



ICCPR REVIEW OF HAITI: CHILD LABOR & SLAVERY

Haiti has been ranked second on a list of 162 countries with modern prevalence of slavery by a global slavery index, created by the Walk Free Foundation. One form of this abuse is child labor. As many as 300,000–500,000 Haitian children are domestic servants, which in many cases amounts to exploitation and modern slavery.

The term “restavèk” is given to children who come from poor, usually rural families that are sent to live and work as domestic servants in homes. In principle, placement of a restavèk involves a parent from a poor family turning over childrearing responsibility to another household to feed, house and educate the child in exchange for the child’s unpaid domestic service. Many restavèk children are exploited which creates a lasting effect on their education, health, mental wellbeing and overall development.

In our report previously filed on September 12, 2014 entitled *The Plight of Restavèk (Child Domestic Servants)*,¹ a typical day for restavèks may include ten to fourteen hours of arduous household chores, such as cooking, washing, and cleaning, with no compensation. Restavèks rise before the host family, and sleep after the host family goes to bed. Host families in need of such services rely on free child labor because they cannot afford to pay for domestic help. The problem is magnified in poorer neighborhoods; the largest slum in Port-au-Prince held the highest percentage of restavèk children with 40 percent of all children surveyed admitting they were restavèks, compared to the 16 percent of all Haitian children who self-identified as restavèks.

The Haitian Government’s Legal Obligations

Children in Haiti are guaranteed all of the rights under the ICCPR. Under the Haitian Constitution, international treaties, once ratified, become a part of the legislation of Haiti and abrogate any pre-existing, conflicting laws. Under ICCPR Article 1, the Government of Haiti is required to take measures to ensure that children have the right to self-determination. Under Article 3, the government must take measures to ensure that boys and girls have equal rights. Article 7 prohibits cruel, inhumane or degrading treatment of restavèk children. Article 8 prohibits slavery, servitude, and “forced or compulsory labour.” Article 26 guarantees equal protection under the law, and Article 24 specifically prohibits discrimination based on minor status, and requires that governments provide protective measures for children.

How Restavèk Servitude Violates Children’s Rights

Traditionally, restavèk placement has been a direct arrangement between the biological family and relatives to the host family. Children might even be recruited through an intermediary or “promoter.” These structured arrangements demonstrate that restavèk placement is not the child’s choice. Restavèk children have no right to self-determination (in terms of independence), and are forced into compulsory labor. Restavèk arrangements violate ICCPR Articles 1 and 8 which provide for rights to self-determination and prohibition of servitude. Although the Haitian government passed an Act in June 2003 that outlawed the placement of children into restavèk service and “All Forms of Abuse, Violence, Abusive or Degrading Treatment Against Children,” the Act does not outline any specific punishments and only generally alludes to the possibility of judicial action.

Restavèk servitude violates Article 7 by subjecting restavèk children to “cruel, inhuman or degrading treatment or punishment.” Many restavèk children do not receive proper care. Restavèks are often physically, emotionally, and sexually abused by their host parents. They are often malnourished when compared to the average Haitian child. Additionally, strenuous physical labor at a young age severely stunts a child’s cognitive development. Without time to play, a restavèk child’s cognitive development often falls short of expected growth. These circumstances are often worse for restavèk girls, who comprise two-thirds of the restavèk population. Restavèk girls are particularly vulnerable to the sexual abuse of host-family males.

Laws are only as powerful as a government’s ability to enforce them. While Haitian law outlaws the practice of restavèk, enforcement is almost non-existent. Haiti’s weak justice system stems in part from a lack of political will to oversee law

enforcement procedures. Poor women and children are particularly marginalized by the limited access to the justice system due to deep-rooted gender discrimination and the added economic disfranchisement they face. The result is that the administrators of justice at all levels of the judiciary do not consider incidents of violence against women and children as a priority, and do not take these claims seriously. This lack of enforcement violates the ICCPR—specifically Articles 3, 24, and 26, which mandate that women and children have equal protection under the law. Although enforcement is complicated, more is required from the Haitian government. ICCPR General Comments No. 3 and No. 4 emphasize the need for the government to go beyond enacting legislation in order to fulfill its ICCPR obligations. More specifically, General Comment No. 17 to ICCPR Article 24 indicates that a State Party to the Covenant may take “economic, social, and cultural” measures to ensure that individuals are able to fully enjoy their rights. Not only is the government charged with protecting children, but also with supporting families in “creat[ing] conditions to promote the harmonious development of the child’s personality and [their] enjoyment of the rights recognized in the Covenant.”

RECOMMENDATIONS

- 1) The Government of Haiti should take affirmative steps to improve its own capacity to enforce Haitian law against *restavèks*. Such measures should include:
 - a) Investigating and pursuing accountability in instances of abuse, mistreatment, or neglect of *restavèk* children.
 - b) Strengthening the institutions of Ministry of Social Affairs’ Institute for Social Well Being and Research (IBESR), the Brigade for the Protection of Minors (BPM) and the Ombudsman Office (Office de la Protection du Citoyen, OPC) through provision of sustained and long term finance, additional human resources, and training and expert technical support. These measures could ensure that international child protection standards are incorporated into government methodologies.
 - c) Adopting new training methods to teach Haitian law enforcement (police, prosecutors and judges) about *restavèk* issues and how to respond to victims of violence.
 - d) Increasing resources to move *restavèk* children home or into quality long-term care.
 - e) Resourcing and prioritizing family reunification of former *restavèk* when appropriate, or moving children into quality long-term care.
- 2) The Government of Haiti should take affirmative steps to develop a plan of action, in consultation with civil society organizations, to address the systemic poverty that perpetuates the need for families to send their children away. Strategies for such a plan should include:
 - a) A national public school system that makes primary and secondary education mandatory and accessible to all children in both urban and rural areas.
 - b) Creation of a public information campaign to change the Haitian perspective on *restavèk* to viewing the practice as an illegal and morally unacceptable form of child slavery.
 - c) Job creation for Haitian adults to reduce extreme levels of poverty.
 - d) Such measures should include the mobilization of *restavèks* and their families, and their inclusion and consultation in the policy formulation and design of public information campaigns and other policy measures.

QUESTIONS

- 1) What has the Haitian government done to prohibit the exploitation of child labor as mandated by the Haitian Labor Code and Haiti’s treaty obligations?
- 2) What steps, if any, has the Haitian government taken to implement the 2009 recommendations by the Special Rapporteur on Contemporary Forms of Slavery to: establish a national commission on children, with special attention paid to vulnerable children, to monitor and ensure protection of their rights, and to launch a public information and sensitization campaign on child slavery and bondage, in particular the practice of *restavèk*?
- 3) What progress has been made in establishing a registration system for all children born in Haiti to aid in the reunification of children with biological parents when they become separated, and to aid in the prevention of trafficking?
- 4) What steps has the Haitian Government taken to combat the root causes of *restavèk*, in particular improvements to the water infrastructure, development of a national public school system, and the creation of job programs for biological and host parents?
- 5) What steps, if any, has Haiti taken to ensure that all children, including *restavèks*, attend free primary school?

¹ *The Plight of Restavèk (Child Domestic Servants)*, Institute for Justice and Democracy in Haiti *et al.*, Submission for the 112th Session of the United Nations Human Rights Committee, October 8 & 9, 2014 (Sept. 12, 2014) *available at* http://www.ijdh.org/wp-content/uploads/2014/09/HRC_Restavek-Sept-12.pdf.