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Susana Villarán de la Puente
Special Rapporteur on the Rights of the Child
Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington D.C. 20006
USA

Dear Ms. Villarán de la Puente,

Executive Summary

Though some children's homes and places of safety in Jamaica provide safe and nurturing havens for children, anecdotal evidence suggests that sexual and physical abuse, neglect, maltreatment, and endangerment of institutionalized children is widespread and entrenched within the childcare and protection system. There are allegations and confirmed instances of children living in some state-run homes and places of safety engaging in sexual activities with each other and, in isolated cases, with animals. Some are also sexually abused by adults who either work at or visit the premises. What is most troubling is the lack of any affirmative action or intervention by the government to stop the abuse and seriously address the issues that have arisen. These institutions are currently not held accountable for neglect which permits the abuse to carry on.

Local pressure for reform has resulted in half-hearted attempts by a reluctant government to silence the public's cries. No criminal charges have been brought against alleged perpetrators nor have any abused or mistreated children been provided adequate therapeutic treatment. Moreover, the Jamaican government has yet to implement a

comprehensive program to improve the system as recommended by UNICEF, UNHCR, and local NGOs.

The Children's Services Division of the Ministry of Health, is responsible for children in need of care and protection and is in charge of the supervision of children in institutional care.

While all parties involved in the Jamaican child welfare system are not guilty of wrongdoing, our experience is that the majority may well be--an estimate that is unacceptable in a sector where there should be absolutely no tolerance for corruption and mismanagement. Unless these deficiencies are addressed, any reform measures will be a waste of time and effort. The corruption, mismanagement, and lack of will that is currently in place in most of Jamaica's children's homes, and often manifest by the relevant authorities at the Ministry of Health, needs to be replaced by a system of integrity, accountability, and effectiveness.¹

Included in this report is a detailed account of a child severely sexually abused while in a children's homes and a place of safety; an independently produced document compiling twenty-three instances of alleged child sexual abuse, neglect, and maltreatment; and a former Superintendent's account of abuse, illicit behavior, and inadequacies of staff while working at two different children's homes. We will illustrate the extreme shortcomings of the system with the following cases:

The Case of Michael Roberts²: Symptoms of a six-year-old child severely sexually abused while in Jamaica's childcare and protection system³:

- Inappropriate touching, kissing, sexual in nature
- Tricks and coerces children into engaging in sexual acts
- Is caught numerous times having intercourse with dogs
- Excessive masturbation (15 – 20 times a day)

23 Allegations of Child Sexual Abuse, Neglect, Maltreatment and Endangerment

- A 12-year-old girl names a caregiver at the institution as the father of her unborn baby.
- A 13-year-old boy complained that the children's home's house father had molested him.
- A 13-year-old girl maintained that the home's guidance counselor molested her.
- A 3-year-old girl often pulls down her underwear in public areas at a children's home and rubs her body against boys in a sexual manner.
- In all cases, none of the children received therapeutic counseling nor were the perpetrators held criminally liable.

¹ Ronald Good, Mennonite Central Committee, *Presentation Before the Committee Investigating the Operations of Children's Homes in Jamaica*, March 7, 2003.

² Name has been changed to protect the identity of the child.

³ As observed by Kay Osborne, while living with the child for months with the intent to adopt.

Former Superintendent's Awareness of Abuse/Maltreatment:

- Sexual and physical abuse perpetrated by staff
- Rampant homosexual activity among boys being tolerated
- Told by a child that the home's guidance counselor had raped her and others
- Discouraged and threatened with possibility of dismissal when raised concerns

All demonstrate the wide-spread abuse, lack of accountability, and overall poor quality of care in Jamaica's child residential care system. The State must institute concrete policies and guidelines to prevent such abuse from happening, bring criminal charges against known abusers, and hold staff and administrators accountable for their irresponsible and nonchalant attitudes surrounding this culture of abuse. Action must be immediate and fervent to ensure the well-being of our children.

I. Introduction

Jamaicans for Justice (JFJ) respectfully submits this report to Special Rapporteur Susana Villarán de la Puente. It is the contention of Jamaicans For Justice that the Government of Jamaica is in violation of its international human rights obligations in regards to egregious and ignored abuse of children in places of safety and children's homes under Articles 3, 19, 34, and 39 of the United Nations Convention on the Rights of the Child.

The Children's Services Division (recently re-named Child Development Agency) of the Ministry of Health, which operates under the provisions of the Juveniles Act of 1951, has responsibility for children in need of care and protection and is in charge of the supervision of children in institutional care including children's homes and places of safety.⁴

Jamaica's most vulnerable children are placed in the protective custody of children services because their homes were unfit, only to suffer egregious harm by the very people that are supposed to care for them. JFJ demands that those implicated in instances of child abuse be removed from their posts and victims of said abuse be given the necessary psychological and physical treatment that they desperately need.

A UNICEF/Ministry of Health (hereinafter "UNICEF") commissioned study⁵ of children's homes and places of safety conducted in 1999 brought to light numerous problems and inadequacies of residential care in Jamaica. Our biggest concern however, is that while these deficiencies are great and need to be rectified, abuse being carried out by caregivers and staff of the system is by far the most troubling and urgent problem that has been widely ignored and disregarded by the government. Immediate action must take place in order to secure the safety of all children in the homes and POS and end abuse by staff.

⁴ UNICEF/Planning Institute of Jamaica. *Jamaican Children and Their Families*, 2000.

⁵ GOJ/UNICEF. *Faces of Residential Care in Jamaica*, 1999. Children's Services Division, Ministry of Health.

The Government of Jamaica has an obligation to protect children deprived of a family environment under the Convention on the Rights of the Child. Despite these legal obligations and awareness of extreme abuse and negligence within the system, the Government has yet to fulfill its responsibility.

The government of Jamaica has stood idly by while vulnerable and powerless children have been abused by staff in Places of Safety and Children's homes and had their fundamental rights denied. This abuse and apathy of the government to act is well documented and supported by those directly and indirectly involved in children's protective services.

Ministry of Health officials have long ignored the conditions of danger and neglect that the report details including the recommendations on changing conditions and practices that "cause great concern" and require "urgent attention." These include government practices that UNICEF describes as having "catastrophic" effects on institutionalized children.

The difficult socio-economic conditions and high level of national debt are often cited as justification for the government not having implemented the changes necessary to improve the quality of care in residential children's care. This, despite monthly allotments transferred to the homes from the government for the maintenance of the children. These amount to millions of dollars per month. In addition, most children's homes are the beneficiaries of huge donations from the private sector, at home and abroad, both individuals and businesses. Add to this the generous support that the homes get in the form of material resources such as food, clothing, furniture, capital improvement supplies, and other goods from organizations like Food for the Poor and other child welfare NGOs, and you have what amounts to a rather large financial undertaking. It can be no other way when you are providing for the care of dependent children. The problem, however, lies in the unscrupulous management of the resources that are intended for the children and the lack of adequate monitoring of the same by the designated governmental agency. Far too often cash and kind intended for the benefit of the children are diverted for personal use and enrichment and there seems to be no authority willing or able to demand accountability. But what we are asking for will not be an added expense for the government to incur. Instilling hiring procedures and following them is not an expense. Nor is criminally prosecuting known abusers.

After numerous complaints and demands that the government improves quality of care the government recently appointed a review committee to assess children's homes and places of safety.

II. Facts in Support of Allegations

The Jamaican Government is in violation of its international human rights obligations in regards to the severe sexual abuse that Michael Roberts suffered while a ward of the state and the continuing negligence, mistreatment, and lack of adequate therapeutic intervention after the abuse was made known. As a direct result of the severe, sustained

abuse Michael endured while in the care of the State, he compulsively engages in sexual acts with willing and unwilling children, adults and engages in acts of bestiality. The government of Jamaica has failed to ensure that this sort of severe abuse does not occur again (or stop current abuse from happening) nor has it held any alleged abusers accountable for their actions.

A. The Case of Michael Roberts

Michael entered “temporary” care on July 2, 1998 at the age of 2. Four years later, on June 5, 2002, Michael left residential care to live with his adoptive mother-to-be Kay Osborne. She was never informed of any kind of abuse that he may have experienced or behavioral problems that Michael exhibited. After bringing him to the U.S. to start a new life, Michael began to exhibit signs that he had been severely sexually abused. Inappropriate touching, kissing, bestiality, and engaging in sexual acts with children (consenting and non-consenting) and adults. Michael tells Ms. Osborne of the unthinkable sexual activity that he experienced while at Reddie’s place of safety and Pringle children’s home. If a staff member caught him and another child in a sexual act, they would beat him, but no therapeutic or beneficial action followed.

On August 9, 2002, eight weeks after Ms. Osborne collected Michael from Pringle place of safety, she took him in for an evaluation at the Northwestern University’s Children’s Memorial Hospital where psychiatrists diagnose Michael as having post traumatic stress syndrome from extreme sexual abuse and neglect and that the child is extremely sexualized and potentially dangerous to other children. Acting on the hospital’s advice, Ms. Osborne took Michael for evaluation at The Center for Contextual Change in Skokie, Illinois. The child molester expert evaluated Michael and confirmed that his pre-sexualization occurred in Jamaica in the orphanages in which he lived. Based on the evaluation the expert advises that Michael will require a residential program which is specialized to treat sexually abusive and sexually aggressive youth. Further, he warns that Michael will require very close external supervision and no unsupervised contact with other youth or animals.

Jamaican psychiatrist Dr. Pauline Milbourn confirmed Michael’s sexual abuse:

Michael was sexually abused by adults in two children’s homes in which he lived and has learnt to survive in this setting by identifying with his aggressors; that is, he changed his position from that of victim to that of aggressor. His strategy involved doing unto others what was done to him. He performed acts of sexual intercourse with the vulnerable children and the available animals in the homes.

Dr. Milbourn reported that when asked how he became involved in sexual activity, Michael replied: “Big people did it with me then I did it with children and with dogs.”

In addition to the aggressive sexual behavior, Michael was illiterate, suffered from malnutrition, and had frequent nightmares and bed wetting episodes when he first started living with Ms. Osborne.

Ms. Osborne was completely devastated as her dream to “give something back” to her home country by providing a safe haven for a needy child quickly fell apart. She could not take care of a child who required intensive therapy and attention (something she told child services before beginning the adopting process). However, she still cared for Michael and shared a bond with him developed while he was in her care. A bond that the government of Jamaica is trying their best to break. Ms. Osborne has repeatedly been denied requests to see him, due mostly to the fact that she is the only one in the entire country that is intent on making sure that this child gets the medical and emotional help that he needs and those responsible for his condition are held accountable.

The Ministry of Health has banned Ms. Osborne from seeing Michael. This certainly is not in the best interest of the child. The UNICEF report clearly articulated the need for children deprived of a family environment to maintain as much contact with relatives as possible. Ties between children and relatives should not be severed. Instead, regular contact is highly encouraged. Denying Michael contact with Ms. Osborne is damaging to the child. The government is punishing them both and providing a great disservice to Michael.⁶

Child sexual abuse experts paint a grim picture of Michael’s future: he is likely to become a sociopath. It is warned that if he does not receive specialized treatment, he will progress to more severe and sexually aggressive behaviors. Because of his “severe pre-sexualization,” Michael will likely enter puberty years ahead of his peers. Moreover, with the onset of puberty when his hormones go into overdrive, he will likely be out of control sexually if treatment is not immediate and effective.

When Michael returned to Jamaica, he was to be placed in a foster home that houses two dogs and two children. This plan was aborted by the vigorous objection of the adoptive mother. He is put in a school unsupervised and travels alone. By disregarding expert advice and common sense, the government has put countless children and animals in prime position to be sexually attacked. He was allowed to go to school unsupervised and attacked young children there.

Health Minister John Junor was quoted as saying that Michael is “seeing a child psychologist and as far as the reports I have gotten, they feel he is progressing very well in terms of his health.”⁷ Minister Junor is quite misinformed. Although Michael has received some treatment, he was only visiting with a child psychologist monthly until recently when his schedule was changed to weekly. This is in stark contrast with the recommendations by both American and Jamaican child abuse experts warning that if Michael does not receive intense therapeutic intervention, his condition would worsen and threaten the safety of others. If such treatment program is not available, he should be placed in a treatment foster home that has no other children and receive intensive outpatient specialized treatment. If he doesn’t receive specialized treatment, he will

⁶ In a letter dated March 3, 2003 the Minister of Health John Junor’s Permanent Secretary denied Ms. Osborne’s request to see Michael.

⁷ Charmaine Clarke, “Places of Safety report by May”, *Jamaica Gleaner*. April 4, 2003.

progress to severe and sexually aggressive behaviors. Minister Junor knows exactly what kind of treatment Michael needs and the consequences of falling short. He cannot claim ignorance as the child molester expert's report explaining Michael's treatment needs was circulated among the Ministry of Health.

By failing to protect Michael and the children he comes in contact with from his learnt sexual aggressive behavior, the government of Jamaica is culpable.

B. 23 Child Sexual Abuse, Neglect, Maltreatment, and Endangerment Allegations

To prove to the government that Michael's severe sexual abuse was not an isolated case, Ms. Osborne compiled twenty-three allegations of child sexual abuse, neglect, maltreatment, and endangerment. Her report gathered anecdotal evidence of abuse at children's homes and places of safety. None of these allegations, some reported to home or school officials, others not, were ever reported to police. When children complain about sexual abuse, state agents arbitrarily move the children to another location; there is no recourse, justice or consequence for the abuser.

Jamaican authorities at all levels have shown little or no commitment to addressing the alleged abuse.

Commissioner of Police

Ms. Osborne submitted her documents with 23 Child Sexual Abuse, Neglect, Maltreatment, and Endangerment Allegations to the Commissioner of Police in December 2002. The document she gave to the commissioner contained real names, dates and details of allegations. Despite providing the Commissioner with this information, as far as we can ascertain, to this time there have been no further investigations or prosecutions arising from the matters drawn to his personal attention. The Commissioner has ultimate responsibility for the entire management of the Jamaican Constabulary Force and the conduct of all investigations. His failure to act on the information provided to him by Ms. Osborne is symptomatic of the disinterest of the Jamaican authorities in protecting children and prosecuting those responsible for violating their rights to protection and safety.

Director of Public Prosecutions

The Director of Public Prosecutions has ultimate and total responsibility under the Jamaican constitution for initiating prosecutions of persons who break the law. Ms. Osborne provided him in August 2002 with an audiotape of Michael Roberts naming his abusers at Pringle and at Reddies, and describing the nature of the abuses. When she revisited Mr. Pantry in December, she was told that investigations had not started. To this date, as far as we can ascertain, he has failed to initiate any investigation into the allegations contained in the audiotape and has further failed to initiate proceedings against any of the alleged offenders. His failure to act again shows the government's lack of commitment to end the practice of impunity.

C. Former Superintendent Confirms Widespread Abuse, Illicit Behavior

Dexter Jordan⁸ served as Superintendent of two children's homes and corroborates many of the incidences of abuse that Ms. Osborne listed. Mr. Jordan acknowledges that Jamaica's children's institutions are plagued with abuse, neglect, and mismanagement of funds. He has witnessed firsthand the lack of care and response to any allegations of abuse, mistreatment, or neglect. When Mr. Jordan raised concerns about the situation, he was looked down upon by superiors and co-workers and discouraged from pursuing the matter.

While at a Boys Home, Mr. Jordan became aware of abuse perpetrated by members of staff. When Mr. Jordan attempted to discipline the abuser, Mr. Jordan's job was threatened. In addition to the abuse perpetrated by staff, Mr. Jordan became aware of rampant homosexual activity among the boys in the home that was tolerated by staff. In response to Mr. Jordan's concerns, a high-ranking member of Children's Services told him, "You must remember this is a boy's home." Mr. Jordan reported the abuse and misuse of authority to Children's Services, the only result being a short one-time visit by an official of the department. Nothing came out of this visit. No reports were ever made to police.

Mr. Jordan resigned as Superintendent. In the fall of 1999 Mr. Jordan was hired as the assistant superintendent of one of the largest children's home in Jamaica. About two weeks after Mr. Jordan's arrival, a 16-year-old girl approached him and advised him that a staff member had raped her on two occasions and had assaulted others as well. Upon hearing this, Mr. Jordan approached staff members and verified the information that the child had told him. Apparently, the child had informed the Nurse of the abuse who in turn informed the home's superintendent. No police report was ever made.

Mr. Jordan had a meeting with the accused and the superintendent to discuss the allegations of abuse surrounding the gentleman. At the meeting Mr. Jordan was told that in early 1999 there was an investigation into the matter, resulting in a "trial" at which the head of Children's Services was present. In the end, it was 'determined' that the girl was lying. The practice of homes and POS conducting in-house "trials" to address allegations of abuse are unacceptable, as they do not address adequately the harm that is being done. The police should be alerted of the allegations as soon as they are made aware and an unbiased party should be brought in to investigate them.

Not long after the "trial" the person 'accused' of rape left the Children's Home. Mr. Jordan was alarmed to hear that another Children's Home was considering hiring the same person who had been accused of rape. Mr. Jordan informed the home of previous abuse allegations against this person. Despite his warnings, the person was hired anyway.

⁸ Name has been changed.

III. Inadequacy of State Response

A. Illicit Behavior and Inadequacies of Staff Widely Known

The Government of Jamaica, through its Children's Services Division, has known about this kind of illicit sexual behavior for years. Two boys were caught indulging in sexual acts and subsequently sent to different homes with no therapeutic intervention. "The system itself can...perpetuate deviant behaviors which it should be ameliorating. The absence of policies and care planning ensure that this situation continues."⁹ The UNICEF report made it clear in 1999 that staff who work in children's homes and places of safety must meet screened prior to employment to ensure they possess the skills and experience that is necessary to perform their job satisfactorily and, more importantly, have their backgrounds checked. "Certain individuals who appear to work out their personal pathology through the brutal subjugation and terror of powerless and defenseless children. Sometimes they use sexual abuse, sometimes physical and sometimes emotional abuse, sometimes all three. In spite of all endeavors to prevent it, such people occasionally manage to become appointed to childcare posts."¹⁰ Residential care institutions in Jamaica will also attract a particular type who will perpetuate these same unacceptable acts on children, if appointed and when opportunities present themselves.¹¹

The UNICEF report enumerated what needs to be done with regard to child abuse/protection measures within residential institutions in Jamaica. This included the need to demonstrate an awareness and acceptance that abuse can occur within any establishment (this obviously has not been implemented as the government continues to deny/ignore allegations of abuse that occur within the homes/POS) and to offer counseling and other therapeutic intervention and rehabilitation to all abused children. To show the complete disregard for this recommendation, look at Michael Roberts! He has been offered the most minimal amount of care and no rehabilitation and is put in situations daily that only worsen and intensify his extremely alarming and dangerous behavior.

The lack of clear policy and procedures to help ensure that children are protected from further abuse, and helped therapeutically, is extremely disconcerting. A recent report by the U.N. Committee on the Rights of the Child recommended the State to "take steps to monitor and address any incidence of violence and sexual or other abuse against children, and undertake measures to further ensure the rehabilitation of traumatized and victimized children."¹² Further, it stressed the need to make sure that perpetrators of violent acts are brought to justice and put an end to the practice of impunity.

⁹ UNICEF/GOJ, *Faces...* Pg. 42

¹⁰ *Id* at 43

¹¹ *Id* at 43

¹² UNHCR Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Jamaica*. June 6, 2003.

B. Apathetic State Action

International intervention is imperative. The Jamaican government has proved that it will not act on behalf of children in their care. Reports, analyses, and recommendations mean nothing if they are not put into force. Abused children need extra help, and perpetrators need to be held accountable – as do the people who put them in position to prey on children. But recommendations are useless if they are not implemented.

Controversy surrounding the recent appointment of a review committee to investigate children's homes and places of safety demonstrates the government's clear lack of commitment to real change. The review committee's report was initially due at the end of April but was pushed back to May. As of June 23, 2003, the report is still not ready. If the State were truly committed to an unbiased, fair, thorough investigation, it would not have appointed a committee made up of former children services administrators. Four years ago this kind of potential for a conflict of interest was noted in a UNICEF/GOJ¹³: "responsibility of the children's services division for the monitoring of its own institutions needs to be examined for its potential conflict. Despite this advisement, the government has appointed a committee with extremely biased members"¹⁴

The extremely slow progress of the Review Committee together with the inadequacies of the Terms of Reference produced by the review committee demonstrates the lack of commitment on the part of the GOJ to implement change. It illustrates the reluctance and disinclination of the government to truly make an effort to get to the bottom of the problems currently plaguing the childcare system. Four of the five terms of reference were almost identical to the Terms of Reference of the UNICEF investigative report in 1999. The recommendations of the UNICEF report are not yet implemented yet the government of Jamaica is studying the exact same issue again.

And the fifth term of reference, to ask the committee to research and tell them whether they should change the Children's Services Division of the Ministry of Health into an executive agency, was carried out prior to the report being made. The intention of the committee is designed to appease public opinion rather than investigate or come up with meaningful findings.

In its June 6th report, the U.N. Committee on the Rights of the Child urged the Jamaican government to "expedite the work of the reviewing committee and to take all necessary measures as a matter of urgency to improve the quality of care in children's homes and to protect children living in such homes against all forms of abuse."¹⁵

¹³ GOJ/UNICEF. *Faces of Residential Care in Jamaica*, 1999 and Children's Services Division, Ministry of Health.

¹⁴ See Appendix.

¹⁵ UNHCR Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Jamaica*. June 6, 2003.

IV. Recommendations

We offer the following recommendations concerning Michael Roberts:

- Provide him with intensive, thorough, indeterminate treatment and rehabilitation therapy
- Put in place a protective care plan that would allow no unsupervised contact with other youth or animals.
- Criminally prosecute the alleged abusers
- Ensure Ms. Osborne access to the child

We offer the following recommendations regarding the “23 Child Sexual Abuse, Neglect, and Maltreatment Allegations”:

- Provide counseling and therapeutic intervention for victims
- Hold perpetrators accountable (criminally or professionally)

Conclusion

Integrity and accountability must be returned to the childcare system in this country. It will require the infusion of a new culture of discipline, respect for the law, a zero tolerance for corruption, abuse, neglect, and a growing awareness of children’s needs. In short, it will take nothing short of tremendous courage and staunch political will, for the scope and depth of the problem is beyond imagination.¹⁶ We ask that the Special Rapporteur on the Rights of the Child for the InterAmerican Commission on Human Rights convey to the Commission the urgency and gravity of the dangers facing children in Children’s Homes and Places of Safety in Jamaica. We ask also that you convey to the Commission 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.

We remain yours respectfully
Jamaicans For Justice

Carolyn Gomes
Executive Director

¹⁶ Ronald Good, Mennonite Central Committee, *Presentation Before the Committee Investigating the Operations of Children’s Homes in Jamaica*, March 7, 2003.

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