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International  
Labour  
Organization

Assessment of  
Implementation and Enforcement Machinery  
to Combat Child Labour in JAMAICA

*SUMMARY REPORT*

**FEBRUARY 2010**

**International  
Programme on  
the Elimination  
of Child Labour  
(IPEC)**

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## Situation Analysis

Whereas the 2000 MOH Survey of Street and Working Children estimated a minimum of 6,500 street and working children across the island, mainly in urban townships and on fishing beaches, the 2002 STATIN Youth Activity Survey estimated the extent of Child Labour at 8,600, using the definition of children under 15 years, as prohibited by Jamaican law, working longer than a defined number of hours.<sup>1</sup> This latter survey, however, found a much larger incidence of youth involvement in economic activity, when using the definition of childhood as under 18 years of age, as accepted in the U.N. Convention on the Rights of the Child and the Jamaican Child Care and Protection Act (2004) – 16,240 during the census week and an even larger 26,400 reported being involved in economic activity at one time or another over the previous 12 months. The disparity between the two surveys is largely explained by the STATIN Survey's taking greater account of rural child labour (mainly in the forms of domestic and agricultural labour) and involvement of children in the formal economy.

Youth involvement in economic activity could exceed even the upper figure of 26,400, however, if one were to account for other subtle forms of child labour. For instance, UNICEF gives a Basic Indicator Statistic of 9,000 “child marriages”. This can only be a rough estimate of the number of young girls living with older men and providing sexual and domestic services (since the legal age of consent is 16). No attempt, to the best of my knowledge, has been made to estimate the number of “child soldiers”, especially boys, pressed into service in neighbourhood gangs led by criminal Dons to earn income through extortion, robbery and the drug trade.

Without accounting for these two hidden forms, when combining the two polls, the main groups/forms of child labour existing in Jamaica could be said to be the following, in order of importance:

- Street children (including market vendors);
- Commercial agricultural labourers;
- Domestic helpers (household and subsistence agricultural);
- Urban formal sector workers;
- Sexually exploited children.

The main causes of child labour, according to the MOH Survey<sup>2</sup>, are the following:

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<sup>1</sup> Children 5-11 years doing at least one hour of economic activity or 28 hours of domestic chores during the census week and children 12-17 years performing 14 hours of economic activity or 42 hours of economic activity and domestic work combined.

<sup>2</sup> Table 10.

- Urban and rural poverty 75% of Total
- Neglect and Domestic Abuse 18%;
- State of educational/child care facilities 5%;
- Peer pressure 2%.

In summary, the incidence of child labour in Jamaica, as legally defined, is relatively low for developing countries. However, at least 11.6% of 15-17 year-olds are involved in economic activity, usually of a hazardous, low-wage character. This results from a disjuncture between the maximum age limit at which basic education is provided – Grade 9, or about age 16 – and the age of adulthood. Those not able to access vocational training, high-school or tertiary educational opportunities are condemned to menial labour.

## Legislative Framework

The Child Care and Protection Act [2004] prohibits the employment of children below age 15 in economic activity, except for the involvement of 13-14 year-olds in prescribed occupations appropriate to their age and which is not hazardous, night work, industrial activity or any activity that interferes with the child's education and development, including begging on the street or in public places. A constable may enter any premises where child labour is suspected with a warrant from a JP, to investigate. An examination of the various pieces of legislation reveals that only the Child Care & Protection Act addresses in a comprehensive way the issue of child labour. The Education Act needs to be harmonised with the CCPA. It is presently being reviewed and updated in order to meet the changing educational needs of the evolving society. The passage of the Sexual Offences Act and the Child Pornography Act has resulted in the law's tackling children involved in the sex industry.

Jamaica has ratified the *Convention on the Rights of the Child* as well as several international instruments related to the trafficking of persons, the minimum age (ILO Convention 138) and worst forms of child labour (ILO Convention 182) and the human rights of women. However, the State of Jamaica has not yet ratified the *Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography*.

### Institutional and Policy Framework

A National Steering Committee on the Prevention and Elimination of Child Labour was appointed by the Minister of Labour in June, 2002 and a Child Labour Unit subsequently established in the Ministry of Labour to be responsible for administering the IPEC programme. The Steering Committee had seven meetings between June 2002 and November 2003. A comprehensive National Plan of Action was formulated in 2004 as a participatory exercise, involving two rounds of stakeholders' meetings. The IPEC programme came to an end in Jamaica at that point, however, and the Steering Committee ceased to function as the coordinating mechanism. A mechanism for facilitating the work of the under-resourced Child Labour Unit in implementing the Plan of Action, therefore, was never put in place and the Plan has been implemented in an ad hoc manner, if at all.

### Review of National Plan of Action

Following is an assessment of the fulfilment of a few of the planned activities in the NPA:

**Prepare Indigents' List** – This planned activity is being pursued by PATH and those working children who are attached to families are being placed on the roll of beneficiaries, through their parents. PATH's policy, however, precludes the registration of children with no parental guidance. A solution needs to be found at the community level, where community-based organisations (CBOs), including schools and churches, could substitute as surrogate

parents, responsible for fulfilling requirements of PATH, such as attendance at school or health clinic. This is necessary, especially in the case of street children, many of whom have escaped an abusive situation at home. It may require a Ministerial directive.

**Increase remedial educational opportunities** – This is being attempted in three urban centres by community-based organisations, with IPEC grants. The Ministry of Education/HEART initiative to provide remedial education, LEAP (Learning and Earning Activity Programme), presently operates only one centre, in downtown Kingston. This programme needs to be combined with the MOE’s new Capacity Advancement Programme (CAP) and replicated in schools, HEART skills training centres and community learning centres in the worst affected communities.

**Facilitate universal education** – Basic education in Jamaica is compulsory – i.e., up to Grade 9 – but there are problems with its enforcement, due largely to the financial circumstances of many parents and the absence of an adequate social safety net. Hence financial assistance to some parents of working children is presently being provided by PATH and nutrition for needy school-children is provided by Government and schools’ welfare programmes, as incentives for them to attend school. There are no Truant Officers provided to enforce compulsory attendance.

**Accelerate Social Safety Net programme** - The worsening of the economic and fiscal crisis in Jamaica both demands and makes more difficult the provision of social services to vulnerable groups, from the ranks of which come children involved in child labour. The Social Services budget has been uniformly cut by 20% in response to this crisis. As state funds dry up, voluntary community-based initiatives need to be substituted to mobilise the needed resources to prevent the escalation of child labour. A mechanism is required to facilitate the organisation of this community-based response.



## Institutional Capacity Assessment

Following is an assessment of the performance and capacity of some key agencies charged with implementation and enforcement of measures to combat child labour, among their other responsibilities.

**The Child Labour Unit** - is not equipped to carry out its regulatory functions on its own; it relies on other structures within the Ministry, particularly the Research Dept. and OSH Division, and on collaboration with other agencies and NGOs, particularly the government's child protection agencies. Provision has been made in the national budget to upgrade the unit and provide a staff of seven persons to allow a minimally acceptable level of performance of its mandate. These positions, however, have not been filled.

**CDA:** The core function of the CDA continues to be the operation of Children's Homes and Places of Safety, with a meagre capital budget. All the other departments, including the Policy, Planning & Evaluation Division, concerned with child development policy, have only a skeleton staff, comprising the respective Director and a secretarial assistant. The agency manages to carry out its developmental responsibilities at a commendable level of satisfaction and maintain a high public profile thanks largely to its activities to raise awareness about children's rights through various means, mainly through funding received from UNICEF, and its efforts to initiate, coordinate and streamline the operations of the various child protection agencies.

**OCA:** Any targeted enforcement of child labour laws that has taken place has been on the initiative of the OCA. Nevertheless, the only indication of cases of child labour reported and investigated by the OCA is the category "neglect/abandonment", amounting to 4.8% of cases. Child labourers would also be numbered, however, among those in need of care and protection (10%) and various forms of abuse (25%). Cases of child labour need to be disaggregated by the OCA and the Child Labour Unit informed.

**The OCR** - reports that in its two years of operation it has to date received not one case of child labour. This is a reflection both of the lack of sensitivity to the abusive nature of child labour among members of the public and persons mandated to report cases which they encounter in the course of their professional duties and of the need for the OCR to introduce methods of screening for cases of child labour. In addition to referring reported cases to the police and the CDA for investigation and follow-up remedial action, the OCR also needs to refer cases of child labour to the Ministry of Labour.

**The OSH Division of the MLSS** – is the authority charged with the responsibility and empowered to investigate breaches of the Factories Act, supposedly being replaced by the new Organisational Safety & Health (OSH) Act, covering a wider range of establishments and malpractices, including the employment of child labourers. The OSH Division is empowered to issue notices to offending establishments, including closure notices; seize equipment; ensure

prosecution of offenders or, in lieu of prosecution, levy fixed penalties on offenders breaching the OSH Act. As such, it is expected to be the key child labour enforcement agency. At present, the Division is unable to police those operations over which it presently has jurisdiction due to a woefully inadequate complement of Inspectors and general lack of resources. The greatest impediment to their effective enforcement of legislation prohibiting or limiting child labour, however, is the absence of legal authority due to continued delay in the passage of the long promised OSH Act.

**Police:** In the absence of the OSH Act, there can be no enforcement of (anti-) child labour regulations without the active involvement of the police. However, the experience has been that it is impossible for them to carry out this responsibility acting on their own in isolation from other regulatory agencies and private voluntary organisations, in particular, the MLSS and the CDA. The result is largely inaction on their part, despite a demonstrated concern by sections of the force, and consequently non-enforcement of these regulations – except when action is taken to make children wards of the state or they are removed from child labour through the charitable work of NGOs/PVOs.

#### **Intervention Programme Implementation Agencies:**

**Guidance & Counselling Unit, MOE:** The MOE both assists in monitoring children at risk as well as providing counselling for victims and channelling schools' welfare services to them. Members of the Unit point to the need for more resources outside of the usual MOE allocations to allow them to carry out more needs-based assessment of vulnerable children and to address the needs of these children and their parents. They recommend that the PATH benefits be channelled through the schools.

**HEART/NTA** – is best placed in terms of resources to be the lead agency in filling the gap in education between graduation from Junior High School and formal vocational training or the world of work. However, it would need to change its current entry requirements of a Grade 9 Achievement certificate and its minimum age limit of seventeen years for entry into the programme. The current HEART administration, in discussions with the Consultants, has displayed a willingness to make the necessary changes to accept this responsibility, in partnership with **JFLL** – which it assists in carrying out pre-vocational training in addition to its traditional literacy training function – and the Ministry of Education, working with community organisations and NGOs.

**The 4H movement** – has a long history of providing life skills training for children and young people, which allows them to start cottage industries, mainly of an agricultural nature. It comprises an island-wide network of clubs in over 600 schools and institutions as well as out-of-school and church clubs, led by volunteers (mainly teachers). There is a staff complement of 100 across the island, including trainers in each parish.

**PACT** – is the organisation that implemented the Uplifting Adolescents' Programme funded by USAID. It functions through its network of CBOs, to whom it provides training in community mobilisation skills to deliver programmes for which it receives funding. It lists an

impressive network of CBOs/NGOs among its membership, but its success in bringing them together in a sustained attempt at community development and transformation seems dependent on its ability to attract international donor funding.

**The Possibility Programme** – is an initiative of the Government to tackle the problem of street children in the KMA. It seeks to provide a structure for the coordinated delivery of services to this vulnerable group (mostly boys) by Government, NGOs and service clubs through an independent Board comprising representatives of agencies. It attempts an integrated response involving a Care Centre and youth hostel, run by the St. Andrew Parish Church, a remedial education, Skills Training and Employment Centre at the Kingston YMCA and summer camps run by the Jamaica Defence Force (JDF).

### **National Steering Committee and Inter-Agency Consultations**

The Consultation with former members of the currently non-functional National Steering Committee reviewed the National Plan of Action and made recommendations on improving implementation of specific items in that plan. The main recommendation of both this meeting and that held with 16 stakeholder-agencies was the setting up, or reactivation, of a national inter-agency committee to be responsible for coordinating the implementation of the National Plan of Action and for ensuring the monitoring and enforcement of regulations against child labour. Its membership should comprise a core group of a manageable size of the 30 or so key agencies identified by the Consultant.

### **Regional Consultations**

The primary need for the entire **Western Region** was identified as the need for a holding facility which can also serve as a half-way house. It was agreed that for the enforcement process to advance it was necessary to convene a meeting with the stakeholders in an attempt to form a committee to advocate on behalf of the children, with the first item of business being the provision of such a centre at the Government's Montpelier facility. It was found that Child Protection Committees are already operational in two of the Development Areas in Westmoreland and a similar programme for males existed in Hanover, both organised by the SDC, but these required a greater focus on child labour.

**Northern Region:** It was decided that a meeting should be convened by the Regional Director of the CDA to organise the launch of the Parish Child Protection Committees before the end of April. All persons in attendance at this Consultation should therefore reconvene either at the parish level or the regional level within three months and the list of invitees should be expanded for the respective parish meetings. They would begin by focussing on a planned programme of public sensitisation.

**Southern Region:** The Regional Director of the MLSS was mandated to round-robin with Directors of other key agencies to serve as a regional coordinating group to establish and coordinate parish Child Labour Committees. The group should seek to expand into becoming a Child Protection Committee, which would be able to provide a more holistic solution to children

at risk. The steps of an intervention strategy were also outlined. Finally, it was proposed that a concerted national campaign be organised to focus the nation on the problem of child labour during Child Month and Education Month (May) and June 12, when child labour is highlighted internationally. This should follow on the preparation of an unambiguous definition of “child labour” and a speakers’ brief by the MLSS. The Jamaica Teachers’ Association should be invited to be a partner and a common theme/slogan used jointly by them and child labour agencies.

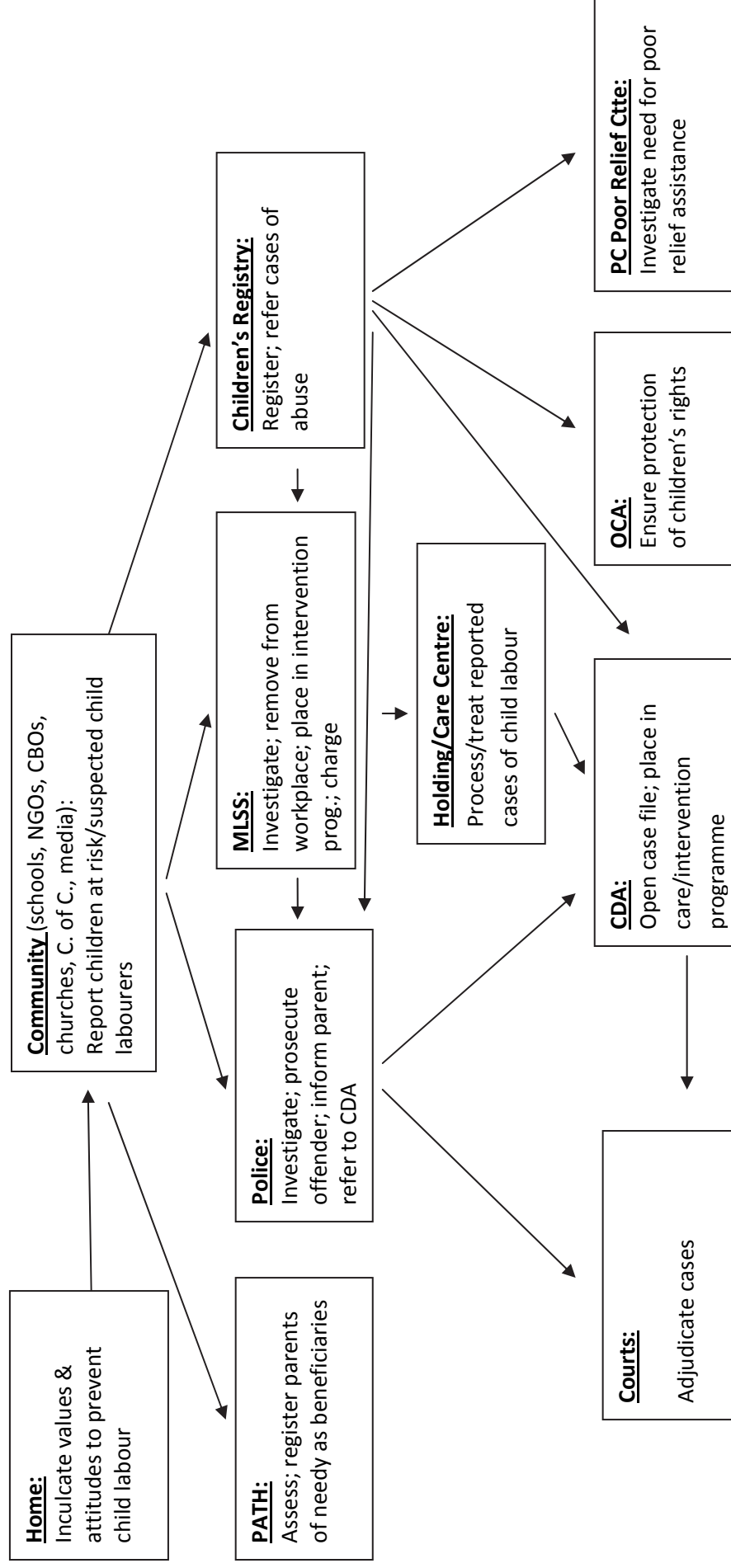
## Ground Level Mechanisms

The inter-agency consultation and all regional consultations focussed on refining two systems, represented in a process flow-chart and an organisational chart, respectively: the Monitoring & Enforcement system; and the Programmatic Intervention mechanism. The first charts the role of various groups, beginning with monitoring and reporting of suspected cases of child labour by the public, schools and other community-based institutions, to their investigation by the police and Children's Registry and possible prosecution of offenders by the former, referral by these bodies to the Court, to the CDA for counselling or placement in care and protection of the state, PATH and Parish Councils' Poor Relief Committees for possible receipt of social security benefits, or the Ministry of Labour for placement in an educational and economic intervention programme and imposing sanctions against their employers. All the above actors would exchange their reporting data and information from their case files so that there could be an integrated database at the regional and national levels.

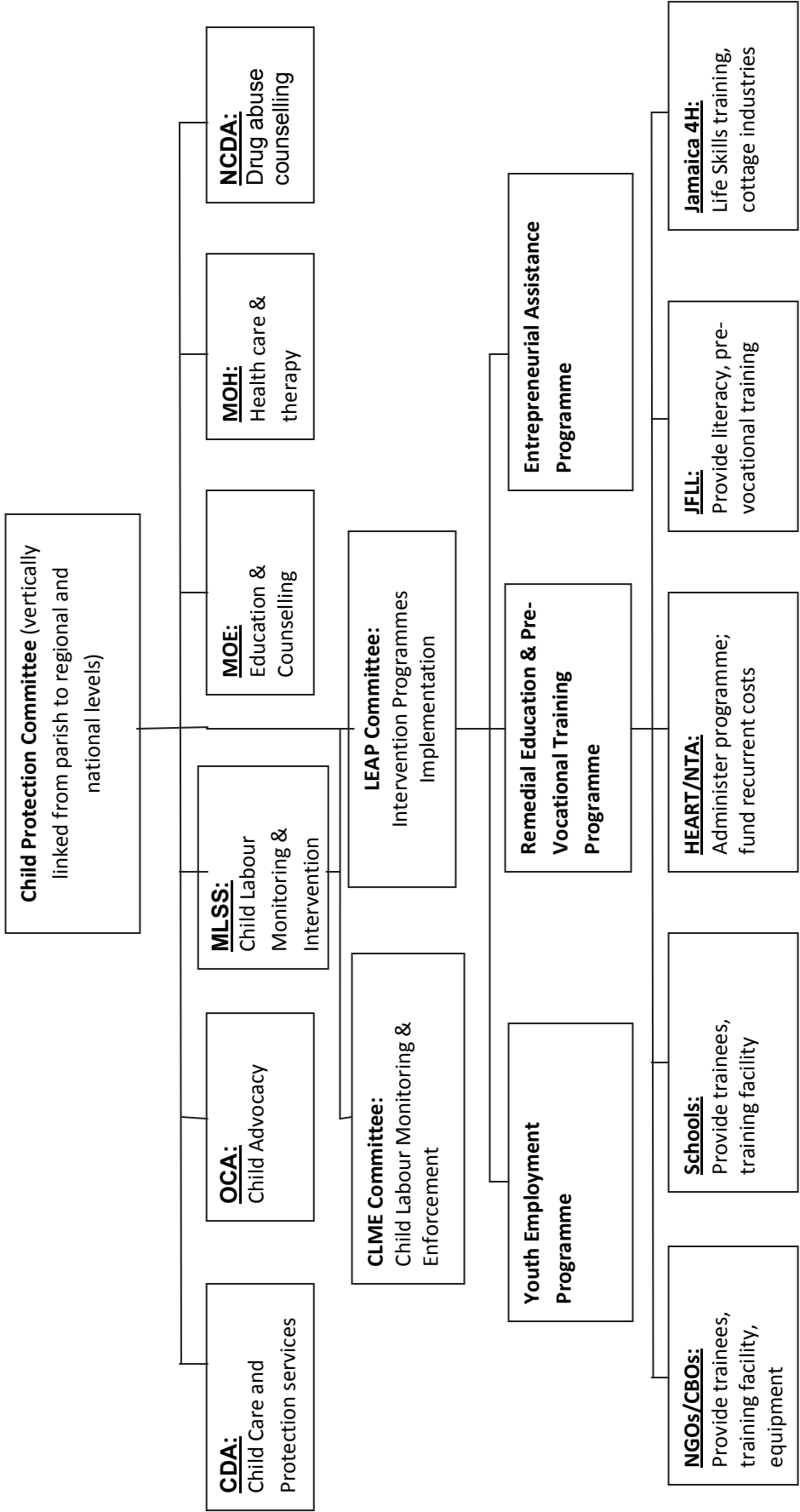
The second charts the ground level mechanism required to facilitate collaboration between all agencies and organisations involved in some aspect of child labour regulation. The consensus was that a Child Protection Committee should be set up at the parish level, in order to provide holistic solutions to children at risk and their families. In the absence of a Parish Child Protection Committee, however, a Parish Child Labour Committee would be established, to function as a subcommittee of the CPC after coming on stream. Regional CPCs would function as institutions for initiating and ensuring the continued functioning of the Parish CPCs, pooling their data on a quarterly basis through the Regional Offices of the Ministry of Labour and serving as a means of decentralising the operations of agencies like the CDA, OCA and OCR.

# 1. The Ground Level Implementation and Monitoring & Enforcement Mechanisms

## 1.1 The Monitoring & Enforcement Mechanism



**1.2 The Recommended Programmatic Intervention Mechanism**



## Summary of Recommendations

### I. Lay Groundwork for Enforcement

Lay the groundwork to establish a machinery for implementation and enforcement of child labour policies and laws to allow for the launch of a major offensive against child labour in May of 2010 (the start of the parliamentary year) and a significant reduction in child labour in Jamaica by the end of the calendar year. The elements of this groundwork include:

- An integrated database for monitoring child labour;
- The legislative framework to facilitate enforcement; and
- The policy and implementation framework to enable sustained action to prevent and combat child labour.

### II. Integrated Database

All governmental agencies receiving reports of children involved in child labour or at risk of such – the Office of the Children’s Registry, Office of the Children’s Advocate, Child Development Agency, Jamaica Constabulary Force, the Family and Juvenile Circuit Courts and the Organisational Safety & Health Division of the Ministry of Labour and Social Security, the PATH Programme and possibly the Ministry of Education – need to alter their respective reporting instruments to screen for child labour, enter all reports of suspected cases received, the results of their investigations and follow-up action taken in an electronic database located in the Ministry of Labour, and be given unrestricted access to this integrated database, which should have a separate file for each case of child labour. The database should also be broken down by MLSS region and parish to facilitate monitoring at the local level.

### III. Legislative Framework

- Harmonise all child labour laws with the Child Care and Protection Act and International Conventions. In particular, the minimum working age in the CCPA should not be lower than the age where attendance at school is compulsory under the Education Act, and where engagement in economic activity is permitted, working conditions should be prescribed for all age cohorts up to the legal age of adulthood.
- Include a clause in the Organisational Safety and Health Bill that speaks specifically to OSH Inspectors being responsible for enforcement of compliance with child labour laws and regulations by all workplaces, institutions and dwellings; this clause must be accompanied by a schedule outlining the



conditions where prescribed work is permitted at various stages below the age of adulthood.

- Ratify the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography.
- Enact the Organisational Safety and Health Bill in the course of the current parliamentary year, so that enforcement of child labour regulations can begin in earnest by May, the start of the new parliamentary year.

#### **IV. Policy & Implementation Framework**

- The Ministry of Labour & Social Security (MLSS), through its Advisory/Steering Committee, to complete draft and issue a policy declaration which states in unambiguous terms what constitutes child labour and what economic activity is permissible at various ages and under various circumstances.
- MLSS to complete preparation of a user-friendly handbook for professionals to assist them to observe and enforce child labour regulations.
- MLSS to prepare instructional material for teachers' colleges, social work departments of tertiary institutions, the police academy and other training institutions on the roots, impact, consequences, prevention and treatment of child labour.
- Launch a public education campaign to focus the attention of the nation on child labour during Child Month/Education Week, May 2010, with a catchy slogan that encapsulates the undesirability of this practice.
- Build the structures to facilitate implementation of the National Plan of Action on Child Labour at the national and ground levels, namely:
  - a) A national inter-agency coordinating committee;
  - b) Collaborative ground-level mechanisms to implement activities listed in the NPA under the following headings:
    - a. Social & Economic Support Services;
    - b. Health Services;
    - c. Public Information and Awareness;
    - d. Education.

#### **V. Measures to facilitate NPA implementation:**

- a) Channel PATH benefits to children not attached to parents or guardians through schools, NGO rehabilitative programmes or JLL programmes which they attend.

- b) Creatively combine the LEAP programme with the experimental CAP programme and replicate in communities with high levels of child labour or children at risk of engaging in child labour.
- c) Enforce compulsory attendance in school up to Grade 9 in school districts through a mechanism comprising Schools' Deans of Discipline, Guidance Counsellors and Schools' Resource Officers of the JCF, in the absence of Truant Officers.
- d) Take steps at the community level to supplement the social safety net for actual and potential child labourers through combining the benefits of the state's PATH Programme and School Feeding Programme and the welfare assistance programmes of the schools, their PTAs and alumni associations.
- e) Strictly enforce laws prohibiting child labour following introduction of above measures.

## **VI. Strengthen Capacity of Key Agencies**

- a) **Child Labour Unit** – Provide staff and recurrent budget approved in Estimates.
- b) **Child Protection Agencies (CDA, OCA, OCR)** – to establish regional presence to work with communities to carry out their respective mandates in all geographic areas where their services are needed.
- c) **Organisational Safety & Health Division, MLSS** – to be empowered to enforce regulations through passage of OSH Act, joint training and use of personnel from other agencies, viz. Labour Officers and Bureau of Standards Inspectors as OSH Inspectors, provided with supplemented income.
- d) **Jamaica Constabulary Force** – to receive on-the-job sensitisation and training on child labour enforcement.

## **VII. Build Ground Level Collaborative Structures**

In order for the above recommendations to be implemented in a programmatic way, it is necessary to institute the following structures at the parish level, beginning with a regional structure to initiate the parish structures and coordinate their activities:

- a) A Child Labour Monitoring & Enforcement (CLME) Committee – comprising field officers of all agencies sharing the integrated database on child labour.
- b) A LEAP Committee – to be responsible for planning and implementation of the Remedial Education & Training Programme through the establishment of care/training centres, the Youth Employment Programme and the Entrepreneurial Assistance Programme for children at risk and their families.
- c) A Child Protection Committee – comprising all governmental and non-governmental agencies concerned with the protection of children's rights, to provide a holistic approach to the problems affecting children at risk, including those engaging in child labour.

- d) At least one Holding Facility/Care Centre in each Ministry of Labour region for children reported as being suspected of involvement in child labour, while their cases are being processed and for the provision of services until they can be placed in more structured programmes or the formal educational/training system.