

Introduction

This is a brief summary of the Report on The Situation of Children in The Care of The Jamaican State presented by Dr. Carolyn Gomes of Jamaicans for Justice (JFJ) to the Inter American Commission on Human Rights on 20 October 2006. JFJ has done both on-the-ground investigations of the situation of the children in the care of the State as well as an analysis of the monitoring reports of the regional officers of the CDA. The analysis of the monitoring reports was done on two separate sets of reports that were obtained under the Access to Information Act 2002 in 2005 and 2006. JFJ remains deeply concerned that the Government's seeming inability to translate bureaucratic shuffling into a safe, nurturing condition for children in state care has left the children under its care in need of urgent protection.

Data Analysis

Summary

Jamaicans for Justice believes that the process of evaluation and the monitoring reports developed by the Child Development Agency (CDA) to ensure the safety and well being of the children in the custody of the Jamaican government, are not sufficiently guaranteeing that the children in care are being provided with the highest quality of care and treatment.

This data analysis was reported as a summary of the findings from the monthly monitoring reports of the regional monitoring officers employed by the CDA. The analysis in regards to the problems being found within the monitoring system outlines:

- Problems inherent in the reporting process
 - The structure of the reports limits the ability of the monitoring officer to understand the general well being of the wards.
 - Within the format of the survey, the evaluation of key areas of potential abuse is afforded little space
- Negligence of ward contentment in the reporting process
 - Sections that give the wards a greater opportunity to express their true opinions on the homes are lacking in depth.
- Unprofessional treatment of report forms
 - Basic information is often omitted and evidence of inattention is outright on many Monitoring Reports.
 - More effort is needed in reporting with accuracy and organization.
- Evidence of inefficiency of the monitoring process
 - Insufficient and inadequate reporting of serious and critical incidents
 - Insufficient response to recurring concerns
 - Insufficient reporting of corrective & follow up actions for previous issues
 - Inattention to children during monitoring visit

Other Issues Documented

This report also addressed key points of assessment and categorization plaguing the situation of Children's Home in Jamaica. These are key issues that result in the dehumanization of the children in the State's care and ultimately takes away their basic human rights. These issues are:

- Lack of assessment of needs of wards of State
 - Children have not been provided with individualized, specific care plans
 - To the best of our knowledge as of October, 2006 the CDA remains unaware of how many children in its care are challenged visually, audibly, physically, mentally, psychologically or educationally, and how many need special assistance and attention as well as the nature of the assistance needed
- Lack of categorization of homes
 - No separation made between children who have been placed in homes due to insufficient care provided by primary givers and children placed in homes due to behavioural problems
 - No separation made between children with disabilities and special needs and those who do not fall within these categories
- Lack of regulation
 - The regulations necessary to govern the operations of the Children's Homes and the Child Abuse Registry are yet to be passed.
 - The absence of regulations has left monitoring officers unclear on the standards that they are monitoring against, and unclear as to what powers they have for enforcement of standards for conditions and operations.
 - The absence of regulations leaves children vulnerable and at risk for their rights to be further abused by those entrusted with their care.
- Child abuse registry and regulations
 - The absence of these regulations and the lack of establishment of the Registry means that the CCP Act is not functioning as effectively as it could or should and leaves the children in need of care from the State vulnerable to continuing and further abuse.

Breaches of Rights Under The American Convention

- Article 19: "Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family society and the state."
- Article 3: "Every person has the right to recognition as a person before the law."
- Article 5: "(1) Every person has the right to have his physical, mental, and moral integrity respected (2) No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment."
- Article 25: "Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties."

- Article 26: "...[T]he full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth..."
- Article 1: "...[U]ndertake to respect the rights and freedoms recognized herein and to ensure to all persons...the free and full exercise of those rights and freedoms, without any discrimination."

Recommendations

1. The development (by way of comprehensive assessment) and periodic review of care plans for each and every child in care of the state.
2. It is crucial that there be clearly established categories of homes for different categories of needs of the wards of the state.
3. Clear separation of monitoring responsibilities for homes and places of safety from child protection and care responsibilities.
4. Monitoring cannot take place in a vacuum but must occur against specific standards and guidelines.
5. The Monitoring form needs urgent revamping and must provide in depth commentary; particularly they must show comprehensively what is on offer in the homes and document in detail health and safety issues in the homes.
6. Enforceable standards for Monitoring reports are needed.
7. It is clear from the data analysis that the duty of the monitoring officer or his superiors at the CDA to take action on documented deficiencies is unclear to either the Monitoring Officers or their superiors at the CDA.
8. A complaints policy and procedure for the children must be put in place and the children in care must be made aware of it, given the names of the responsible officers to whom they can complain (and these must be persons outside the homes), the names and contact information for the specific social workers assigned to their case, as well as the numbers for the superiors of those case workers.

Conclusion

JFJ is deeply concerned that all the efforts of the Government to change the situation have resulted in little more than mere bureaucratic shuffling and paper pushing. JFJ is convinced that there is much room for improvement and that the situation must be addressed urgently if we are to improve the lives of the children in care. It is imperative that the recommendations offered in this report be established and enacted. We ask the Commission to acknowledge our deep concern that the Government of Jamaica is failing in its responsibility under the Convention on the Rights of the Child, and the Charter of the Organization of American States, to protect the rights of Jamaica's children and to ensure accountability for their safety and well being.