



## Aviso Legal

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## 13. GENDER AND CHILD RIGHTS IN JAMAICA: A GENDER PERSPECTIVE

Aldrie Henry-Lee

### I. INTRODUCTION

A right is an entitlement. It is only recently that “rights” and “children” were discussed together. Children were to be seen and not heard. They were not treated as persons with rights and were considered the property of their parents. However, the Convention on the Rights of the Child (CRC) was adopted by the United Nations General Assembly on November 20, 1989, one of the most widely accepted human rights agreements. The Convention has been ratified by 192 countries. Jamaica ratified the convention in May 1991. The CRC defines a child as a person below the age of 18 years. The CRC consists of 54 articles. Articles 1-41 are translated into rights for 1) Provision (survival and development), 2) Protection and 3) Participation.

Other relevant international commitments and fora that dealt with children’s issues include:

- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW): 1979.
- The World Summit for Children: 1990 & 1992.
- Education for All Initiatives (EFA): 1990.

- The International Conference on Nutrition: 1992.
- The International Conference on Population and Development: 1994.
- Salamanca Statement and Framework for Action on Special Needs Education: 1994.
- Beijing Conference on Women: 1995.
- World Summit for Social Development, Copenhagen: March 1995.
- The ILO Worst Forms of Child Labour Convention: 1999.
- World Youth Programme adopted by the UN General Assembly in 1995 and supplemented in 2005.
- The 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.
- The Millennium Declaration: 2000.
- The Millennium Development Goals: 2000.
- The Paris Commitments to Protect Children from Unlawful Recruitment: 2007.

Some of the Millennium Development Goals are child-specific. Goal Number 2 calls for the achievement of universal primary education. Goal Number 4 targets the reduction in child mortality and Goal Number 5 speaks to improvement in maternal mortality.

This paper examines the adherence to child rights in Jamaica. The gender differentials are highlighted to underscore the vulnerabilities of children by gender. Although, gender mainstreaming has been promoted in Jamaica at the national level, sex-disaggregated data remains deficient and this analysis draws mainly on available secondary data.

## II. THE JAMAICAN CONTEXT

Having ratified the CRC in 1991, Jamaica is obliged to fulfill the obligations of this international agreement. All duty bearers, the State and all public and private institutions must ensure that:

In all matters concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child* shall be a primary consideration (article 3, Convention on the Rights of the Child).

This paper seeks to determine if, in Jamaica, all duty bearers act in the best interest of boys and girls at all times.

Before discussing adherence to Child Rights by gender, the Jamaican context will be discussed. Jamaican population numbers approximately 2.7 million (table 1). Children constitute one third

Table 1. Break-Down of the Jamaican Population Age Group

<i>Age group</i>	<i>Males</i>	<i>%</i>	<i>Females</i>	<i>%</i>	<i>Total</i>
0-4 years	112 639	8	109 186	9	221 825
5-9 years	122 599	9	118 583	10	241 182
10-14 years	143 524	11	133 137	11	276 661
15-19 years	127 619	10	121 619	10	249 402
20-24 years	100 758	8	107 235	9	207 993
25-34 years	207 987	16	207 987	17	438 955
35-59 years	379 245	29	230 968	19	764 732
60 years and over	134 970	10	160 390	13	298 060
Total	1 329 341	100	11 891 051	100	2 698 810

Source: Statistical Institute of Jamaica.

of the Jamaican population. In the age group 0-19 years old, there are more males than females. Jamaica's economic growth through the years has been less than impressive. In 2010, growth rate in basic value of GDP at constant prices (2003) was -1.2 (table 2). Debt servicing stood at J\$168.4 billion and the surplus deficit was J\$56.5 billion. The economy is heavily dependent on remittances with that amount exceeding the amount earned from tourism — the next highest earner of foreign exchange. Total unemployment rate stood at 12.4 per cent with females being the disadvantaged sex.

Table 2. Selected Basic National Socioeconomic Indicators

<i>Indicator</i>	<i>2010</i>
Population	2 705 800
Population growth rate	0.3%
Growth in Basic value at constant GDP prices (2003)	-1.2
Debt Servicing	J\$168.4b
Surplus Deficit	-J\$56.5
Private remittance inflows (US\$m)	2171.41
Foreign Exchange Earnings (US\$m)	1992.0
Overall crime rate (per 100 000: year: 2007)	1244
Murder rate (per 100 000)	53
% of Population living in urban areas	52
Literacy rate	91.7
Labour force participation rate	62.4%
Total unemployment male female	12.4 9.2 16.2
Access to safe water	81.3 (2009)
Access to sanitary facilities	99.9 (2009)

Source: Planning Institute of Jamaica, Economic and Social Survey of Jamaica, 2010.

Despite its insignificant economic performance, Jamaica's social indicators are reasonable. The literacy rate is 91.7 and access rates to safe water and any type of sanitary facility are at 81.3 and 99.9 per cent, respectively. Crime continues to be one of Jamaica's main social problems. Jamaica's murder rate is one of the highest in the Caribbean at 53 per 100 000 and its overall crime rate per 100 000 stood at 1244 in 2007. As will be discussed later, crime and violence have a negative impact on children.

On the national level, children can be expected to live until the age of 74.1 years (table 3). Infant mortality rate is 16.7 per 1000 live births. Immunization levels are fairly high at 94.7 per cent with the maternal mortality rate (MMR) being one of the lowest in

Table 3. Selected Child Welfare Indicators

<i>Indicator</i>	<i>2010</i>
Population	2 705 800
Life Expectancy	73.13 years
Infant Mortality Rate	16.7
Crude Birth Rate	15.4%
Crude Death Rate	6.0%
Total fertility Rate	2.4
Immunization rate (national)	94.7
Immunization rates	
DPT	94.6
OPV	94.2
BCG	95.2
MMR	87.1
Maternal mortality rate (per 100 00)	94.8

Source: Planning Institute of Jamaica, Economic and Social Survey of Jamaica, 2010.

CARICOM. Data from the Economic and Social Surveys of Jamaica reveal that the MMR has remained at 98.4 for the last five years.

Jamaica's Gender Development Index (GDI) has not changed through the years (table 4). However, Jamaica's rank has been lowered from the 62<sup>nd</sup> to the 81<sup>st</sup> position globally in 2009.

The gender empowerment index introduced in 2010 is 0.638 and places Jamaica, 84<sup>th</sup> globally.

Since the ratification of the CRC in 1991, Jamaica has implemented several policies and pieces of legislation to support the adherence to Child Rights. These include:

- The Child Care and Protection Act: 2004.
- The Early Childhood Commission Act: 2003.
- The Early Childhood Act: February 2005.
- Trafficking in Persons Prevention, Suppression and Punishment Act: 2007.
- The National Youth Policy: 1994.
- The National Policy of Action for Children: 2005.

Table 4. Gender Indicators for Jamaica 2004, 2009, 2010

	2004 <sup>a</sup>	2009 <sup>b</sup>	2010 <sup>c</sup>
GDI	0.762	0.762	
Gdio rank	62*	81**	
GII	n/a	n/a	0.638
GII rank	n/a	n/a	84

<sup>a</sup> Human Development Report 2004.

<sup>b</sup> Human Development Report 2009.

<sup>c</sup> Human Development Index (HDI)-2010 Rankings (2008 data).

\* 144 countries & areas.

\*\* 155 countries & areas.

\*\*\* GII replaced GDI and GEM in 2010.



- A National Policy for HIV/AIDS Management in Schools: 2003-2005.
- The Social Investment Initiative for Children launched in 2006.
- Vision 2030 complements the New Framework for Action for Children (NFAC).

Drafts currently in progress are the:

- National Parenting Policy: 2010.
- New Framework of Action for Children (NFAC), and National Plan of Action for an Integrated Response to Children and Violence: 2005.

Institutional support for the care and protection of children included:

- The Special Envoy for Children: 1998.
- The Early Childhood Commission (ECC) and Child Development Agency: 1999.
- The Office of the Children's Advocate: 2006.
- The Office of the Children' Registry: 2007.

Having outlined the national context, Jamaica's adherence to child rights using a gender lens is now examined. First of all, the rights of "invisible and excluded children" are now considered.

### III. INVISIBLE AND EXCLUDED CHILDREN

There are some children who are not under the responsibility of personnel in private and public institutions and are invisible and excluded. UNICEF defines excluded children as those who do not

benefit from an environment that protects them from violence, abuse, exploitation, or if they are unable to access and benefit from quality essential services, information and goods in a way that threatens their ability to participate fully in society during their childhood and in the future.

Article 23 (CRC) states that:

State Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Yet, to a large extent children with disabilities in Jamaica (DWDs) are not provided with adequate dignity and opportunities for active participation in their communities. In the under-15 age group of persons with disabilities, 16,896 are males with 15 311, females. UNICEF Jamaica reports that more than 37 000 Jamaican children live with one or several forms of disabilities including sight, hearing, speech, physical disability, mental retardation and learning disability (3.86 per cent of children). While the majority of the children are in the 5-14 age group and thus are of school-age, only 10 per cent of children with disabilities are enrolled in formal school-based and other programmes receiving funding from the Government. UNICEF (2007) reports that children with disabilities, in most cases, are excluded from the mainstream education system and therefore do not achieve their full potential. The Economic and Social Survey documents that the Special Education Curriculum was provided for 4 554 students; however there was approval for only four autonomous schools. This shows a deficiency in learning facilities for CWDs.

Article 32 of the Convention on the Rights of the Child states that:

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development...

At least 16 000 Jamaican children engage in some form of economic activity, even as the Government tries to stem the problem through collaborative work with the International Labour Organisation (ILO). The majority of Jamaica's child workers are found in the agriculture, forestry and fishing industries, while there have been prosecutions of persons who involve children in prostitution. Other workers include street children and market vendors in the larger metropolitan areas of Kingston, Spanish Town and Montego Bay. Jamaica's child labourers are predominantly male, aged 15-17 years.

The available data on street children are not comprehensive. A national survey commissioned by the Ministry of Health and reported in the *Jamaica Observer* in 2003 stated that there were more than 6 000 street and working children in Jamaica. According to the survey, boys outnumbered girls by a ratio of 70:30, are on average 13 years old and are usually from a female-headed household of five, where his parent or guardian is marginally employed as a vendor, domestic helper, self-employed or unskilled worker.

Another group of children which is "invisible" includes children who are infected and affected by HIV/AIDS. Children (0-19 years) and young people (20-29 years) reported with AIDS account for 9 and 19 per cent respectively (28% cumulative total) of total AIDS cases, with AIDS being the second leading cause of death in children aged 1-4 years. UNICEF reports that adolescent girls are more vulnerable; girls aged 10-19 years are almost three times more likely to become infected with HIV than a boy of the same age. Cul-

tural factors also reduce adherence to the rights of these children. There is early sexual initiation (15 years old for girls, 13 years for boys), young girls having sexual relations with HIV infected older men (50% of young women report having sex with partners five to ten years older than them), as well as high rates of forced sex (reported by 20% of girls).

#### IV. CHILD PROVISION RIGHTS

Article 27 (1) of the CRC “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development”.

Jamaica’s economic vulnerability was established in a previous section. Witter<sup>1</sup> and Smith<sup>2</sup> analyzed the state expenditure on children in Jamaica. Social expenditure (as a percentage of public expenditure) on children is relatively stable but seems to be on the decline at 10.6 per cent in 2008 (table 5). Health and education expenditure combined accounts for the major proportion (exceeding 90%) of social expenditure on children. However, as a percentage of GDP, the amount increased from 5.84 per cent in 2005/6 to 6.11 per cent in 2007/08 (table 6). This commitment ensured that there is not a significant decrease in the social expenditure on children. This indicates that the State is attempting to ensure that investment in children is not too negatively affected by the national economic crisis.

National economic distress is linked to household welfare. Poverty rates in Jamaica are on the increase. In 2009, 16.5 per cent of persons in Jamaica were living in poverty; up from 9.9 per cent in

<sup>1</sup> Michael Witter, *Fiscal Expenditure on Services for Children in Jamaica, 2003/4-2005/6*, 2007.

<sup>2</sup> Christopher Smith, *Jamaican Children and the Government’s Budget. Presented at the Bustamante Children’s Hospital*, Kingston, 2008.

Table 5. Expenditure on Children in Jamaica as a % of Total Public Expenditure (2006-2008)

	2005/6 (Actual)	2006/7 (Revised)	2007/8 (Approved)
Recurrent	17.3	18.09	17.65
Capital A	1.46	1.12	1.57
Capital B	32.03	27.28	26.45
Total=Recurrent+ Capital A+ capital B	12.75	12.13	10.55

Source: Smith, Christopher, *Jamaican Children and the Government's Budget. Presented at the Bustamante Children's Hospital, Kingston, 2008*, p. 21.

Table 6. Expenditure on Children in Jamaica as a % of Gross Domestic Product (2006-2008)

	2005/6 (Actual)	2006/7(Revised)	2007/8(Approved)
Recurrent	5.19	5.82	5.32
Capital A	0.35	0.22	0.25
Capital B	0.30	0.43	0.54
Total=Recurrent+ Capital A+ capital B	5.84	6.46	6.11

Source: Christopher Smith, *Jamaican Children and the Government's Budget. Presented at the Bustamante Children's Hospital, Kingston, 2008*, p. 21.

2007 Poor household welfare can have a negative impact on child welfare. Child poverty is a major social problem in Jamaica. Of the cohort of persons aged 0-17 years, 20.4 per cent live in poverty (table 7). Poor households find it difficult to provide adequately for their children and child rights are more likely to be violated in times of economic deprivation. The analysis of national data on poverty, by sex of head of household, shows that slightly more males are in poverty than females (table 8). When the analysis is

Table 7. Poverty by Age

<i>Age Group</i>	<i>2004</i>	<i>2007</i>	<i>2009</i>
0-17 years	20.6	12.0	20.4
18-35 years	14.7	8.9	13.3
36-59 years	14.0	7.8	14.0
60 years and over	15.2	10.2	17.1
Total	16.9	9.9	16.5

Source: SLC.

Table 8. Levels of Poverty by Gender of Individual and Gender of Head of Household

<i>Year</i>	<i>All Individuals</i>		
	<i>Male</i>	<i>Female</i>	<i>Total</i>
2004	17.5	16.3	16.9
2007	11.1	8.7	9.9
2009	17.1	15.4	16.5
<i>Heads of Households (Only)</i>			
	<i>Male</i>	<i>Female</i>	<i>Total</i>
2004	11.9	12.0	12.0
2007	7.2	8.0	7.6
2009	11.4	12.8	12.0

Source: SLC data sets.

done by gender of head of household, the difference is not statistically significant. Data analysis by residential area reveals that men and women living in the rural areas are more likely to live in poverty (table 9). Children living in the rural areas are more likely to have their provision rights violated.

The disparity by gender begins from birth. According to the Multiple Indicator Cluster Survey, the births of 89% of children in Jamaica have been registered; slightly more boys than girls are born every year (51 and 49 per cent respectively out of a yearly average of 44 000) and the infant mortality rate for boys is higher than for girls. For infant mortality under one and under five years, respectively, the figures are: male 28, 33 Female 24. The Multiple Indicator Cluster Survey Report reports that at age 6-9 months, 36 per cent of children were receiving breast milk and solid or semi-solid foods. By age 12-15 months, 49 per cent of children were still being breastfed and by age 20-23 months, 24 per cent were still breastfed. Girls were more likely to be exclusively breastfed than boys. For those deprived of familial care, more boys end up in children's homes; boys are more likely to be placed in foster care.

UNICEF in 2009 reported the HIV prevalence rate as 1.7 per cent. A Jamaica Daily Gleaner Report stated that young women in the 10-19 age group are three times more likely to be infected

Table 9. Levels of Poverty among all Individuals by Area

<i>Area</i>	<i>Males</i>			<i>Females</i>		
	<i>2004</i>	<i>2007</i>	<i>2009</i>	<i>2004</i>	<i>2007</i>	<i>2009</i>
KMA	12.8%	3.3%	9.4%	9.1%	4.6%	9.7%
Other Towns	5.6%	4.3%	4.4%	4.8%	3.9%	10.4%
Rural	14.2%	10.9%	16.2%	18.0%	13.5%	17.2%
Jamaica	11.9%	7.2%	11.4%	12.0%	8.0%	12.8%

Source: SLC 2004, 2007 and 2009 data sets.

than boys in this age band. HIV programmes and policies do not sufficiently address the specific realities and needs of women and girls". In Jamaica, less than one per cent of children aged 10-14 have lost both parents.

At schools, gender disparity continues. The CRC (article 28) states that:

States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

Make primary education compulsory and available free to all.

Access to early childhood education and primary level education is universal in Jamaica. At the early childhood level, in 2010, there was a high enrollment rate for children 3-5 years. In 2010, there was a gross enrollment rate of 99.6 per cent of the children in this age cohort in early childhood facilities: 99.1 per cent for boys and 100 per cent for girls. Of all those who were enrolled, 50.5 per cent were boys and 49.5 per cent were girls accounting for an almost equal gender distribution. However, female enrollment rates surpass those of the boys at the primary and secondary levels (table 10). MICS (2005) also reported that attendance was lower among boys (89 per cent) than among girls (93 per cent). At the tertiary level of the eligible cohorts, for the females, the rate was 8.3 and for the males 6.8 per cent.

Girls outperformed boys at every level of the education system. Survival rates to Grade 5 are higher for girls than for boys (MOE) 2005/06: 88.8% (87.2% boys, 93.0% girls). Labour force statistics show this gender bias as higher percentages of females attain CXC and GCE certification, along with degrees (table 11). In both public and private spaces, duty-bearers are not adhering adequately to the provision rights of boys and girls.



Table 10. Net Enrollment Rates % ( End of Year Population)

	<i>Primary</i>			<i>Lower Secondary</i>			<i>Upper Secondary</i>			<i>Total Secondary</i>		
	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
2000/2001	93.6	94.1	93.8	78.1	80.2	79.1	51.1	58.0	54.5	67.5	71.5	69.5
2001/2002	93.3	93.0	93.2	77.5	79.7	78.6	51.4	57.2	54.3	67.3	70.9	69.1
2002/2003	92.9	92.0	92.5	83.1	84.8	83.9	54.7	60.8	57.7	72.0	75.4	73.7
2003/2004	92.9	90.8	91.9	85.8	85.3	85.6	54.5	59.9	57.2	73.8	75.5	74.7
2004/2005	93.5	91.0	92.3	83.7	83.3	83.5	67.8	51.2	59.5	77.6	70.9	74.2
2005/2006	92.1	90.0	91.1	80.8	81.9	81.4	59.9	67.1	63.5	72.8	76.2	74.5
2006/2007	93.4	91.0	92.2	87.2	86.9	87.0	59.3	67.9	63.6	76.1	79.4	77.8
2007/2008	90.1	90.4	90.2	84.9	88.8	86.8	60.0	69.8	64.8	75.2	81.5	78.3
2008/2009	87.5	89.3	88.4	85.9	89.0	87.0	64.1	72.9	68.4	77.0	82.8	79.8
2009/2010	93.7	94.9	92.6	-	-	-	-	-	-	72.5	80.8	76.5

Table 11. Highest Examination Passed by Gender

<i>Highest Examination Passed</i>	<i>2010</i>	
	<i>Males</i>	<i>Females</i>
None	73.4	54.9
CXC Basic, JSE, etc	1.7	2.6
1-2 GCE 'O'	2.3	2.3
3-4 GCE 'O'	2.9	5.8
5+ GCE 'O'	3.4	5.4
1-2 GCE 'A'	0.05	0.2
3 GCE 'A' or More	0.1	0.3
Degree	7.6	18.1
Other	2.0	4.5
Not Stated	6.5	5.9
Total	100.0	100.0

Source: STATIN-The Labour Force.

## V. CHILD PROTECTION RIGHTS

The Millennium Declaration promotes the protection of children against abuse, exploitation and violence. Article 19, of the CRC, clearly states that:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Children are the direct and indirect victims of violence in Jamaica. The home is not always a safe haven for children. In Jamaica, 87 per cent of children aged 2-14 years were subjected to

at least one form of psychological or physical punishment by their mothers/caretakers or other household members. More importantly, eight per cent of children were subjected to severe physical punishment. On the other hand, 36 per cent of mothers/caretakers believed that children should be physically punished, which implies an interesting contrast with the actual prevalence of physical discipline. More male children were subjected to both minor and severe physical discipline (75 and ten per cent) than female children (71 and five per cent).

In public spaces, more males were victims of violence. In 2010, 87 males were shot as opposed to 26 females. The Children's Advocate annual reports revealed that in 2008, 960 of the 1,446 persons who went missing were children —over three-quarters of the missing children were female unlike the adult population where males were more likely to go missing. Over the past five years more than 300 children —most of them boys— have been murdered. At the same time, the report noted that carnal abuse has continued to rise (Children's Advocate's Report, Jamaica, 2008; or maybe more reported as a result of public education). Girls are more likely to be the victims of the sexual abuse reported in table 12. Boys formed the majority of victims of other violent crimes (table 12).

Table 13 highlights the gender differentials shown in table 12. More boys received gun-shot and stab wounds and were victims of blunt injuries than girls. However, it is disturbing to note that in the age group five to nine years, girls were more prone to be the victims of sexual assault. Table 13 in fact reveals an increase in the reported number of victims of sexual assault for the age group 10 to 19 years. There is also a belief that “virgins”, especially girls, are a cure for HIV/AIDS. Another major concern is the relatively high prevalence of teenage pregnancy. Approximately 18% of births in Jamaica are attributed to adolescent girls (National Family Planning Board-Provisional Data 2008).

Table 12. Crimes against Children in Jamaica

<i>Type of crime</i>	<i>2000 (0-18 Years)</i>	<i>2004 (0-18 Years)</i>	<i>2007 (0-19 Years)</i>	<i>2010 (0-19 years)</i>
Murder	73	99	131	129
Shooting	85	147	119	113
Rape	473	536	242	435
Carnal Abuse	430	409	138	529
Robbery	78	111	105	297
Break-In	25	24	27	44
Larceny	n/a	n/a	n/a	20
Total	1 164	1 326	945	1 567

Source: ESSJ, PJOJ, various years.

Table 13. Violence Related Injuries Treated in Accident and Emergency Rooms

	<i>Sexual Assault</i>			<i>Stab Wounds</i>			<i>Gunshot Wounds</i>			<i>Blunt Injuries</i>			<i>Total by age and Gender</i>
	2009	2008	2007	2009	2008	2007	2009	2008	2007	2009	2008	2007	
Under 5 Years: Boys	7	10	09	0	4	5	3	6	2	81	242	245	614
Boys	5	48	38	2	1	4	1	4	0	54	220	178	555
Girls													1 169
5-9 Years old: Boys	20	8	17	8	2	20	4	5	20	206	528	447	1 294
Boys	60	111	112	4	110	8	5	5	8	127	343	255	2 342
Girls													3 636
10-19 Years old: Boys	851	25	22	312	584	502	116	129	149	889	1 767	1 543	5 889
Boys	1,56	911	797	90	115	189	24	24	36	616	1 273	1 144	6 785
Girls	3												12 674
Jamaica (Total)	2 506	1 464	1 295	416	2 636	2 409	153	1 309	1 253	1 973	12 775	10 532	

Sources: ESSJ 2008 and 2009.

For those children who are in conflict with the law, their rights are not always upheld. In 2010, 1022 children were detained. Of that number 99 per cent were males. A distressing report in the Jamaica Observer newspaper noted that a child detainee was bitten by a rat while in the Admiral Town Police Station lock-up in Kingston. The OCA reports that 53.0 per cent of the 209 children in conflict with the law who were interviewed, complained about their treatment by police which included being cursed, beaten or interrogated harshly. A UN Special Rapporteur on torture reported the continued practice of detaining children and adults together in lock-ups in police stations and some correctional centres (12-21 February 2010). The 2009 Armadale incident resulted in the death of seven female inmates in a fire that broke out when police used teargas inside the building to control the girls who were opposing the “lockdown”. The report also decried the use of lock-downs as an excessive punitive measure.

Both in private and public spaces, duty bearers do not adequately adhere to the rights of our children to protection.

## VI. CHILD PARTICIPATION RIGHTS

Participation of children in decisions affecting them is problematic. Implementing “participation” to ensure that it is not meaningless is difficult. It is not to be confused with “consultation” and “information dissemination.” Data on child participation in Jamaica are sparse. Discussing the issue of child participation raises several issues specific to the process itself and is also related to age and gender.

How do we ensure that all segments of a group are included? The cultural belief that “Children should be seen and not heard” affects both sexes. How do we ensure gender sensitivity in the process? Child participation in Jamaica remains tokenistic. Although

we have national youth councils in all islands, they lack resources for genuine consultation and participation of children. Boys generally prefer less structured fora, e.g. street corners, football fields, while girls generally can be found indoors. Implementing participation has to be gender-sensitive.

Of course, there is the legal issue: at what age should you be legally allowed to make decisions about your life? Should it be tied to the age of criminal responsibility or the age that one can vote and what are the implications for utilizing any of these ages? If we decide that children from a certain age can “express themselves in all matters”, what are the consequences? What happens in issues of reproductive health, sexual practices and preferences?

At what age does the parent become the facilitator and no longer the “Ultimate Authority”? In Jamaica there is no domestic statute which prescribes a minimum legal age at which a child may seek medical counseling without parental consent. Normally, parental consent is required for medical counseling and/or treatment of a child or minor. In the case of testing and receiving treatment for HIV/AIDS, the norm is to obtain parental consent for the child to access appropriate testing and health care. Should the child be able to access those without parental consent? This issue remains unresolved.

CDA points out that child participation takes places in several sectors of the society. These include:

- Development of Audio Public Service Announcements (PSAs).
- Caribbean Child Development Centre’s Child Rights Education Project Phase 1.
- Baseline Study on the Situation of the Promotion and Protection of the Rights of Children and Adolescents in Jamaica.

- Kingston Centre Counseling Clinic or Key Clinic (knowledge and education for youth).
- The Male Desk.
- Public education and mentorship programmes in schools established three male youth mentorship programmes in schools in Kingston and St. Andrew (9-17years); established six male action groups among males from church, community and civic society.
- Public Information Campaign — IDEVAW, NATFATIO Committee, schools education programme, Inter-american Year of Women.
- Policy and Legislation — the Education Act, the Maternity Leave Act, Teenage Pregnancy Policy, Poor Relief Law.
- School Safety and Security Programme.
- Institutionalization of DevInfo (JamStats).
- An Intervention to Address Behavioural Problems including Violence and Aggression in Schools.
- Caribbean Child Research Conference.
- Boys Brigade Jamaica.
- The National Festival of the Arts.

However, there has been no assessment made of the impact of the participation of children in the implementation and evaluation of the relevant programmes.

## VII. THE WAY FORWARD

Based on the discussion above, it is evident that at the policy and legislative levels, Jamaica has done much to promote child rights. However, a recent study carried out by the Organization of American States revealed that the main problem was not the absence of law but the lack of timely enforcement and follow-up. Implemen-



tation gaps continue to exist in the areas of child labour and sexual offences as well as physical violence against children. These gaps prohibit the full adherence to child rights in Jamaica.

Both boys and girls have their rights violated in Jamaica. Many are not properly provided for at home, school and in the community. In terms of provision rights, poverty affects both boys and girls and economic deprivation limits their access to those basic social services considered valuable in the society. Gender differentials exist in the education system where boys are disadvantaged and are out-performed by girls. Child protection rights are violated very often in Jamaica. Boys are more prone to be victims of violence although girls are more susceptible to sexual assault. Girls are particularly vulnerable to the sexual advances of older males infected with HIV/AIDS who believe that sexual intercourse with these girls will cure them of the disease. Participation rights for both boys and girls are not fully adhered to and while children participate in several processes in the various sectors, there is little evidence of the impact of that participation on the implementation and evaluation of programmes.

This discussion reveals that increased gender mainstreaming in the formulation of policies is needed for the improvement of services for children. Public education must entail a gendered perspective to the promotion of child rights in Jamaica. Boys and girls are vulnerable in different ways and therefore gender-sensitivity is needed to ensure that we adhere to their rights and hold the “best interests” of the child paramount at all times.

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