children. For instance, the provision of tuition free education in Jamaica could carry a lien requiring parents to attend Parent Teachers’ Meetings on a regular basis. Such meetings would then serve the dual function of school administration as well as increasing parents’ awareness of violence against children and how they can help to foster adherence to the rights of their children to protection. Community parenting should also be encouraged and may take the form of community homework centres, community-based sporting activities and simple networking which will see parents communicating more with each other and looking out for each other’s children.

In relation to resource allocation, governments could also consider re-vamping the social work sectors to increase the number of social workers in communities. Social workers would also be required to visit communities on a regular basis, targeting not just families with problems but all families. It is believed that this would be very valuable especially in rural areas of both countries which are found to have the highest levels of poverty and school absenteeism. Governments should also strive harder to increase inter-departmental communication (joined-up government). As postulated by Anderson (2008), there is need for increased communication and follow-through between state agencies including schools, hospitals and the police. This is particularly useful in cases of suspected and actual child abuse as well as truancy from school.

Both governments would also implement budgetary changes to reflect clear targeting of children. Witter (2008) recommends the re-
allocation of non-debt expenditure to children’s services through increased efficiency in management. He also recommended increased research into funding of children’s development factoring such activities as unregistered schooling, the use of illegal electricity, the black market and how these impact on child development.

With respect to monitoring, there is need for increased capacity of the CDA both in the area of financing and human resources. There is need for more efficient reporting and tracking of offences against children and perpetrators need to face the full force of the law. This calls for, among other things, the fearless reporting of suspected cases of child abuse by parents, caregivers, school administrators and community members. In Jamaica, there is need for continued effort in ensuring that children are made aware of their rights; in particular, children need to be able to identify abuse and violence meted out to them. More importantly, they need to be encouraged to express their fears and to report freely on situations where they think they are being abused. It is believed that this framework, if adopted, will not only help to close the current gaps in the level of adherence to the right of the child to protection from all forms of violence but will see the full participation of all members of society in the process.

It is seen that both Jamaica and Trinidad & Tobago have done much by way of legislation and other means to adhere to the rights of the child to protection from all forms of violence as stipulated by Article 19 of the CRC. In addition to legislative changes and enactments, both countries have undergone paradigm shifts, institutional changes as well as cultural changes in the ways children are viewed and subsequently, issues that impact the level of adherence to the CRC. We see for instance, cultural changes with respect to the significance and relevance of corporal punishment administered in homes and schools. Paradigm change is seen in the adoption of the social investment model in the administration of child-first governance over the welfare model. However, the prevalence of violence against children in homes, communities and schools indicate that there is much to be done in order to improve the level of adherence to the CRC. The proposal of an all-rounded framework for action focusing on parenting practices is aimed at increased public education on child rights as well as increased participation of parents in parenting programmes and greater involvement in their children’s lives. It is believed that this framework will help to increase the level of adherence in both countries leading to improved life chances for children through increased protection from all forms of violence and abuse.
References


