

NGO Comments on Trinidad and Tobago Second Periodic report under the CRC

Overview

The situation of the protection and achievement of rights of particularly vulnerable and disadvantaged children in Trinidad and Tobago is still one that warrants immediate attention and the commitment of financial and human resources. Children in need of special protection from all forms of abuses and neglect as well as children in institutions of care are most adversely affected by a lack of government commitment and political will.

The situation of the girl child in Trinidad and Tobago is also an area of critical concern.

Although changes are being slowly made in legislation and programmes are being implemented bit by bit far too many children are being under-supported or just plain neglected and/or abused in practice.

Trinidad and Tobago has a long history of not implementing the many recommendations laid out in numerous reports (local and international) that could effect positive change in many of our social service sectors.

Principal Subjects of Concern

General measures of implementation

Legislation; Status of convention in domestic law/ remedies available in cases of violation of rights.(rec. 1997 1136)

Children's Authority Act. No, 64 of 2000

- Though the proclamation of the Children's Authority Act and the establishment of the Children's authority signals some gains for the achievement of the Rights of Children and young people in Trinidad and Tobago it is imperative that independent mechanisms for monitoring and ensuring the transparency of the authority also be put in place especially with regard to the proposed reception centre which shall be responsible for the temporary care of children received by the authority and in respect of the granting of licences.

- It is of critical importance that once the Children's Authority becomes the principal authority for granting licences to community residences and nurseries for children, that mechanisms/ programmes which aim to provide support to current community residences foster homes and nurseries in achieving required standards of care are also implemented. (A.II Children's community residences Foster homes and nurseries act no. 65 of 2000)

- While the summary of offences act, chap 11:02 section 5 (1) has been amendment to allow magistrates to impose custodial sentence on persons found guilty of committing an assault or battery of an aggravated nature on a male child whose age does not exceed 18 years . Female children are not included in this act. – The miscellaneous provisions (Children's act No. 66 of 2000)

- In spite of amendments to the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap.46:08. systems for monitoring and enforcing maintenance payments as well as for ensuring that these payments are translated into meeting the basic needs and providing for the human rights of children remains inadequate. Example's of some women's experiences with regard to receipt of maintenance money include traveling long distances and thus incurring costs to collect money at the courthouse only to find that maintenance money has not been paid in at the courthouse on the stipulated date.

Recognition in the Constitution or other national legislation of the rights set forth in the Convention;

- The convention is not currently expressly recognized in the constitution. Measures related to supporting and implementing constitutional reform would further facilitate integration of the CRC into the constitution, domestic law and the practice of the law.

- As conventions ratified by the government of Trinidad and Tobago are not "self executing" meaning that they do not have the force of law without the passage of additional legislation

remedies available for cases of the violation of rights are restricted. Implementation of a commission on Human Rights, Ombudspersons or other administrative bodies can provide needed remedies.

- **The Equal Opportunity Act, No. 69 of 2000** which has been enacted by Parliament and which will come into force on a date to be proclaimed seeks to prohibit discrimination on the grounds of a person's status which is defined as: the sex, the race, the ethnicity, the origin (including geographical origin), the religion, the marital status or any disability of that person. It applies to discrimination in the fields of employment, education, the provision of goods and services and the provision of accommodation. This act does not address discrimination on the basis of sexual orientation and in the fields of recreation both of which apply to the Article 2 – Freedom from discrimination for Children and Young people.
- **The Sexual Offences Act, No. 27 of 1986** (as amended) protects persons, including children from all forms of sexual abuse. **[Article 19(1)]**. The amendment to this act however does not address inconsistencies in relation to the treatment of male and female children and the sentencing of male and female adults for committing sexual offences. Under S.6 of the Act, it is an offence **punishable with imprisonment for life** for a male person to have sexual intercourse with a female person who is not his wife and who is under the age of **fourteen years** whether or not the female consented to the intercourse. Under S.7(1) if a male person has sexual intercourse with a female between the ages of **fourteen and sixteen**, he would be liable on conviction to imprisonment **for twelve years for a first offence and to imprisonment for fifteen years for a subsequent offence**. Section 8 however provides that where a female adult has sexual intercourse with a male person who is not her husband and who is under the age of **sixteen years** she is guilty of an offence and is liable on conviction to imprisonment for **five years**.

Mechanisms to coordinate and monitor the implementation of the Convention.

Mechanisms at national, regional and local levels for ensuring implementation of the Convention. (rec.1137)

- In spite of the implementation of the National plan of action committee and appointment of a coordinator for the National Plan of Action on children, there remains a general lack of coordination of activities related to promoting and protecting the rights of children amongst government ministries. Resources allocated to both inter-ministerial coordination of activities related to the NPA on children and to the integration of the NPA into separate ministerial programmes remain inadequate.
- The prioritization of the CRC and the NPA for Children by The Ministry of Planning and Development is fundamental to the rights of Children being achieved. The integration of the CRC and NPA on Children into the central planning process is a demonstration of commitment to the rights of children and illustrates political will to ensure that these rights are translated into programme specific actions. It is imperative that mechanisms within the Ministry of Planning and Development such as the technical corporation unit (TCU) (which is the main point of interface of technical cooperation between the government of Trinidad and Tobago and international development agencies) also places a priority on the protection and achievement of the human rights of Children and young people in its preparation of inter ministerial plans. Effective coordination by the TCU to ensure that sound contributions by all ministries with priority agendas for children (such as ministries of social development, education and health) are included in the development of plans of technical cooperation must also be a priority.
- The allocation of sufficient and relevant financial, human and material resources to the Children's Authority which is to be established upon proclamation of the Children's authority Act No. 64 of 2000 will be central to this authority being able to fulfill the functions set out in this act and therefore to its ability to protect and promote the rights of all children in Trinidad and Tobago.

Specific mechanisms to register and address complaints from children concerning violations of their rights under the law. (Rec.-1140)

- *Ombudsperson*
There is a need for the appointment of an ombudsperson to specifically promote and protect the rights of all children.

Mechanisms developed for data collection. (rec.1138)

- The development of efficient monitoring mechanisms that could provide a systematic and comprehensive compilation of disaggregated data and indicators on all areas covered by the convention is dependent upon governments' prioritization of the need for such mechanisms. Since submission of the first periodic report on the CRC in 1997 however, little progress has been made in this regard. Though mention is made in the Government's second periodic report under the CRC of attempts to implement The child Indicator monitoring system (CIMS) and the Children in need of special protection project CNSP these attempts have not been backed by appropriate government commitment as would be illustrated by the allocation of necessary financial, human and material resources.

In reference to the CNSP project paragraph 52. of the 2nd periodic report states

"The implementation of this project has been hindered by an inadequate budget and unavailability of staff in the executing agency. The executing agency is the National Family services division of the Office of the Prime Minister"

- *The 1997 Situational Analysis of children and their families.*

This study commissioned by UNICEF which was intended for the purpose of informing programme planning for vulnerable groups of children should be finalized, formally launched and made available to the general public by January 2006.

Budget devoted to Children's Programmes

- The absence of indicators related to all areas covered by the convention as illustrated above brings into question the basis upon which budget allocations to children's programmes are determined. This matter is particularly significant in relation to vulnerable children. Without proper data upon which to calculate budgetary estimates based on children's needs, Children and those who provide for their care and protection are left to "make do" with what is available. As a result children suffer and the achievement of economic, cultural and social rights for children as embodied within the CRC are not achieved.
- The government's system of grants to necessitous children illustrates this point exactly. The Special Child Grant, a grant to which a parent of a child who is physically or mentally handicapped and under the age of eighteen years may apply is currently set at \$80 TT per month. This figure is appallingly below what is necessary to cater to the needs of a child with disabilities.
- Trinidad and Tobago's second periodic report under The Convention on the Rights of the Child paragraph 70 states that

"According to the director of budgets of the ministry of Finance, the central government budget is not structured in a way whereby information on expenditure for children can easily be extracted."

The inability of government to effectively extract expenditure on children and to further disaggregate line item expenditures earmarked as "expenditure on children" highlights the lack of commitment on the part of government to ensure that legislative remedies are translated into programme specific, sufficiently financed actions. This also illustrates the lack of an integrated and coordinated approach to ensuring the full achievement of human rights for children as outlined in the CRC across government ministries. There is a danger that the introduction of the Children's Authority will be seen as "The remedy" for all matters related to the achievement of Children's Rights. However failure of ministries such as the ministry of finance, planning, trade and industry for example to also integrate a focus on the rights outlined in the CRC will mean that these rights will not be fully realized.

- It is a concern that a large proportion of public sector investment is currently financed through loans. Trinidad and Tobago second periodic report under CRC. Paragraph 78. illustrates that in 1999 32.1% of the Public Sector investment programme was financed

through loans. The conditionalities and interest rates on loans coupled with the failure of government to directly invest money borrowed to ensure the achievement of human rights in general and of the rights of the child in particular could mean that in the long term continued economic inequality and a cycle of debt will further compound the violation of children's rights in spite of legislation. In 1998 the World Bank reported the incidence of poverty in Trinidad and Tobago at 21% with 11% of the total population living in extreme poverty. The correlation between loan repayment terms and conditions and increased poverty has been well documented and so too that fact that Children and women suffer most in situations of poverty.

Definition of The Child

Proclamation of the Children (amendment Act), No.68 of 2000.

- It is of concern that this legislation will not be proclaimed until the Children's Authority is established and as such children remain unprotected by law "a child" continues to be defined under the Children's Act as "a person under the age of fourteen years". The absence of political will has meant that the objective of establishing The Authority has not been fulfilled over the past four years.

Minimum legal age defined for legal and medical counseling without parental consent.

- According to the Second Periodic report parag.162. Though there is no domestic statute which prescribes a minimum legal age at which a child may seek medical counseling without parental consent, in practice, 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 it is necessary that the practice of obtaining parental consent does not restrict a Child's access to appropriate testing and health care. In Trinidad and Tobago there is a high incidence of HIV/AIDS among young people in particular. Access to confidential testing and treatment is critical in the fight against this disease.

The Marriage Act

- Under the marriage act, Chap 45:01 males must be at least 14 years and females at least 12 years to be legally married. This act clearly sanctions child marriage and fails miserably to protect girls in particular. Further the disparity in age between males and females across The Marriage Act, Muslim Marriage and Divorce Act, the Hindu Marriage Act and the Orisa Marriage Act signals discrimination against young women in particular.
- In addition to ratifying the CRC in 1989 Trinidad and Tobago has also ratified CEDAW. The age of marriage for girls in all four acts is in violation of both of these conventions.

It is imperative that the judiciary take a stand on the issue of age of marriage in the interest of the girl child in particular. Failure to do so means that the exploitation of girls and young women continues to be legitimized within the framework of domestic law.

With regard to the failure to achieve consensus within the Hindu and Muslim community that would bring about an increase in the age of marriage, due consideration must be given to "who" the parties to the decision making process are.

In a society where positions of power within political, religious, cultural and social organizations are still largely held by men and patriarchal views and positions are articulated and maintained the human rights of women and girls continue to be marginalized.

Minimal legal age for criminal responsibility.

- The current minimal legal age of criminal responsibility of seven years needs to be raised
- Additionally it is not acceptable that in the instance where a child seven years and over commits homicide that there are currently no less punitive provisions in the law for the trial and detention of the child.

Best Interest of the Child School Life

- Corporal punishment has been officially removed from the school system but monitoring is poor thus it still continues frequently and widely. Some schools get parental consent by offering corporal punishment or suspension/expulsion as the alternative.

- The compulsory age of schooling is 6 -12years and should be extended until the completion of CXC to be brought in line with CRC.
- Universal early childhood education is being implemented and moving along with steady progress.

Basic Health and Welfare

Disabled Children

- Service provision for children with disabilities especially the provision of special schools, specialized medical care and the training and provision of specialized teaching personnel remains inadequate. Improperly resourced schools and institutions which cater to children with disabilities and special education needs results in compromised quality of care of children in these institutions.

Health and Health Services

Teenaged pregnancy and HIV /AIDS

- Trinidad and Tobago 2nd periodic report under CEDAW paragraph 881 states that *"The government has recognised that childbearing in the teenage years represents an obstacle to sustainable development, as it seriously compromises the young mother's educational economic and personal development and also jeopardises their children's full life potential. Further teenage motherhood can also reinforce intergenerational poverty"*

In spite of this however very little has been done by government ministries notably ministries of health and education to provide the education and support to young people and young women in particular that is necessary for addressing this issue.

The current Choices programme caters only to first time teen mothers and is not preventative. In spite of the existence of a health and family life education policy the ministry of education has failed to develop a comprehensive curriculum and to provide much needed sex and reproductive health education in schools.

The Rap Port Youth information and outreach centres established by the ministry of health in Arima, Port of Spain and San Fernando to provide information, educational, counseling and referral services to young people in the 13-15 age group have a marginal impact. These units are under staffed, lack trained educators and counselors, are under funded, are too few and because of restricted opening hours fail to reach the majority of the young population.

The incidence of HIV/AIDS among teens in Trinidad and Tobago further highlights the dire need for intervention and quality education in the area of sexual and reproductive health education.

The findings of a study done by the Family Planning association of Trinidad and Tobago (FPATT) entitled "The Sexual Health of Youth in Tobago" as outlined in paragraph 892 of the 2nd periodic report on the CRC conclude the following:

" People aged 10-24 are the age group most vulnerable to HIV infections in Trinidad and Tobago and are subject to other sexual and reproductive health problems. Half of the HIV infections were estimated to occur among teens and peak numbers are in the age groups 20-24 for women and 30-34 for men. Females are at particularly high risk. In the 15-19 age group, there are six times as many infected females as males. Half of women are likely to have their first child before the age of 20".

These findings emphasize the devastating result of the failure of government to adequately address the issue of sexual and reproductive health of young people. The findings also bring into focus a clear lack of concern for young women in Trinidad and Tobago in particular.

Additionally it is an inherent contradiction that government should recognize the negative impact of teenage pregnancy on young women, children and the society and economy at large and yet still sanction the marriage of young women at the age of twelve.

Social Security and Childcare services and facilities

The public assistance Act, Chap 32:03 provides for the payment of a public assistance grant to the head of the household usually recognized as the male of the household. This act actively discriminates against women and in so doing often restricts children's ability to access much needed public assistance money.

Special protection Measures

Abandoned Children, children living and working on the streets, institutionalized children and the system of administration of Juvenile Justice.

- The correlation between Children who come into contact with the Juvenile Justice system and those abandoned, neglected, abused and institutionalized is both alarming and deeply concerning. In effect, failure on the part of the state to provide quality care for Children and Young people is resulting in their criminalization and detention.
- Trinidad and Tobago currently has only four certified orphanages and Industrial schools (all of which are in Trinidad) and a number of private residential homes. The absence of data collection systems and mechanisms for the collection of data on children indicates that there can be no true calculation of the number of Children in or requiring care.
- Budgetary allocations and financial assistance to organizations providing childcare and institutional care often do not match actual material and human resource needs. Within institutions children exist in unpleasant physical environments (without room to store personal belongings for example), receive care from untrained staff and do not have access to specialized services such as those of Child psychologists. Further, carer to child ratios are far below standards that will allow for sufficient adult/child interaction necessary for the holistic development of the child. Exposure to a diversity of learning opportunities that an integrated and child centred curriculum would provide are also absent.
- All certified institutions are run by Christian organizations which do not offer Children of differing faiths representative in Trinidad and Tobago the opportunity to practice and develop their faith. (Article 30)
- The Family Court pilot project has come on stream for about a year now, however reports on its effectiveness have not been published .Feedback has been positive in casual conversation with those who have interfaced with it.

National Family Services

- The National Family Services, the organization under the office of the Prime Minister currently responsible for monitoring Children's institutions is crippled by severely limited staffing.

"For example there are only eight field officers to service the needs of the entire country" Trinidad and Tobago Second periodic report under the CRC.

Within industrial schools in particular there have been many reports of cruelty and torture of children including continuous beatings of young offenders within The Youth Training Centre YTC.

A UNICEF study on Juvenile Justice in Trinidad and Tobago states

" At YTC , there is a unit called the Dissociation Unit, Juveniles who need to be quarantined because of illness, who are convicted of serious crimes or breach rules of the institution are locked there in cells, where they may be kept in solitary confinement. The cells are poorly lit and sparsely furnished. The sanitary installations are in a state of disrepair. Juveniles in the Dissociation Unit receive one hours' airing per day in a confined space". Quoted in Trinidad and Tobago Second Periodic Report under the CRC paragraph 577.

Immediate investigation into the standards of care in these four institutions and the establishment of the Children's Authority that would determine and monitor standards of care is imperative.

Institutionalization of Girls and Young Women

- The absence of provisions for girls over the age of sixteen who are determined by the courts to be young offenders is of significant concern. Female offenders sixteen years and over are currently being housed with adult women in the Women's prison. This is occurring in spite of governments claims that

"In terms of the administration of Juvenile Justice, the legislation ensures that children are treated differently from adults" T&T 2nd periodic report under CRC paragraph 355.

Additionally, the placement of abandoned, neglected and abused children, particularly those fourteen years and over in institutions identified as industrial schools for young offenders serves to perpetuate the systematic criminalization of these children.

Children in Mental Health Institutions

- Treatment and provision for children in Mental Health Institutions is an area of concern which has not been adequately dealt with in the Governments Second periodic report on the CRC.

Parental responsibility and status offences

- The placement of Children in Institutions as a result of parents applying to the Magistrates Court to have his or her child committed to a Children's Institution as "beyond control" is a system that does not serve the best interest of the Child. Thorough Investigation into the home and family situation of the child and into parent child relationships as well as the provision of effective family support systems, would greatly reduce the unnecessary institutionalization of Children.

Children on Remand

- *"If a Juvenile is not released on bail, he must be remanded in a place of detention that is not a prison such as the Youth Training Centre. Remandees awaiting trial who are detained at the Youth Training Centre are not eligible for any rehabilitation educational programmes conducted at the institution"* The Children's Act, chap 46:01. Paragraph 190. T&T second periodic report under the CRC

The denial of education to Children is a direct violation of Articles 28 and 29 of the CRC. In instances where children are held on remand for long periods of time the development, mental health and well being of these children is severely affected

Children in Situations of exploitation

- Government has ratified 18 ILO Conventions including No. 138 (minimum age convention) and No.182 (Elimination of the Worst Form of Child Labour). The YMCA has been coordinating an ILO sponsored programme since June 2004 coordinating with

relevant government agencies to address children working in two landfill sites in Trinidad.

- The situation of street Children remains one of great concern. The implementation of systems by government to monitor and provide for "at risk" Children is fundamental to addressing this issue and to protecting these particularly vulnerable children from situations of exploitation.

The Trinidad & Tobago Coalition on the CRC (TTCRC) is an umbrella organization of over 50 NGOs, individuals and professionals who work in the area of child rights and/or children services in Trinidad & Tobago. We have been involved in advocacy, education and training in promotion of the CRC as we seek to improve the lives of our nation's children to make their environment fit for their full development.

Gregory Sloane-Seale coordinated the preparation of this report while Ms. Gabriel Henderson prepared its final draft.

The following made invaluable input to the report:

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