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Despite Haiti Abolishing Slavery, Why is The Restavek System Still in Place?

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Table of Contents

CHAPTER	PAGE
ABSTRACT	3
CHAPTER I – INTRODUCTION	5
CHAPTER II – Origin of the Restavek Practice	9
CHAPTER III – Social and Political Context in Haiti	12
CHAPTER IV – History of Education in Haiti	20
CHAPTER V – Methodology, and Literature Review	25
Slavery Theoretical Framework	29
Defining Child Domestic Work in the Context of Child Labor	32
What is the Haitian Government doing for the Restaveks?.....	34
Literature Review	42
CHAPTER VI – Analysis of the issue from a Human Rights Perspective	48
Article 19 of the CRC (Protection from all forms of violence)	49
Article 28 of the CRC (Right to Education)	53
Article 32 of the CRC (Child Labor)	56
CHAPTER VII – CONCLUSION AND RECOMMENDATIONS	59
REFERENCES	61

Abstract

In the mass media, Haiti is frequently intertwined with political instability, natural disasters, the United Nations, and non-governmental organizations. The aftermath in 2010 following the Earthquake prompted Haiti towards further international media attention, and people began to think about how many of those children had possibly become orphans. Nowadays, the public feels about the lack of education and the scarcity of funds there are to support these children. However, the restavek children remain in the shadows.

It is hard to determine the exact number of children employed as domestic workers given the hidden nature of the practice. We know that child labor and slavery are considered among the most common forms of child exploitation present today. Nevertheless, not enough attention is devoted to it. Domestic work is directly related to poverty, and demographic factors push individuals and families from rural areas to send their children to other regions hoping to give them a better lifestyle and education. Other factors such as cultural practices, discrimination against girls, the lack of legal protection, social permeability, and the lack of educational alternatives, are some of the features that contribute to the persistence of this ongoing issue in the world and more specifically, to Haiti. All these elements have a negative impact on the development of childhood and adolescence; an adverse effect on the development of Haitian children influences the future of the country itself.

The primary objective of this research is to gain a better understanding of the current restavek situation in Haiti and understand why the restavek system has been able to prevail. This thesis examines the origin of the restavek practice itself, and it explores the social and political past of the country to put the reader in context and assess the situations that have led the country to its current state. Education plays a crucial role in the shaping of a community,

and thus why it is essential to consider the history of education in Haiti. Kevin Bales theory of Modern Day Slavery is used to assess the restavek system as a slavery system. Child domestic work is defined according to the International Labor Organization and in the context of Child Labor to compare it to the restavek system. Following this, we evaluate whether the Haitian government is doing anything for the restaveks and if so, what is it that they are doing. Then, the restavek system is analyzed from a human rights perspective, as a violation of Articles 19, 28, and 32 of the Children's Rights Convention. Lastly, this thesis offers a few recommendations to end the restavek system in Haiti; abolish slavery in the country.

Chapter I: **Introduction**

Over three-quarters of the Haitian population (77%) live in poverty, with less than USD 2 per person per day, and more than half (56%) are affected by extreme poverty, with an income of less than USD\$ 1 per day.¹

The country is characterized by profound inequalities, which affect 80% of the populations' access to services and means of production.² Privatization of the essential services is another critical factor in Haiti, as more than 60% of the population does not have access to energy. Just fewer than four out of ten households in the country (38%) have electricity, 85% located in the capital, 55% in other cities, and only 15% in the rural area.³ Education services are just as inefficient and inaccessible. The majority, 90% of the services, are administered by the private sector. Nearly eight children (between the ages 6 to 11, with no disparity between boys and girls) out of ten (77%) attend primary school.⁴ According to the Institute Haitien de Statistique et d'Informatique (IHSI), (Haitian Institute of Statistics and Informatics) consensus in 2003, illiteracy among people aged 10 and over is at 61%.

Given its geographical location, Haiti is also vulnerable to natural disasters, including earthquakes, hurricanes, floods, and droughts, a vulnerability that is increased by the environmental degradation caused by deforestation. These natural disasters, especially the earthquake that took place in January 2010, have exacerbated and will continue to aggravate the socio-economic difficulties the country faces. Constant foreign intervention has turned

¹"Haiti Project Document," United Nations Development Programme, accessed December 5, 2018, https://info.undp.org/docs/pdc/Documents/HTI/PID_90545_EBA_PRODUC_2015.pdf

²"UNICEF Annual Report 2012 for Haiti Oxfam and UNICEF," UNICEF, accessed November 12, 2018, https://www.unicef.org/about/annualreport/files/Haiti_COAR_2012.pdf

³"Enquete Mortalite, Morbidite, et Utilisation des Services EMMUS-V," Ministere de la Sante Publique et de la Population (MSPP), accessed September 20, 2018, <https://mspp.gouv.ht/site/downloads/EMMUS%20V%20document%20final.pdf>

⁴Ibid.

Haiti as the first black republic that has been continuously struggling to emerge from poverty and independence.

In Haiti, the general situation of children is far from satisfactory. Parents with profound economic difficulties give their children away as a mean of coping with their poverty. These parents see child placements as an opportunity for social mobility for their family and their child. For years now, the rural populations have believed that sending their child to work as a domestic servant in the urban city will at least increase the opportunities of their child welfare. Including access to education and other public services, which they would not be able to access if they remained in the impoverished family home in the rural area with no chance for advancement⁵since Haiti has a centralized structure with most schools and industries concentrated in the metropolitan area of Port-au-Prince.

According to a recent study conducted by the International Labor Organization (ILO), UNICEF, the Haitian Ministry of Social Affairs, and the Institute of Social Welfare and Research (IBESR), one in four children does not live with their biological parents. 22% of children separated from their parents live with extended relatives, and 207,000 children under the age of 15 work more than 14 hours per week in unacceptable situations.⁶ Their working conditions include long working days on household chores with low or most commonly, inexistent salaries, sometimes rewarded by food and housing; while also being exposed to psychological, physical, and sexual abuse from household members. They also experience social and family marginalization and deprivation from the right to education or

⁵Timothy Janak, "Haiti's 'Restavek' Slave Children: Difficult Choice, Difficult Lives . . . Yet . . . Lespwa Fe Viv" *International Journal of Children's* 8 (2000): 321-326.

⁶ "UNICEF Aids Restavek Victims of Abuse and Exploitation in Haiti," UNICEF, accessed May 5, 2018, https://www.unicef.org/protection/haiti_61518.html

recreation.⁷ These children are often described by the term ‘restavek,’ which comes from the Creole, ‘to stay with.’⁸ A restavek generally works ten to fourteen hours a day without compensation.⁹ A restavek wakes up before the host family and goes to bed after the entire household has gone to sleep. Among the chores they perform, they have to bring the water to the house each day and complete all the household duties, which include but are not limited to cooking, cleaning, and washing. Restaveks are also in charge of walking her host parents’ children to and from school.¹⁰

The vast amount of vulnerable children and the country’s particular historical context has led the nation to establish the phenomenon known as the ‘restavek’ system.

Haiti is a party member of the Universal Declaration on Human Rights (UHDR), the Convention on the Rights of the Child (CRC), has ratified the ILO Convention 182 concerning the immediate action for the Elimination of the Worst Forms of Child Labor, the ILO Convention 138 concerning the minimum age, and has signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Prostitution and Child Pornography.¹¹ Despite Haiti’s ratification of all these conventions, which prohibit child slavery and servitude, and aim to provide the right to education and the right to be free from degrading and inhumane treatment, these conditions are present through the restavek system in Haiti. Furthermore, Article 335 of the Haitian labor code prohibits the employment of

⁷ Tone Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report.” Fafo, accessed February 8, 2018, www.fafo.no/index.php/nb/zoo-publikasjoner/fafo-rapporter/item/child-fosterage-and-child-domestic-work-in-haiti-in-2014-analytical-report.

⁸ Ibid.

⁹ “Haiti,” United States Department of Labor Bureau of International Labor Affairs, accessed June 10, 2018,

<http://www.dol.gov/ilab/media/reports/iclp/Advancing1/html/haiti.html>.

¹⁰ Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report,” 48.

¹¹ “Status of Ratification Interactive Dashboard,” OHCHR, accessed April 10, 2018, <http://indicators.ohchr.org/>

minors below the age of fifteen.¹² Moreover, in June 2003 Haiti passed an act that outlawed the placement of children into restavek service, and the abuse and maltreatment of children in general.¹³ Nevertheless, children continue to be mistreated, and the restavek system prevails.

The primary goal of this research is to understand why even though Haiti was the first nation in the world to abolish slavery, why a system like the restavek, which has been internationally recognized as a form of modern slavery, has been able to prevail. *What factors are present in the Haitian government and economy that allows the restavek problem to survive and even thrive?*

¹²“Haiti Findings on the Worst Forms of Child Labor,” United States Department of Labor’s Bureau of International Labor Affairs, accessed April 20, 2018, <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Haiti2016.pdf>

¹³Ibid.

Chapter II: **Origin of the Restavek practice**

Anti-Slavery International stated before the Working Group on Contemporary Forms of Slavery of the UN Sub-Commission on the Promotion and Protection of Human Rights, 27th Session in Geneva in May 2002, that “in its experience, the practice of restavek in Haiti constitutes one of the worst and most widespread manifestations of domestic child servitude to be found anywhere in the world.”¹⁴ The Minnesota Lawyers Committee, one of the first international actors to contribute to the discourse on restavek, considers the practice to be “a serious human rights issue that violated a number of international legal conventions.”¹⁵ Despite the seriousness of the situation, the Haitian Government has remained rather passive and has not made any real commitment to put an end to the exploitation of children in the country. The government dismisses the situation alleging that the restavek system is “so integrated in Haiti that too many people do not even know that they are breaking the law.”¹⁶ Parents desire to give their children a “better life,” mostly translates into a situation of child labor and exploitation – a violation of children's rights.

¹⁴Sylvain Vite, “Report on the Implementation of the Convention on the Rights of the Child by the Republic of Haiti,” (Geneva, 2002): 10,
<http://www.omct.org/files/2001/11/1155/haitichildren2002.pdf>

¹⁵Leslie Anderson, Kinnunen Zara Kivi, and Kelly J. Edmund, “Restavek: Child Domestic Labor in Haiti: A Report of the Minnesota Lawyers International Human Rights Committee.” *Report*, no.1 (Minneapolis, MN, 1990): 3.

¹⁶Sarah J. Breyer “Using the Organization of American States to End the Abuse of Restaveks,” *The Columbia Human Rights Law Review*, accessed September 29, 2018,
<http://hrlr.law.columbia.edu/files/2018/01/SarahJBreyerUsingtheOrgan.pdf>

The word *restavek* appears in two different forms in literature 'restavec' from the French "rester avec," and 'restavek' from the Creole version, which both mean to 'stay with.' For this thesis 'restavek' will be employed, unless taken from a direct quotation.

In the Creole language, there are many terms used to refer to children in domesticity, which are indicative of how widespread the practice is in Haiti, and how these children are perceived. *Timoun ki ret ak moun* – children who stay with people; *ti domestic* – little domestic; *timoun kay madanm* – children at Lady's home; *timoun k ap travay kay moun* – children working for people; *timoun kay moun* – children at a person's house; and lastly *restavek* – 'stay with.' The term *restavek* has been identified as a negative connotation, meaning "just a child staying with us, not a part of the family."¹⁷ The practice of child labor dates back to the French colonial era where under the legal decree, children of female slaves could be enslaved as long as their owner provided them with religious instructions and sufficient food and clothing.¹⁸ Just as the *restaveks*, child slaves during the colonial period performed light work in the fields or household tasks. The Haitian government presented such argument during the UN working group meeting on Contemporary Forms of Slavery in 2000, addressing the *restaveks* as "a heritage of the colonial era."¹⁹

Initially, the *restavek* system was built on hospitality. When Haitian parents experienced financial difficulties, they would send their children to wealthier distant relatives to raise their children as their own. Sending their children away gave parents hope that they

¹⁷Rhacel Salazar Parreñas, Maria Cecilia Hwang, and Heather Ruth Lee, "What is Human Trafficking A Review Essay," University of Chicago Press, accessed April 20, 2018, <https://www.eui.eu/Documents/MWP/ProgramActivities/2016-2017/masterclasses/Parrenas-1.pdf>

¹⁸Junius Rodriguez, *Slavery in the Modern World: A History of Political, Social, and Economic Oppression* (ABC-CLIO, 2011), 316-317.

¹⁹Claude E. Welch, Jr. "Defining Contemporary Forms of Slavery: Updating a Venerable NGO," *Human Rights Quarterly*, 31, no.1 (February 2009): 75-76, <https://www.jstor.org/stable/20486738>

would receive an education and thus be able to achieve a more prosperous future.²⁰ However, the current poor state of the country has led this practice to evolve negatively, and host families have shifted from caretakers to exploiters. As Sarah Breyer highlights in *Using the Organization of American States to End the Abuse of Restaveks*, “the shift in motivation from caretaker to exploiter is further enhanced by the change in the status of families acquiring these children; wealth is no longer a requirement to be a restavek host.”²¹ Haitians are additionally motivated to exploit their restaveks because of what it represents socially to host a restavek; their social status rises. This shift results in host families inflicting both psychological and physical traumas, violating restavek children’s rights.

²⁰Breyer, “Using the Organization of American States to End the Abuse of Restaveks.” 150.

²¹*Ibid.*, 151.

Chapter III: Social and Political Context in Haiti

To understand the current situation in Haiti, we must consider the country's social and political past. Haiti's history is fascinating and incredibly rich. Through the revolt of 1791 to 1804, the country became the first colony to fight for their independence, thus becoming the first black republic in the world.²² Haiti plummeted from being the “world’s richest colony” to the “poorest country in the western hemisphere.” *So, what made this happen? How come, despite all the efforts to become independent, currently U.N. forces and another series of NGOs still occupy the country? Despite abolishing slavery, how is the restavek system still in place?* There are three official answers to these questions. Few argue that it is due to the ‘Haitian mentality’ that the country remains underdeveloped; another set argues that the nation has been the victim of its leaders, a “kleptocracy”; and last but not least, the third answer blames the foreign powers for the destruction of the country.²³ Several experts blame the Haitian culture, specifically “voodoo” as the source of all the evils in the country.²⁴ Others such as Robert Jr. Heinl, who served as the principal U.S. defense adviser to the Haitian government from 1958 to 1963,²⁵ and his wife Nancy G. Heinl, in their book *Written in Blood: The Story of the Haitian People, 1492-1995*, have identified a “culture of violence”

²² Mark Schuller, "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," *Institute of Caribbean Studies*, (June 2007): 141, <https://www.jstor.org/stable/25613094>.

²³ *Ibid.*, 143.

²⁴ Michel-Rolph Trouillot, "Haiti's Nightmare and the Lessons of History," *NACLA Report on the Americas XXVII*, accessed October 20, 2018, https://nacla.org/sites/default/files/articles/A02704048_1.pdf.

²⁵ "Historian and Journalist Col. Robert D. Heinl Dies," *The Washington Post*, accessed December 27, 2018, https://www.washingtonpost.com/archive/local/1979/05/07/historian-and-journalist-col-robert-d-heinl-dies/aa986ac7-309a-4047-a2a3-0f2468852da7/?noredirect=on&utm_term=.574e659acfb1

in Haiti as the obstacle to progress.²⁶ Mark Schuller in his article *Haiti's 200-Year Menage-a-trois: Globalization, the State, and Civil Society* argues that Haiti's trajectory is a result of either global/international forces or actions of a predatory state. Schuller also highlights the importance of tracking and analyzing foreign powers, the Haitian state, and Haiti's people to understand the country's history.²⁷ Furthermore, Schuller claims that the Haitian people's future is hopelessly expressed by the phrase, "*se pa fot mwen*" (it's not my fault).²⁸ The latter recognizes Haitian lack of sense of responsibility and a sense of civic consciousness as the causes for the nations' failure.

Commonly, history and knowledge of Haiti have been constructed through the stereotypes of Haiti being "African," with strong racial ideologies shaped by slavery; and also denoting it as the culture that resists to "development," or change.²⁹ Nevertheless, it is indisputable that Haiti played a crucial strategic role in the Caribbean region towards emancipation, just as the Bahamian Prime Minister, Perry Christie, among other leaders of CARICOM pointed out.³⁰

To achieve a better understanding scope of Haiti's history, we must also see it from the Haitian perspective of storytelling. In Creole, *itswa* is the word used for both "history,"

²⁶ Robert D. Heinl Jr and Nancy G. Heinl, *Written in Blood: The Story of the Haitian People, 1492-1995* (University Press of America, 1996), 60.

²⁷ Schuller, "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," 141.

²⁸ *Ibid.*, 144.

²⁹ Laurent Dubois, *Avengers of the New World: The Story of the Haitian Revolution* (Cambridge, MA: Harvard University Press, 2004), 172.

³⁰ Dubois, *Avengers of the New World: The Story of the Haitian Revolution*, 180.

and “story.”³¹ As previously mentioned, Schuller argues, that there are two significant narratives to Haiti's history: “that Haiti’s trajectory is a result of either global/international forces or a predatory state.”³² Schuller identifies movements of non-elite actors within the Haitian society, as the third and less prominent narrative.³³

While considering the “globalist” perspective, Schuller provides an excellent framework to understand the series of events that had shaped Haitian history since 1492 when Christopher Columbus discovered the Americas. Funded by the Spanish crown, Columbus reached the island of La Hispaniola, what today is known as Haiti and the Dominican Republic. Haiti, also known as ‘Ayiti’ in Creole, remained under Spanish rule until 1695, when through the Treaty of Ryswick France acquired the legal right of Saint-Domingue.³⁴ The land was extremely fertile, hence why France’s new territory became their most lucrative colony during the 18th century; holding world records on the production of coffee and sugar.³⁵ However, “the system of plantation monoculture and clean-cultivation between rows of coffee, indo, tobacco, and sugarcane exhausted soil nutrients and led to rapid erosion.”³⁶ The environmental degradation began with the fight for conquest between the French and the Spanish when they burnt each other's properties and conducted raids. During this period, the French maintained their colony under extreme brutality and mills were operated all day long. Hence, while production increased during this time, free blacks’ and mulattos’ discontent

³¹Beverly Bell, *Walking on Fire: Haitian Women’s Stories of Survival and Resistance* (Ithaca, NY: Cornell University Press, 2001), 63.

³²Schuller, “Haiti’s 200-Year Menage-a-Trois: Globalization, the State, and Civil Society,” 145.

³³Ibid.

³⁴James Cyril Lionel Robert, *The Black Jacobins; Toussaint L'Ouverture and the San Domingo Revolution* (New York: Vintage Books, 1963), 199.

³⁵Robert, *The Black Jacobins; Toussaint L'Ouverture and the San Domingo Revolution*, 205.

³⁶Nathan C. McClintock, “Agroforestry and Sustainable Resource Conservation in Haiti: A Case Study,” accessed November 16, 2018,

<https://projects.ncsu.edu/project/cnrint/Agro/PDFfiles/HaitiCaseStudy041903.pdf>

also began to rise. The destruction of properties and land, with the burning of wood for charcoal,³⁷ was exacerbated during the 12-year slave revolution, which began in 1791 and resulted in the establishment of Haiti.³⁸ Despite slaves' discontentment, it was not until January 1, 1804, and the series of bloody revolts, that Haiti was born.³⁹

Although Haitians had achieved their independence, countries such as France and the U.S refused to recognize Haiti and imposed sanctions upon it, to prevent other colonies from rebelling. For example, in 1825 the U.S. kept Haiti out of an inter-American system. In the same year, France finally recognized Haiti as an independent nation through a treaty that required the country to pay an indemnity of 150 million francs to compensate for slave-owners for their losses. France thus embedded Haiti into a debt that required up to 80% of their customs revenue to pay it off. It was not until 1922 that the American banks refinanced Haiti.⁴⁰ These facts are evidence that the current socio-economic condition of Haiti is embedded in the colonial practices.

Despite obtaining independence, Haiti was kept under foreign control for several years. U.S. occupation in Haiti lasted 19 years starting in July 1915. During the stay, President Roosevelt brought about a new constitution to the country, identified French as the language of the elite, opened up Haitian lands for private and foreign ownership, and managed to ship Haiti's gold reserves back to New York. Not only did the U.S. take all of

³⁷James Fairhead and Melissa Leach, "False Forest History, Complicit Social Analysis: Rethinking Some West African Environmental Narratives," Pergamon, accessed October 15, 2018, http://www.inscipa.com/wp-content/uploads/2010/12/fairhead_1995_deforestation.pdf

³⁸Thomas Reinhardt, "200 Years of Forgetting: Hushing up the Haitian Revolution," *Journal of Black Studies*, 35, no.4 (March 2005): 246, <https://www.jstor.org/stable/40027220>

³⁹Schuller, "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," 148.

⁴⁰*Ibid.*, 149.

the country's natural resources and wealth, but the U.S. Marines also shredded blood across the Haitian territory by eliminating any possible opposition (the Kakos).⁴¹

It was not until 1948 when the United Nations had planned a 6-week mission to Haiti that the country began to receive some aid. During the 6-week mission, the UN provided the blueprint for international development assistance, including specific policy actions.⁴² Following the design, several significant international development institutions such as USAID, the World Bank, and the IDB, donated hundreds of millions of dollars for funding.⁴³

Even though the UN's intervention brought funding and international attention to Haiti, the Cold War played a vital role in the emergence of François Duvalier's dictatorship, which then lasted 29 years.⁴⁴ As Robert F. Wagner Jr. points out in his article, *The Duvalier Regime*, what was astounding about Duvalier's administration was not the presence of corruption, as he argues, "most of Haiti's government had been corrupt, but rather the degree of corruption."⁴⁵ During Duvalier's dictatorship, Haiti's situation deteriorated not only due to the tyranny but also due to Duvalier's failure to eliminate foreign presence in the country like the U.S. government's. Given that as Wagner reminds us, Duvalier had called for the elimination of Haiti's economic and cultural dependence on the United States and the establishment of a bond between Haiti and Africa.⁴⁶ Not only did the U.S. government starve Haitian peasants, but also killed Haitian pigs and replaced them with American pink pigs –

⁴¹Mary A. Renda, "Haiti's Appeal," *Taking Haiti: Military Occupation and the Culture of U.S. Imperialism, 1915-1940* (Chapel Hill: University of North Carolina Press, 2001), 186-187.

⁴²United Nations, *Mission to Haiti: report of the United Nations Mission of Technical Assistance to the Republic of Haiti* (Lake Success, N.Y., 1949)

⁴³Schuller, "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," 150.

⁴⁴Ibid.

⁴⁵Robert F. Wagner Jr, "The Duvalier Regime," *The Harvard Crimson*, June 3, 1963, <https://www.thecrimson.com/article/1963/6/3/the-duvalier-regime-paccording-to-haitis/>

⁴⁶Wagner Jr, "The Duvalier Regime."

which led to Haiti's "great stock market crash."⁴⁷ The stock market crash played a role in the people's uprising against the Duvalier regime, and by 1986 the U.S. government drove Duvalier out of power and set up an interim government, consisting in a coalition of military leaders (CNG) led by Henri Namphy.⁴⁸ Once in power, the CNG allowed the U.S. government to take over the Haitian market, leading to the destruction of the national production.⁴⁹ A clear example of how its leaders were making the country collapse. As a result, more anger flourished among the Haitian population, and by December 1990, Priest Jean-Bertrand Aristide was the newly elected president. Nevertheless, his presidency did not last either as he was overthrown by a coup d'état in September 1991 and exiled, which was funded by both domestic and international agents.⁵⁰ In 1994, when Aristide returned to Haiti, the country was weakened by the junta, FRAPH violence (Front for the Advancement and Progress in Haiti), and an international economic embargo. Although the U.S. led a 30,000 U.N. force, they failed to disarm the Haitian army and FRAPH, and instead suppressed the popular movement.⁵¹

Despite foreign and internal domination, the Haitian people have always been trying to resist oppression. Schuller highlights that in Haitian history, "When the people, the government, and the blancs are united, the so-called progress is possible."⁵² It is also written in their flag: "L'union fait la force," which translates into "in unity there is the strength." Just as Schuller emphasizes, this emblazonment reminds us of the valuable lesson of the country's

⁴⁷Jennie Marcelle Smith, "New Legacies," *When the Hands are Many: Community Organization and Social Change in Rural Haiti* (Ithaca: Cornell University Press, 2001), 29.

⁴⁸Schuller, "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," 150.

⁴⁹*Ibid.*, 151.

⁵⁰*Ibid.*, 153.

⁵¹*Ibid.*

⁵²*Ibid.*, 166.

history; that when the population united, they drove their French colonizers out of their territory. However, such instability and ill-suited methods introduced first by the colonial power weakened not only the country's economy but also the political system in place; and thus, leading to the oppression of civil society. It created a situation that is difficult for Haitian society to escape.

The situation in Haiti continues to be complicated today given the country's history and the current economic, social, political, and environmental crises. This instability leads to cheap demand for labor, which encourages parents to seek better opportunities for their children, making them particularly vulnerable to entering the restavek system. By using the children of the very poor as domestic workers, affluent Haitians have continued a form of slavery. Given that the situation does not improve in Haiti, it creates an ongoing circle. Families cannot afford to educate their children, resulting once again to their only solution, entering the restavek system. Not only, the current state of the country plays a vital role in determining the future of these children, but in Haiti race also plays a crucial part. Race is correlated with socioeconomic status. In her article about the restaveks, Ginger Thompson summarizes accurately the hierarchal society structure in Haiti, "the exclusivity of power has always been an issue in Haiti, as well as pre-Haiti (Saint-Domingue), where the whites were the owners, the blacks the owned, and the mulattoes a combination of the two."⁵³ In his autobiography, Jean-Robert Cadet's experience with his *grand blanc* father shares a similar perspective. The former restavek wrote, "I know of three groups of children, the elite, the

⁵³Ginger Thompson, "After Haiti Quake, the Chaos of U.S. Adoptions," *The New York Times*, August 3, 2010, <https://www.nytimes.com/2010/08/04/world/americas/04adoption.html>

very poor, and the restavec, or slave children.”⁵⁴ Cadet divided Haitian society into two separate groups: the few wealthy urban elites and the rural peasants, many of whom populate the cities. Cadet states that the elites are composed of the country's 5% mulatto and white population with some but very few affluent blacks. The elites, who are the group that takes in the restavek, can be distinguished not only by their lighter skin color but also by the employment of French over the native language; which is used as an indication of socioeconomic superiority.⁵⁵

⁵⁴ Jean-Robert Cadet *Restavec: From Haitian Slave Child to Middle-class American* (Austin: University of Texas Press, 1998), 3.

⁵⁵ Cadet *Restavec: From Haitian Slave Child to Middle-class American*, 3.

Chapter IV: **History of Education in Haiti**

Often, the blame on Haiti's current situation is argued to be due to the European and American past interventions in the country.⁵⁶ The lack of access to education and the high levels of illiteracy are two important causes of the country's current misfortune. Education is meant to empower children to become active participants in the future of their societies.

Haiti has had intellectuals that tried to establish suitable literacy programs in the country. For example, Maurice Dartigue was a Haitian educationist, who created the most important education reform in the country, pursued intellectual cooperation with the United States as a strategy for Haitian national development.⁵⁷ Dartigue also contributed to the UN and UNESCO; he saw illiteracy as the leading cause that kept most Haitians in the rural areas from achieving a secure, modern, economically and technologically advanced life. Under the presidency of Jean Boyer, from 1818 to 1843, the Haitian Academy and the National School of Navigation were founded. President Boyer also passed the "first law regulating the organization of public instruction in Haiti."⁵⁸

Between 1844 and 1849, under the lead of M. Honoré Féry, Haiti's first minister of public instruction, Haiti experienced the most advances in education it has seen. In 1844, the establishment of the first ever primary school for girls took place; and four years later M.

⁵⁶ Francois Pierre-Louis, "Earthquakes, Nongovernmental Organizations, and Governance in Haiti," *Journal of Black Studies*, 42, no. 2, (March 2011), 187-89, <https://doi.org/10.1177/0021934710395389>

⁵⁷ Chantalle Francesca Verna, "Maurice Dartigue, Educational Reform, and Intellectual Cooperation with the United States as a Strategy for Haitian National Development, 1934-46," *Journal of Haitian Studies*, 13, no.2 (Fall 2007): 25-26, <https://www.jstor.org/stable/41715355>

⁵⁸ Mercer Cook, "Education in Haiti," *Bulletin of the U.S. Department of Education* 1 (1948): 12-13.

Féry passed a law mandating the creation of rural schools, aiming to develop an arena of a national educational system. This legislation was passed under the mandate of Emperor Faustin Soulouque I (1847-49), which addressed the importance of developing a rural education system that would lead to the “most productive cultivation of the land,” the education of “the greatest possible number of children of agricultural families.”⁵⁹ These reforms were executed under the administration of President Fabre Geffard from 1859 to 1867. Geffard’s administrations introduced vocational education, rural schools, imposed compulsory attendance, and created 242 public schools.⁶⁰ Dartigue most commonly praises this administration.

In 1930, Haiti’s National Assembly elected Stenio Vincent as the President of the country. Under his leadership, he emphasized the importance of ending the American occupation, and promoted the “Haitianization of Haiti’s bureaucracies.”⁶¹ It is during the Vincent period that Dartigue emerged as a prominent Haitian bureaucrat; where he also contributed to the process of extending the occupation’s education initiatives under Haitian leadership.

Dartigue was not only educated in Haiti but pursued his master's degree at Teacher's College, Columbia University, where he realized how education and intelligence cooperation with the United States could benefit Haiti and improve the country's capacity for self-rule. During the late 1930s and early 1940s, Dartigue shifted Haitian education away from the French system towards the American models.⁶²

⁵⁹Ibid., 13-14.

⁶⁰Ibid., 14.

⁶¹Ibid., 16.

⁶² Maurice Dartigue, *L'Enseignement en Haïti (1804-1938)* (Port-au-Prince: Imprimerie de l'état,

To function as an independent nation, Maurice Dartigue emphasized the need for eliminating Haiti's heavy reliance on France and its culture within its educational institutions. He pointed out the necessity for Haitian intellectual autonomy to secure their political independence.

If the masses are educated it [sic] will no longer accept the bad roads, which soon may not even exist. It will not accept overcrowded poorly run or non-existing hospitals, nor poorly trained doctors and nurses. It will no longer take illiterate teachers. It will see the difference between good and bad schools and will no longer tolerate the latter. It will not allow that its representatives, the deputies, and the senators vote for laws contrary to its interests or refuse laws, which are for their well being.⁶³

Dartigue also acknowledged Haiti's elite fear of educating the masses; and stressed the importance of establishing public schools that did more than teaching reading, writing, and French. The latter's comments reflect his belief that a well-educated population would not restrain the nation from being governed by an accountable, civically responsible leader. Thus, creating a community of morally responsible individuals, capable of self-governance.

Although Dartigue recognized the importance of educating the Haitian people, the U.S. mainly funded it, and once again it created more reliance on U.S. aid. The latter also applied his U.S.-based education training to approach challenges that Haiti faced in nation building, and he sought to challenge class distinctions in Haiti with his American based education disregarding the local culture.

1939): 48.

⁶³ Esther Dartigue, *An Outstanding Haitian, Maurice Dartigue: The Contribution of Maurice Dartigue in the Field of Education in Haiti, the United Nation, and UNESCO* (New York: Vintage Press, 1994), 120-23.

Over 200 years after independence, the picture was slightly different, by 2003 there were 15,268 primary schools in the country and approximately two million students enrolled.⁶⁴ Nevertheless, a considerable number of children still had no access to formal schooling, including restaveks, and the quality of education varied. In 2009, during the Special Rapporteur's, Gulnara Shahinian, on contemporary forms of slavery including its causes and consequences, visit to Haiti, she noted that education is a crucial factor in the restavek system. Ms. Shahinian identified access to education as "the dominant motivation for placing rural children in urban households as restaveks."⁶⁵ The Special Rapporteur found that access to education in the rural area was minimal and identified that education in Haiti was not free, "more than 85 percent of schools are private and, even the 15 percent of State-run schools ask for a fee."⁶⁶ Having to add payment for school uniforms and books, the Special Rapporteur further noted that school facilities and health services were rare in the rural areas. Based on the interviews she conducted, Shahinian concluded that "the absence of services is a key motivation for impoverished parents from rural areas to send their children to families in urban centers, in the hope that they will have access to education and health care."⁶⁷

⁶⁴Marky Jean-Pierre, "The Trajectory of Language and Education Policies in Haiti from the Era of Columbus to the Present," in *Language and Learning in a Post-Colonial Context A Critical Ethnographic Study in Schools in Haiti*, (Routledge Press, 2015), 155.

⁶⁵Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development," Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences, Human Rights Council, accessed November 9, 2018,

<https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.21.Add.1.pdf>

⁶⁶ Ibid.

⁶⁷ Ibid.

The Special Rapporteur identified education as a crucial factor that motivates families to send their children into the restavek system. Previously, Dartigue mentioned that establishing free education could have the power of teaching people the difference between right and wrong; and to stand up for their beliefs. If free compulsory education were to be established in Haiti, it would change the current state of the country. Families would no longer see the necessity of sending their children into the restavek system to be able to receive an education. Therefore, this would contribute to the eradication of the restavek system.

Chapter V:

Methodology and Review of the Literature

To conduct the research, I used Kevin Bales' Modern Day Slavery theory, as a basis to understand how slavery, through the restaveks phenomenon, has been able to adjust and persist in Haitian society despite signing and ratifying conventions and treaties enacted to abolish slavery. To get a different perspective, I choose Max Joseph and his article published in the Haitian Times "Is it Fair to Equate the Restavek System with Slavery?" Since he challenges the general association made between slavery and the restavek system.

Jean-Robert Cadet's autobiography is one of the primary sources used to understand the history, the social, and the cultural acceptance of the restavek practice in Haiti. It was instrumental to have a living testimony of a former restavek as not only to understand the background of the practice and the country but also to get a real insight of the existing situation of these poor children.

Leslie Anderson, Kinnunen Zara Kivi, and Kelly J. Edmund, report published in 1990, "Restavek: Child Domestic Labor in Haiti: A Report of the Minnesota Lawyers International Human Rights Committee;" and Sarah J. Breyer's dissertation "Using the Organization of American States to End the Abuse of Restaveks," were the two primary sources to examine and explain the origin of the restavek system.

Mark Schuller's article "Haiti's 200-Year Menage-a-Trois: Globalization, the State, and Civil Society," was vital to understand the social and political context of Haiti.

Mercer Cook's article "Education in Haiti," and Esther Dartigue's book, *An Outstanding Haitian, Maurice Dartigue: The Contribution of Maurice Dartigue in the Field of Education in Haiti, the United Nation, and UNESCO* served as the basis for the chapter on the history of education in Haiti. To get a more current state of the education I used the

Special Rapporteur's, Gulnara Shahinian, on contemporary forms of slavery including its causes and consequences, a report she compiled after her visit to Haiti in 2009.

The FAFO Report published in 2014: "Child domestic workers in Haiti 2014: Analytical and Tabulation report" commissioned by UNICEF, ILO, IOM, IRC, and the Terre des Hommes Lausanne Foundation, in cooperation with the Haitian state is the source with the most current, accurate, and explicit data. From this report I was able to find the data and evaluate the different governmental bodies in charge of children's rights in Haiti, their mission, their accomplishments, and failures.

I chose to analyze the restavek system as a violation of Articles 19, 28, and 32 of the Children's Rights Convention to examine it from a human rights perspective. I took evidence from the relevant recommendations from the Committee of the Right of the Child latest concluding observations, appropriate, and any lack of information provided by the Haitian government in the second and third periodic report that was submitted to the Committee late in 2013 covering the period from 2002 to 2013.

To define Child Labor, and more specifically, children's domestic work, I used the International Labor Organization's report on "Ending Child Labour in Domestic Work and Protecting Young Workers from Abusive Working Conditions," published in 2013.

The International Labor Organization (ILO) and UNICEF's Annual Report in Haiti, are the benchmark of my textual analysis from the Non-Governmental Organizations' perspective. However, this data is also substantiated with information taken from the websites of Governmental organizations such as the United States Department of Labor (Bureau of International Labor Affairs – Haiti).

Through the report "Les Fondements de la pratique de la Domesticite des Enfants en Haiti," published in 2002 by the Ministere des Affaires Sociales et du Travail, in

collaboration with UNDP, Save the Children, FAFO, and UNICEF; the United States Department of Labor's Bureau of International Labor Affairs report on "Haiti Findings on the Worst Forms of Child Labor;" and Restavek Freedom's report "Restavek: The Persistence of Child Labor and Slavery," submitted to the United Nations Universal Periodic Review in 2011; I was able to study the laws that condemn restavek placement and child slavery in Haiti.

Many other sources were cited in this thesis, and among the non-governmental organizations studying the system we can highlight Reuters,⁶⁸ La Fondation Maurice Sixto, Restavek Freedom, Beyond Borders, and the Institute for Justice & Democracy in Haiti.

As previously mentioned, Haiti has several laws that are meant to protect the restavek children. However, they are currently under-utilized; such as the 2003 Act on the "Prohibition and Elimination of all Forms of Abuse, Violence, Abusive or Degrading Treatment against Children."⁶⁹ Haiti's labor code provides and allows for regulations and protection of child labor in the country, yet the law is not enforced. Mandatory education and anti-kidnapping laws also exist.⁷⁰ Moreover, the Haitian Constitution states that "once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them."⁷¹

⁶⁸"Haiti 'restavek' tradition called child slavery," *Reuters*, accessed May 2, 2018, <https://www.reuters.com/article/us-quake-haiti-restaveks/haiti-restavek-tradition-called-child-slavery-idUSTRE61H3F920100218>

⁶⁹"Haiti Findings on the Worst Forms of Child Labor," United States Department of Labor's Bureau of International Labor Affairs, accessed November 3, 2018,

<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/haiti>

⁷⁰"Restavek Children in Haiti: A new form of modern slavery," Humanium, Accessed on May 2, 2018,

<https://www.humanium.org/en/restavek-children-in-haiti-a-new-form-of-modern-slavery/>

⁷¹"Haiti's Constitution of 1987 with Amendments through 2012," Constitute Project, accessed April 30, 2018,

Knowing this, Haiti's signature and ratification of these laws automatically make them part of the national legislation. Thus, the presence of the restavek system makes Haiti not only violates laws at the international level but also at the national. Furthermore, Article 335 of the Haitian labor code prohibits the employment of minors below the age of fifteen.⁷² Moreover, in June 2003 Haiti passed an act that outlawed the placement of children into restavek service, and the abuse and maltreatment of children in general.⁷³ However, in their submission to the Human Rights Council, Restavek Freedom identified that the "2003 Act prohibiting restavek placement fails to include penalties for violating the law."⁷⁴ Nevertheless, children continue to be mistreated, and the restavek system prevails. Although Haiti has the policy of public trials, no decision on a child's hearing has been published since 1968; making it difficult to determine whether courts have used or applied the CRC, or other relevant international conventions. Furthermore, since 1961, there is a law on juvenile courts that makes all children's files confidential.⁷⁵

This research data has been taken from a variety of documents that are publicly available, such as academic literature, information on child labor, and news articles from the media.

https://www.constituteproject.org/constitution/Haiti_2012.pdf?lang=en.

⁷²"Haiti Findings on the Worst Forms of Child Labor," United States Department of Labor's Bureau of International Labor Affairs, accessed September 23, 2018,

<https://www.dol.gov/sites/default/files/images/ilab/child-labor/Haiti2016.pdf>

⁷³ Ibid.

⁷⁴"Restavek: The Persistence of Child Labor and Slavery."

⁷⁵ Ibid.

Limitations: the paper is limited by the absence of personal interviews, understandably due to its sensitive nature. Another critical issue is the insufficient number of organizations that focus their attention on the restavek issue. Furthermore, of those who do assist the restaveks, just a few have the funds and the capacity to handle the level of demand for assistance and to advocate successfully, which thus limits the data and information on restaveks in the country. Not only it has been challenging to elaborate this study without being able to conduct face-to-face interviews, but also authors such as Hatloy, who have been cited in this research, expressed their difficulties while asking questions directly about children performing domestic work. As she puts it, “many respondents would not admit they have restaveks or child domestic workers, in their households.”⁷⁶

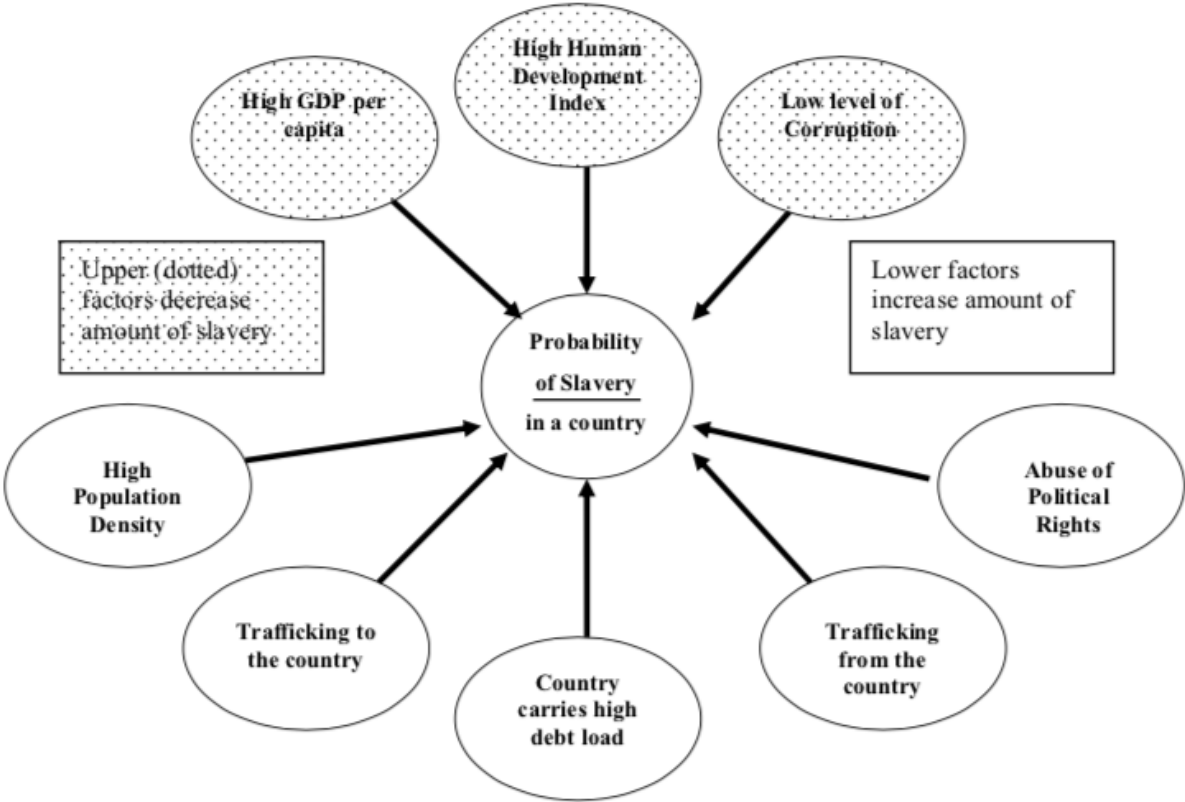
Chapter V – B: Findings

Below you will find a diagram by Kevin Bales indicating factors that are increasing or decreasing the amount of slavery present in a country. According to Bales, an increase in the variables at the top of the diagram with dots inside, (high GDP per capita, high Human Development Index, low level of corruption), decrease the chances of slavery in a country. Whereas high levels of the variables located at the bottom of the diagram (high population density, high levels of trafficking to and from the state, high debt load, and high rates of political rights abuses) lead to an increase in the presence of slavery in a country. Such is the case in Haiti, where there is a high presence of political corruption, and a high birthrate, that leads to a high-density population in the country. According to 2016 data from the World

⁷⁶Hatløy, Anne 2005 Life as a Child Domestic Worker in Haiti. *Journal of Haitian Studies* 11(1): 13

Bank, the average annual number of births in Haiti was at 24 per 1000 persons.⁷⁷ As Bales argues in his piece “Testing a Theory of Modern Slavery,” “the more populated a country is, the higher the supply of potential slaves, and the higher the probability of a country having increased amounts of slavery.”⁷⁸ Given that the birth rate is usually the dominant factor in determining the rate of population growth in a country, and seeing that the birth rate in Haiti is still relatively high compared to other countries; Bales' argument that the more populated a state is, the higher the probability of a country having slaves applies to Haiti.

Diagram by Kevin Bales indicating factors that are increasing or decreasing the amount of slavery present in a country.



⁷⁷“Birth rate, crude (per 1,000 people),” The World Bank, accessed December 26, 2018, <https://data.worldbank.org/indicator/SP.DYN.CBRT.IN>

⁷⁸Kevin Bales, “Testing a theory of Modern Slavery,” Yale University, accessed October 22, 2018, <https://glc.yale.edu/sites/default/files/files/events/cbss/Bales.pdf>

Robert B. Smith in his article “Why Human Development Index Varies by Region: Exploring Correlates and Cause,” examines the repercussion of slavery in the regional variability in the Human Development Index. He states:

Slavery (debt bondage, forced labor, forced prostitution, chattel slavery) and the lack of political freedom explain much of the variability that is between regions and corruption explains much of the variability among countries within a region. Additionally, countries with higher values of conflict and social unrest and higher values of national debt have significantly worse Human Development Index rank. To enhance human development countries should eliminate debt bondage and other forms of slavery, move toward fully democratic political systems, and eliminate corruption.⁷⁹

Smith concludes that countries with a higher presence of corruption, less political freedom and social unrest rank significantly worse in the Human Development Index than other countries where these factors are not present. Smith also attributes the presence of slavery as a determining factor. Such is the case in Haiti. Taking both Bales and Smith’s conclusions, and relating it to the restavek issue in Haiti, we can also agree that there are inter-relationships between these factors. We can conclude that corruption does support slavery, while at the same time it leads to a delay in a country’s development and thus ranking worse in the Human Development Index. All of this also results in a violation of human rights, as it is the case in Haiti.

On the other hand, Max Joseph, in his article published in the Haitian Times “Is it Fair to Equate the Restavek System with Slavery?” challenges the general association made between slavery and the restavek system. Joseph argues that since slavery, as it is globally

⁷⁹Ibid.

defined, was abolished in Haiti on January 1, 1800; he considers the comparison between the restaveks system and slavery as “flawed, offensive, and unjustifiable.”⁸⁰ Furthermore, he states that “for Haitians, or any member of the African Diaspora for that matter, the word ‘slavery’ is distinctively associated with the transatlantic slave trade in which millions of Africans were forcibly uprooted from their villages and sold like domesticated animals in faraway lands.”⁸¹ Hence, he sees the notion of associating the restavek system with slavery as “a naked attempt at trivializing one of the most grotesque episodes in human history.”⁸² Nevertheless, Joseph does admit that the Haitian government and people have not been addressing the issue of restavek. Joseph agrees with Bales and Smith and attributes the structurally defective state of Haiti as the cause for the prevalence of the restavek system.

V.2 – Child Domestic Work in the Context of Child Labor

Children’s domestic labor is the general term employed to refer to the work that children perform in the domestic work sector, whether it is in the home of a third party or an employer. Child domestic labor can encompass tasks, which children undertake in their own homes, under the supervision of their close family members, and in reasonable conditions, which under the International Labor Organization (ILO) these tasks are considered permissible and an “integral part of family life.”⁸³ However, in most of the cases, the

⁸⁰Max Joseph, “Is it Fair to Equate the Restavek System with Slavery?” *The Haitian Times*, November 20, 2012, <https://www.haiti-now.org/wp-content/uploads/2017/07/2012-Haitian-Times-Max-Joseph.pdf>

⁸¹Ibid.

⁸²Ibid.

⁸³“Ending Child Labour in Domestic Work and Protecting Young Workers from Abusive Working Conditions,” International Labor Organization, accessed December 10, 2018, http://ilo.org/ipec/Informationresources/WCMS_207656/lang--en/index.html

children's workload may be excessive, and may also interfere with the child's education. In such cases, it will be equivalent to child labor. The general framework encompasses both permissible and non-permissible circumstances. Although children in their own homes and children in third-party households (children in domestic work) may perform similar tasks; the employment element is missing for children in the first case. Therefore, the ILO advises to avoid referring to children in those situations as domestic workers. The ILO refers to child labor in the domestic work to "situations where domestic work is carried out by children below the relevant minimum age (for light work, full-time non-hazardous work), in hazardous conditions or in a slavery-like situation."⁸⁴

Discrimination and isolation are the most significant consequences experienced by child domestic workers. Their own situations, how they got into the practice and their lack of basic needs, make them extremely dependent on their employers. ILO states that "this seclusion and dependency makes child domestic workers particularly vulnerable to child labor, and at times can result in physical, psychological, and sexual violence."⁸⁵ ILO argues that such hazards are directly rooted to the denial of fundamental rights of the child, such as, "access to education and health care, the right to rest, leisure, play and recreation, and the right to be cared for and to have regular contact with their parents and peers."⁸⁶ Moreover, ILO contends that restrictions on these rights can ultimately result on an irreversible physical, psychological, and moral impact on the development, health and wellbeing of a child.⁸⁷

Due to socio-cultural ideologies that tend to cover the existence of an employer and employee relationship, child domestic workers are one of the least protected groups of the

⁸⁴Ibid.

⁸⁵Ibid.

⁸⁶Ibid.

⁸⁷Ibid.

global workforce. As we will see in the following section, legislation concerning domestic child workers in Haiti also continues to be weak. For instance, the relationship between the restaveks and their owners are often regarded as familial rather than that of employment given that restaveks often work for ‘distant relatives’.

V.3 – What is the Haitian Government doing for the Restaveks?

The FAFO report is the primary source of this research, given the level of detail it contains, it establishes a better understanding of the child domestic work phenomena in Haiti, and maps out the existing institutional responses. The report compiles the overall findings from research conducted in 2014 on domestic child workers in Haiti. The study was assembled by UNICEF, the Haitian Ministère des Affaires Sociales et du Travail (MAST), the Institut du Bien-Etre Social et de Recherches (IBESR), IOM, ILO, the IRC, and the Terre des Hommes Lausanne Foundation.

While conducting the research, the FAFO report identifies a legal gap left by the Law of June 5th 2003 (*La Loi relative a l’interpretation et a l’elimination de toutes formes d’abus, de violences, de mauvais traitements ou traitements inhumains contre les enfants*) on the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhuman treatment against children; since it cancels chapter 9 of the Labor Code.

Chapter 9 [of the older Labor Code] pertained to children’s work (‘des enfants en service’) and included an Article allowing children to work as domestic employees as of age 12, which was highlighted as a concern by the UN Committee on the Rights of the Child (CRC Committee) in its 2003 Concluding Observations regarding Haiti. However, this new

law does not stipulate a new minimum for child domestic workers, resulting in a legislative gap.⁸⁸

Another flaw identified in the 2003 Law is that although it states that a child may be “given to a foster family in the context of a helping relationship and solidarity. It should enjoy the same privileges and the same rights as other children of the family. It must be treated as a member of the family.”⁸⁹ However, the text does not specify whether there are any penalties imposed for those who do not comply with its provisions.

The FAFO report recognizes that the Haitian government has developed a Child Protection Code, which includes a provision on the protection against labor exploitation and abusive conditions in child placements; this law also prohibits child abandonment. FAFO finds that the law was adopted in August 2014; however, it is still awaiting a vote in Parliament for it to become active.⁹⁰

In 2013 the Haitian government presented The ‘Haiti Strategic Development Plan,’ with its five main priorities within the Triennial Investment Framework 2014-2016, among which access to education and essential social services, creating jobs, and promoting the rule of law were identified. Although these actions are aimed at the entire population, thus including children in domestic work, there are no specific measures identified targeted at child domestic workers. Hence, there is no joint ministerial policy to fight child labor in

⁸⁸Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report,” 92.

⁸⁹“Researching Haitian Law,” Hauser Global Law School Program, accessed October 29, 2018, <http://www.nyulawglobal.org/globalex/Haiti.html>

⁹⁰Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report,” 92.

domestic work or improve the living conditions of these children.⁹¹ FAFO identifies that the absence and lack of the implementation of a national plan to combat this issue are “deplored by many actors and reflects, a lack of vision on the issue.”⁹²

FAFO identifies that first steps had been taken by the “Table Sectorielle sur les Enfants Travailleurs Domestiques” (“Sectoral Table on Child Domestic Workers”) on child domestic labor though no further progress has been recorded.

The “Sectoral Table” on Child Domestic Workers, which is chaired by The Ministry of Social Affairs and Labor MAST, was launched once again in 2011 as a space for dialogue, reflection and the sharing of information between the different actors involved. Several associations and NGOs including IOM, BPM, and MINUSTAH, actively participated in these meetings; and were able to prepare the first draft for a national strategy that has not yet been approved by the Ministry of Social Affairs.⁹³ FAFO described the absence of a steering committee as one of the main weaknesses of the Table.

The Institute of Social Welfare and Research (IBESR) in the “Strategie Nationale quinquennale de Protection de l'Enfant (SNPE) en Haiti couvrant la periode de Juillet 2015 a Juin 2020” (“The Five-Year National Strategy Child Protection (SNPE) in Haiti covering the period from July 2015 to June 2020”), under the “Ministere des Affaires Sociales et du Travail” (MAST) (“The Ministry of Social Affairs and Labor”) identified the need to develop an a strategy for domestic child workers. However, no specific action plan was proposed, no supporting documents were classified supporting this action, and no specific financial or

⁹¹Ibid., 94.

⁹²Ibid.

⁹³Ibid., 109.

human resources were projected.⁹⁴ FAFO found that since February 2014 the Sectoral Table had not held any more meetings, and although FAFO ended their data collection in September 2014, the IBESR Five-Year National Strategy report on Child Protection indicates that the Haitian government has no specific plan of action to confront the issue of children in domestic work in the 2015-2020 National Strategy on Child Protection presented. In 2014, FAFO determined that with the involvement of several Ministers in the Sectoral Table it could serve as an ad hoc Committee for the implementation of an action plan on child domestic work.⁹⁵ Only with the involvement of the State's highest administrative levels, the issue of restaveks, child domestic workers, will be solved.

There do exist several state bodies with a mandate concerned with the issue of child domestic workers or directly involved in the protection of children in Haiti. However, these state actors need to be reinforced and strengthened such as: the Ministry of Social Affairs and Labor (MAST), the Institute of Social Welfare and Research (IBESR), the Haiti National Police (PNH), and the Brigade for the Protection of Minors (BPM).

Article I of the Organic Law Decree of The Ministry of Social Affairs and Labor (MAST) grants the Ministry "the responsibility of executing the government's social policy while ensuring the safety of workers in both formal and informal sectors and by granting

⁹⁴"Stratégie Nationale quinquennale de Protection de l'Enfant (SNPE) en Haïti couvrant la période de Juillet 2015 à Juin 2020," Ministère des Affaires Sociales et du Travail (MAST), Institut du Bien-Etre Social et des Recherches (IBESR), accessed November 30, 2018, https://www.haiti-now.org/wp-content/uploads/2017/05/Ibesr_Strategie-National-De-protection-de-l-enfant-2015.pdf

⁹⁵Sommerfelt, "Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report," 109.

specific protection to families, women, and children.”⁹⁶ “The National Plan for the Protection of Haitian Children” funded by UNICEF is the base of the children protection policy.⁹⁷ The representative of MAST has expressed his commitment to uphold the rights of all people and the desire to eliminate slavery-like practices. In 2013, MAST’s General Director made an unprecedented statement against the restavek system in Haiti, as he expressed that, “we cannot continue to accept this issue [...] they are in the process of doing research on street kids, and after just going through 25% of these children, 76.5% of them came from domestic violence (restavek). It is a priority for us to end this slavery system, based on the history of this country.”⁹⁸ He also thanked the basic organizations and NGOs that are working on the field against restavek

Following ILO Convention 182, the Tripartite Committee brought together representatives of the Government, unions, and employers, and developed a list of work prohibited for children. The list was approved by MAST and incorporated into the new Child Protection Code.⁹⁹ The development of the new Child Protection Code in 2014, which includes the list of hazardous work for children, the revision of the employment legislation and the law on responsible parenthood and filiation, demonstrates progress concerning the legal framework. Furthermore, FAFO pointed out that the Ministry emphasized “the need to address the causes of the phenomenon of child domestic work upstream and to focus on the establishment of a social welfare system and other government policies.”¹⁰⁰ However, FAFO

⁹⁶Ibid., 94.

⁹⁷“Urban Child Labor in Port-Au-Prince, Haiti.” ICF International. 2012, accessed April 20, 2018, <https://www.dol.gov/sites/default/files/research/2012CLUrbanHaiti.pdf>

⁹⁸“Haitian Government Looks Closer at the Issue of Restavek,” Restavek Freedom, accessed April 14, 2018, <https://restavekfreedom.org/2013/06/17/haitian-government-looks-closer-at-the-issue-of/>

⁹⁹Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report,” 95.

¹⁰⁰Ibid.

revealed several weaknesses in the Ministry. In the MAST Labor Directorate, where inspectors must implement the employment legislation and ensure workers' safety in the workplace, FAFO found that MAST inspectors' responsibilities were limited to employees only, implying that inspectors' were not empowered to control the work of children in private homes.¹⁰¹ Regarding the Woman and Child Labor Department within the Directorate, which coordinates the “Sectoral Table against domesticity,” FAFO warns on the department’s lack of activity and coordination on the issue of children’s domestic work between the department and IBESR.¹⁰²

The Institute of Social Welfare and Research (IBESR) is the leading main state actor in charge of the implementation of child protection policies such as, the two first optional protocols to the Convention on the Rights of the Child (CRC); the Hague Convention on international adoption; the national law on adoption, voted in 2013; the national law on paternity, maternity and filiation; and the law against trafficking; and the daily management of child protection cases.¹⁰³ Although IBESR enjoys a broad autonomy, it is a technical and administrative body within the MAST. Hence, the Public Treasury funds it. According to the FAFO report, for the fiscal year 2014-2015, HTG 53 million (USD 1,175 million), less than 1.5 percent of the total Ministry budget was allocated to the institute; out of which 80 percent was spent on salaries.¹⁰⁴ However, IBESR also receives grants and technical support from intergovernmental and non-governmental organizations such as UNICEF, IOM, World

¹⁰¹Ibid., 98.

¹⁰²Ibid., 95.

¹⁰³“UNICEF Annual Report 2015, Haiti,” UNICEF, accessed April 20, 2018, https://www.unicef.org/about/annualreport/files/Haiti_2015_COAR.pdf

¹⁰⁴Sommerfelt, “Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report,” 96.

Vision, Red Cross, AKSE, IRC, Save the Children, Tdh-L, and Plan International.¹⁰⁵ Despite these contributions, the study on public expenditures for children, published by the Ministry of Planning and External Cooperation and the Ministry of Economy and Finance (MEF), highlights that there has been a significant reduction of expenditures for children between 2008 and 2013.¹⁰⁶ Therefore, this study exposes the weak capacity of the state to mobilize local resources for social investment.¹⁰⁷

The mission of the Haiti National Police (PNH) is to protect the lives and property of the Haitian people. In its Five-Year Development Plan from 2012 to 2016, the PNH aimed to strengthen its operational capacity and the professionalization of human resources. FAFO also notes that, since 2013, UNICEF has partially sponsored the training of PNH's police officers on child protection. The study diagnosed that each police precinct and sub-precinct included antennas of the Brigade for the Protection of Minors (BPM), a body of PNH specialized in the protection of minors composed by regular police officers that have received the training on child protection. However, FAFO found that in the Southeast area there is no formal obligation for the police officers to contact the BPM when the victim is less than 18 years old.¹⁰⁸ Thus revoking the purpose of expenditure on training. According to members of the Haitian civil society interviewed for the FAFO study, "police officers that have not yet been trained in the protection of children tend to share the contemptuous attitudes of the population towards child domestic workers and do not take their cases seriously."¹⁰⁹

¹⁰⁵Ibid.

¹⁰⁶"UNICEF Annual Report 2015, Haiti."

¹⁰⁷Ibid.

¹⁰⁸Sommerfelt, "Child Fosterage and Child Domestic Work in Haiti in 2014: Analytical Report," 98.

¹⁰⁹Ibid.

Furthermore, these interviewees state that in some cases, when intervention is sought, police officers do not always respond to the calls, and sometimes demand money for fuel.¹¹⁰

The Brigade for the Protection of Minors (BPM) mandate is to work with children in conflict with the law; hence it is responsible for the protection of minors for the investigations of cases with child victims. It also conducts social inquiries concerned with the situation of under-aged children, assists if the children are in danger and participates in outreach activities, often cooperating with the IBESR.¹¹¹

All officers have been trained on children's rights and the protection of under-aged children. However, an enormous constraint the brigade faces is that it is only composed of fifty police officers, and dramatically depends on civilians to alert them through phone calls. FAFO found that *the 188 line*, which is supposed to be opened permanently to receive information provided by the public and victims regarding abuses of children's rights, had received 5,423 calls in 2013. However, there were no clear distinctions made between the victims; there was no record of how many of those cases involved child domestic workers.¹¹² FAFO also found that the line closed down for some time in 2014 due to payment issues.¹¹³ After conducting investigations, if BPM officers consider that a violation against a child has been committed, they must refer the case to the public. However, FAFO's study finds that in certain instances such as a case of a child that was found to be working beyond his capacity; in such circumstances, BPM officers in accordance with the IBESR, may decide not to pursue the

¹¹⁰Ibid.

¹¹¹Ibid.

¹¹²Ibid., 99.

¹¹³Ibid.

matter but instead just to talk to the concerned adults and “warn them that the police will follow up on the case and bring them to justice if the abuse continues.”¹¹⁴

As we can see, the Haitian government has made the efforts to establish several bodies to protect and address the needs of restaveks. The government has also passed laws to prohibit the employment of children below the age of 15 years. However, there needs to be stronger enforcement of the laws, and a better functioning of the ministerial bodies to abolish the restavek system. To decrease the presence of slavery in a country, Bales contends that “an improvement in the general well-being of the peoples of a given country, decreases the probabilities of a country suffering persistent and substantial amounts of slavery and increases the probability of a country suffering no or little slavery.”¹¹⁵ Stronger enforcement of the laws and the ministerial bodies would improve the wellbeing of the Haitian people, thus resulting in a decrease on the number of children going into the restavek system and it would thus diminish the presence of slavery in Haiti.

V.4 – Review of the Literature

Kevin Bales, former President of Free the Slaves, sociologist, and anti-slavery activist, in his article *Testing a Theory of Modern Slavery*, examines three factors that differentiate contemporary slavery from previous forms of slavery. Bales recognizes that the root characteristics of controlling slaves remain the same as in the past, “control based on the potential or actual use of violence; a lack of any remuneration beyond subsistence; and the

¹¹⁴Ibid.

¹¹⁵ Kevin Bales, “Testing a theory of Modern Slavery,” Yale University, accessed April 12, 2018, <https://glc.yale.edu/sites/default/files/files/events/cbss/Bales.pdf>

appropriation of the labor or other qualities of the slave for economic gain.”¹¹⁶ The three factors that Bales argues that have led to changes in slavery are: “Firstly, the population explosion and especially its impact on the developing world. Secondly, the alterations of the global economy that increased disparities and impoverished large numbers, again in the developing world. Thirdly, the absence of the rule of law in many countries, due to the high level of corruption, is providing for potential slaveholders the opportunity to exercise violent control with impunity.”¹¹⁷ All these three characteristics are present in Haiti today and thus contribute to the presence of slavery in the country.

Later on, Kevin Bales, in his book *Disposable People: New Slavery in the Global Economy*, defines modern slavery as “the total control of one person by another for economic exploitation.”¹¹⁸ Bales’ principal argument is that despite the abolition of slavery, it has not disappeared. In addressing the restavek system, Bales admits that in some occurrences these children are exposed to more desirable living conditions; however, he emphasizes that “ownership is not asserted, but strict control, enforced by violence, is maintained over the child. The domestic services performed by the enslaved child provide a sizable return on the investment in ‘upkeep.’ It is a culturally-approved way of dealing with ‘extra’ children; some are treated well, but for most, it is a kind of slavery that lasts until adulthood.”¹¹⁹ Bales highlights that the lack of formality and regulation prevailing over the restavek practices lead to increased abuse, “appropriating the economic value of individuals while keeping them

¹¹⁶ Ibid., 12.

¹¹⁷ Ibid.

¹¹⁸ Kevin Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley, CA: University of California Press, 2012), 15.

¹¹⁹ Ibid., 21.

under complete coercive control – but without asserting ownership or accepting responsibility for their survival.”¹²⁰

Kevin Bales description of restaveks living conditions can be found in Jean-Robert Cadet’s autobiography, *Restavec: From Haitian Slave Child to Middle-Class American*. Cadet’s autobiography is a testimony of the living restavek situation in Haiti. Through his writing, he describes the horror that he endured and the psychological ramifications of being a restavek.¹²¹ Soon after his mother's death, his father, Blanc Philippe sends him to live with Florence Cadet, his former mistress. Instead of welcoming him and taking care of the child, Florence mistreats the toddler physically and emotionally, raising him as a child slave, a restavek, in fear and shame.¹²² Cadet aims to vindicate his life by telling his story and intends to ask the readers to assume socio-political responsibility by persuading their governments to abolish any forms of child slavery wherever it persists. This autobiography serves to expose the reality of the restavek problem in Haiti and to transmit and portray the physical and mental impact that this situation has on human beings.

The *Restavek: Child Domestic Labor in Haiti (August 1990)* report by The Minnesota Lawyers Committee, has been one of the first published reports constructed by international actors to contribute to the general discourse on restaveks living conditions in Haiti. In the release, the Committee stated, "by failing to enforce existing legislation or enact appropriate safeguards against restavek, the Haitian government violates both national and international

¹²⁰ Ibid., 25.

¹²¹ Cadet *Restavec: From Haitian Slave Child to Middle-class American*, 15.

¹²² Ibid., 45.

legal obligations to prohibit forced labor and slave-like practices, and to uphold the rights of children."¹²³ Although the report was issued in 1990, many of the findings are still relevant today. The Committee concluded that as long as Haiti remained as impoverished as it was back in 1990, the *restavek* situation would continue to exist.¹²⁴ The report encompasses a description of *restaveks*, an analysis of the general conditions of domestic children in Haiti, such as a list of work that child domestics perform, the physical and emotional treatment they receive, education, food, healthcare, and rest and leisure. An interesting factor they embody is their examination of life after being a *restavek* and the gender differences within this classification since it proves that lack of education and mistreatment affect the future of these children.¹²⁵

On the other hand, Joy Moncrieffe argues in her article, *The Power of Stigma: Encounters with 'Street Children' and 'Restavecs' in Haiti*, that there is a popular but erroneous belief that institutional reforms and economic development will stimulate transformation in social relations, or that they are sufficient to tackle all forms of inequalities and injustices. She sees power as the tool for creating the well-needed healthy changes.¹²⁶ While focusing on Haiti, Moncrieffe portrays the power of labeling on society and children. Moncrieffe states the power that Haitian authorities have on labeling the *restaveks* and how they misrecognize them in ways that have long-standing influences on them; how it will

¹²³Leslie Anderson, Kinnunen Zara Kivi, and Kelly J. Edmund, "Restavek: Child Domestic Labor in Haiti: A Report of the Minnesota Lawyers International Human Rights Committee." *Report*, no.1 (Minneapolis, MN, 1990): 4.

¹²⁴*Ibid.*, 6.

¹²⁵*Ibid.*, 8.

¹²⁶ Joy Moncrieffe, "The Power of Stigma: Encounters with 'Street Children' and 'Restavecs' in Haiti." *Institute of Development Studies Bulletin* 37, no. 6 (November 2006): 34.

shape the way these children perceive themselves, how they will respond to future opportunities and experience agency.¹²⁷ After interviewing several state and non-state actors, Moncrieffe suggests that the absence of “effective counteracting external influences, learned behaviors and socially acquired dispositions are reinforced and reproduced, even over generations.”¹²⁸ Moncrieffe argues that international organizations are not interested in helping the restaveks because they see them as dangerous street children. She reveals that even high officials from the government consider that it is better to maintain the restavek system if that means giving children ‘better opportunities’; even though they are aware that the probability of those children being enslaved is high.¹²⁹

Anne Hatloy is well known for being among the few scholars to have studied the restaveks situation in Haiti. In her study, *Life as a Child Domestic Worker in Haiti* she compares children, domestic workers, children not living with their parents and children who do live with their parents. However, contrary to popular belief and other literature pieces that have been mentioned in this review which depict restaveks as a vulnerable group, Hatloy concludes that there are small differences in the physical living conditions between restaveks and the other children in Haiti.¹³⁰ Nevertheless, one must note that Hatloy collected her data from the head of the household, which is a considerable limitation given the nature of the

¹²⁷Ibid., 43.

¹²⁸Ibid.

¹²⁹Ibid., 44.

¹³⁰ Anne Hatloy, “Life as a Child Domestic Worker in Haiti.” *Journal of Haitian Studies* 11, no. 1, (2005):11, www.jstor.org/stable/41715287.

questions and the research that took place. If restaveks had provided the answers themselves, there is a substantial probability that the results would have varied.¹³¹

Haiti's colonial and political past has shaped the country's current state. Some scholars argue that despite the presence of numerous NGOs, and international intervention, and their knowledge of the current restavek situation, they are not addressing the issue because of lack of interest in spending funds on solving this problem.¹³² Their absence in this matter contributes to the presence of restaveks in the country. Regardless of numerous conventions and treaties enacted to abolish slavery, the country's political instability, the weak economy, and the shortage of employment continue to play a crucial role in the persistence of slavery in Haiti today.

¹³¹Ibid.,18.

¹³²Ibid.

Chapter VI: **Analysis of the problem from a Human Rights Perspective**

This section analyzes the relevant recommendations from the Committee of the Right of the Child latest concluding observations, appropriate, and any lack of information provided by the Haitian government in the second and third periodic report that was submitted to the Committee late in 2013 covering the period from 2002 to 2013. This section also analyzes findings of violations and will state the Coalition's recommendations on each issue relevant to Articles 19, 28, and 32.

The subsections ‘Committee’s previous recommendations’ and ‘State party’s report’ refer to the Committee’s latest concluding observations combined on the second and third periodic report of Haiti published on February 24, 2016.¹³³ Also, Haiti's most recent second and third periodic report published on March 9, 2015.¹³⁴

This section addresses critical concerns regarding the violation of restavek children’s rights, in particular regarding Articles 19, 28, and 32 of the Convention on the Rights of the Child (CRC).

These issues include:

1. Restaveks exposure to violence, whether it is, psychological, physical, and, or sexual abuse from household members (in violation of Article 19 of the CRC)
2. Restavek children’s lack of access to education (in violation of Article 28 of the CRC)

¹³³“Concluding Observations on the combined Second and Third Periodic Reports of Haiti,” CRC/C/HTI/2-3, Committee on the Rights of the Child, accessed October 30, 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/035/15/PDF/G1603515.pdf?OpenElement>

¹³⁴“Consideration of Reports submitted by States parties under Article 44 of the Convention, Haiti,” CRC/C/HTI/2-3, Committee on the Rights of the Child, accessed October 30, 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/046/17/PDF/G1504617.pdf?OpenElement>

3. Weak implantation of Article 335 of the Haitian Labor Code, which prohibits the employment of minors below the age of 15; and the Act passed in June 2003 that specifically outlawed the placement of children into restavek service (in violation of Article 32 of the CRC).

I. Article 19 (Protection from all forms of violence)

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”¹³⁵

Committee’s previous recommendations

- a) Assess the scope, nature, and causes of violence against children, in particular, sexual violence against girls, intending to the adoption of a comprehensive strategy and useful measure and policies and to changing attitudes.
- b) Properly investigate cases of violence, through a child-sensitive judicial procedure; notably by giving appropriate weight to children’s views in legal proceedings, and apply sanctions to perpetrators with due regard given to guaranteeing the right of the child to privacy.
- c) Provide services for the physical and psychological recovery and social reintegration of girl victims of sexual abuses and any other children victims of abuse, neglect, ill-treatment, violence or exploitation, and take appropriate measure to prevent the criminalization and stigmatization of victims

¹³⁵“Convention on the Rights of the Child,” OHCHR, accessed May 5, 2018, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

- d) Seek technical assistance from, UNICEF, the WHO and other institutions.

State Party's report

The State report features the adoption in July 2005 of the law on sexual aggression and highlights the increase of penalties for perpetrators. The report also emphasizes the creation in 2000 of a new reporting mechanism, a call center, to report abuses against children, established by the IBESR and the Ministry of Social Affairs.

Findings of violations or failures to fulfilling obligations

The problem of abuse and sexual exploitation is widespread in Haiti, and it is difficult to determine exact figures of the number of child victims. Lack of accurate data is linked to the taboos that surround the problem and fear from victims of reprisal when the perpetrator has a degree of authority over them. Girls, who account for two-thirds of the restaveks, are particularly vulnerable to the sexual abuse of males in their host families.¹³⁶ Moreover, in some cases, restavek girls are called “*la pou sa*,” which translates to ‘there for that.’¹³⁷ In many cases, girls are meant to satisfy the males of households. In other instances, some restaveks are not exposed to physical abuse but suffer emotionally from neglect and isolation, which also violates article 19 of the CRC.

¹³⁶“Restavek: The Persistence of Child Labor and Slavery,” Restavek Freedom, accessed April 24, 2018,

<http://www.ijdh.org/wp-content/uploads/2011/03/Haiti-UPR-Restavek-Report-FINAL1.pdf>

¹³⁷Jonathan Blagbrough, “Child Domestic Labour: A Modern Form of Slavery,” *Children and Society* (2008), 186.

doi:10.1111/j.1099-0860.2008.00149.x

Jean-Robert Cadet's autobiography serves as an example. In his testimony, Cadet recalls how the psychological abuses soon turned into physical, and the beatings became part of the daily routine. As he puts it, "eventually, Florence purchased a *rigwaz* to inflict greater pain; it was almost three feet long, stiff and twisted like a drill bit, narrow at the tip and rough like concrete to touch. Each strike felt like a burn and often scarred like a burn."¹³⁸ Cadet also recalls Denis, Florence's son, inflicting both psychological and physical traumas on him:

Denis knocked me down with a slap across the face. He returned inside and came back out with an extension cord. After the first strike, I urinated on myself. The cord ripped my shirt and broke my skin. I was soon bloodied. I screamed as loudly as I could, hoping Florence would intervene, but she didn't. Denis perspired so much that he had to shower before leaving. I had so many blisters that I could not sit comfortable in a chair, and sleeping on my back was even more unbearable.¹³⁹

Although the Ministry of Social Affairs established the hotline for citizens to call and report violations of children's rights, the IBESR reports receiving only 200 calls for assistance per year.¹⁴⁰ Furthermore, the call center was understaffed, and thus offered limited assistance. The staff would make an initial inquiry into the case and try to educate host parents to stop the abuse. Occasionally, they would take the case to court and removed the child from the host family; but generally, there was no follow-up beyond the initial investigation.¹⁴¹ On the other hand, if the parents discovered that the child made the call, it

¹³⁸Cadet, *Restavec: From Haitian Slave Child to Middle-class American*, 19-20.

¹³⁹Breyer, "Using the OAS to End the Abuse of Restaveks," 159.

¹⁴⁰"Restavèk No More: Eliminating Child Slavery in Haiti," National Coalition for Haitian Rights, accessed March 20, 2018, <https://jmcstrategies.com/wp-content/uploads/2008/08/rnm20021.pdf>

¹⁴¹ *Ibid.*

could result in reprisals against the child, which may be another reason for so few calls. Currently, there is no evidence that this call center continues in place.

Physical punishments are too embedded in the Haitian culture. Despite the adoption in 2005 of the law on sexual aggression, there is a high number of cases of sexual exploitation and abuse of children. Moreover, perpetrators often receive light sentences or even enjoy impunity. An article published online by the Sun Sentinel, a Florida based newspaper, states that “In Haiti, society sees physical discipline as a necessity in raising a child. Parents don't have to look over their shoulder in a land where elders are still viewed with respect and the matinet – a wooden stick with three leather straps – is the tool of choice to enforce discipline.”¹⁴² In 2007, the Minister of Social and Labor Affairs of Haiti expressed that “if the majority of children in Haiti is not spared by violence, restaveks are those who suffer the most brutal violence.”¹⁴³ Through his testimony Cadet also suggested several times that he feared being taken to the police for a beaten. Cadet implied that it is a common practice to take restavek children to the police for corporal punishment.¹⁴⁴ The Global Slavery Index states in a report published by the United Nations Mission for the Stabilization of Haiti (MINUSTAH) in 2014 that, “police officers often use excessive force and operate with impunity.”¹⁴⁵ If police officers operate with impunity, and condone the practice of restavek

¹⁴²“A Difference in Discipline,” *Sun Sentinel*, January 8, 2003, <https://www.sun-sentinel.com/news/fl-xpm-2003-01-08-0301070352-story.html>

¹⁴³Johanne Clouet, “La Domesticité Juvénile En Haïti: Une Vision À Travers La Lentille Du Pluralisme Juridique,” *Lex Electronica*, accessed September 10, 2018, <https://www.lex-electronica.org/articles/vol18/num1/la-domesticite-juvenile-en-haiti-une-vision-a-travers-la-lentille-du-pluralisme-juridique/>.

¹⁴⁴Cadet *Restavec: From Haitian Slave Child to Middle-class American*, 19.

¹⁴⁵ “Restavek: The Persistence of Child Labor and Slavery.”

and the abuse of these children, who is in charge of enforcing the laws that were created to prevent the exploitation and abuse of children?

II. Article 28 (Right to Education)

“All children have the right to primary education, which should be free.”¹⁴⁶

Committee’s previous recommendations

- a) Expedite a practical implementation of the National Education and Training Plan
- b) Continue its efforts to ensure that all children, especially girls, have equal access to educational opportunities, paying particular attention to those living in rural and remote areas
- c) Take the necessary measures to guarantee access to adapted and adequate curricula designed for vulnerable children such as street children, restaveks, and over-age school children or adolescents
- d) Provide teachers with proper training
- e) Review its policy to ensure leadership in the governance of the education sector, notably by widening the powers of the National Partnership Commission
- f) Seek technical assistance from, UNICEF, the WHO and other institutions.

State Party’s report

¹⁴⁶“Fact Sheet: A Summary of the rights under the Convention on the Rights of the Child,” UNICEF, accessed June 20, 2018, https://www.unicef.org/crc/files/Rights_overview.pdf

The Government put in place a mass education policy, including a sectoral reform plan between 2010 and 2015, and strengthened teacher training and vocational guidance.

The State party noted that the Working Group created in 2008 on Education and Training, proposed a national education pact between the State and private stakeholders in the education system aiming to improve the system. The pact required “private stakeholders to recommend to the Government strategies and initiatives for increasing access to education, and improving the quality of Haitian schools; and for the modernization of the organization and functioning of the national education system, and to draw up and submit for discussion a draft national pact on education.”¹⁴⁷

The Programme for Free Compulsory Universal Education launched in 2011/2012.¹⁴⁸

Findings of violations or failures to fulfilling obligations

The restavek system began by impoverished families placing their children in the houses of wealthier urban families, often relatives, to gain access to education and other social services.¹⁴⁹ Instead, restavek children experience a life of hardship and work, and only a mere few are lucky to attend school.

The Working Group’s 2008 recommendations led to the development of the Operational Plan for the Haitian Education System in 2010, and by the Programme for Free Compulsory Universal Education as part of the mass education policy in 2011.¹⁵⁰ However,

¹⁴⁷“Consideration of Reports submitted by States parties under Article 44 of the Convention, Haiti.”

¹⁴⁸“Concluding Observations on the combined Second and Third Periodic Reports of Haiti,” 47.

¹⁴⁹“Restavek the Persistence of Child Labor and Slavery,” Restavek Freedom, accessed April 10, 2018.

<http://www.ijdh.org/wp-content/uploads/2011/03/Haiti-UPR-Restavek-Report-FINAL.pdf>

¹⁵⁰“Consideration of Reports submitted by States parties under Article 44 of the Convention, Haiti,” 48.

the Government acknowledged that, “some projects envisaged in the Plan have not yet been implemented for lack of funding, as only about 10 percent of the amount pledged by the donor has been allocated.”¹⁵¹

The implementation of the Programme for Free Compulsory Universal Education and the Operational Plan has made the percentage of children enrolled in school increase. Even though the Government established a Working Committee on the Integration of Street Children in School, as a follow-up to the recommendation to “guarantee access to adapted and adequate curricula designed for vulnerable children such as street children, children in domestic service and over-age school children or adolescents;”¹⁵² Only a total of 723 children benefited from these initiatives in the 2012/13 school year.¹⁵³ Out of the mere 723 children who were able to benefit from these initiatives, there is no distinction whether these children were only street children or children in domestic service (restaveks). Gertrude Sejour, from La Fondation Maurice Sixto in an interview with *Courrier International* in 2011, stated, “since the 2010 earthquake, the number of children in domestic service has increased dramatically and is probably in the region of 400,000.”¹⁵⁴ Even if the 723 children who benefited from the initiatives in 2012/13 happened to be restaveks, that would only account for 0.18% of the children in the restavek system. Disparities remain in access to education between girls and boys, and in particular between rural and urban areas.¹⁵⁵

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Monique Durand, “Haiti. Le Calvaire Silencieux des ‘Restaveks,’” *Courrier International*, February 24, 2011,

<https://www.courrierinternational.com/article/2011/02/24/le-calvaire-silencieux-des-restaveks>

¹⁵⁵ “Concluding Observations on the combined Second and Third Periodic Reports of Haiti.”

III. Violation of Article 32 (child labor)

“States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”¹⁵⁶

Committee’s previous recommendations

- a) Strengthen the implementation of its labor laws and increase the number of labor inspectors
- b) Ratify ILO Conventions n. 138 concerning the Minimum Age for Admission to Employment and 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor
- c) Seek technical assistance from ILO, among others.

State Party’s report

The Government responded to the Committee by increasing the number of labor inspectors; and noted that by 2013, 50 inspectors were working to strengthen the monitoring of child labor.¹⁵⁷ By 2007, Haiti had ratified ILO Convention no.138 concerning the Minimum Age for admission to employment; and Convention 182 regarding the Elimination of the Worst Forms of Child Labor.¹⁵⁸

In the report, the Haitian government states that, in 2009, a publication of communiqué made by the Ministry of Social Affairs and Labor informed the public of the Government’s

¹⁵⁶“Convention on the Rights of the Child, Article 32,” OHCHR, accessed November 5, 2018, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

¹⁵⁷“Consideration of Reports submitted by States parties under Article 44 of the Convention, Haiti,” 51.

¹⁵⁸ Ibid.

decision to make 15 years the minimum age for admission to employment.¹⁵⁹ Not only does Article 335 of the Haitian Labor Code prohibit the employment of minors below the age of 15, but also the State report highlights the Act passed in June 2003 that specifically outlawed the placement of children into restavek service and the abuse and maltreatment of children in general.¹⁶⁰

Findings of violations or failures to fulfilling obligations

Under Article 32 of the CRC, State Parties shall provide “for a minimum age or minimum ages for admission to employment; provide appropriate regulation of the hours and conditions of employment; and provide appropriate penalties or other sanctions to ensure the effective enforcement of Article 32.”¹⁶¹ Although Haiti has ‘legally’ set the minimum age of child labor at 15, some children become restaveks as young as age five.¹⁶² Even if some of these children work under better conditions and are paid for their labor, it does not justify their employment and it violates the rights of the child as provided by Article 32 and of the Haitian national law.

Article 3 of the 2003 Act establishes that a child “may be placed with a foster family as part of a relationship of assistance and solitary [...] the child must be treated as a member of the family.” However, children are not treated as family members, but exploited.¹⁶³ Furthermore, in some cases, even the host families themselves are impoverished and are

¹⁵⁹ Ibid.

¹⁶⁰“Concluding Observations on the combined Second and Third Periodic Reports of Haiti.”

¹⁶¹“Convention on the Rights of the Child, Article 32.”

¹⁶²“Restavek: The Persistence of Child Labor and Slavery.”

¹⁶³Jim Loney, “Haiti ‘Restavèk’ Tradition Called Child Slavery,” *Reuters*, February 18, 2010, <http://www.reuters.com/article/2010/02/18/us-quake-haiti-restaveks-idUSTRE61H3F920100218?pageNumber=1>.

often unable to feed their children properly.¹⁶⁴ Despite the enactment of these laws, the restavek system persists.

While the Haitian law condemns restavek placement and child slavery, the system itself has flaws. Restavek Freedom also finds that Article 340 of the Haitian Labor Code “provides for the levying of a fine of 3,000-5,000 gourdes against any employer who employs a child under 15 or a child between the ages of 15 to 18 without a work permit.” However, there is no evidence that Article 340 is being enforced nor any penalty is awarded for violating the law.¹⁶⁵ In their submission to the Human Rights Council, Restavek Freedom identified that although the Ministry of Social Affairs has the jurisdiction for investigating these cases, “it does not outline any specific punishments and only generally allude to the possibility of judicial action.”¹⁶⁶ Although the Haitian government has established several bodies to address children’s rights, and the restavek issue is gaining international attention, there still needs to be more incentive from the government to solve the problem.

Chapter VII: **Conclusion and Recommendations**

Restaveks working conditions and restrictions on freedom establish the system to slavery. The research leads to the conclusion that Haiti’s political and historical past has shaped the current

¹⁶⁴ Viviana Fernandez and Linda Tom, “En Haití, UNICEF y sus Aliados Ayudan a que los Niños y Niñas Empleados en el Servicio Doméstico Recuperen sus Derechos,” *UNICEF*, April 19, 2007, https://www.unicef.org/spanish/protection/haiti_39418.html

¹⁶⁵“Restavek: The Persistence of Child Labor and Slavery.”

¹⁶⁶ *Ibid.*

state of the country, and have thus, contributed to the persistence of the restavek system today. The social stigma associated with the practice can also form a barrier to social changes and slow the process to eradicate the restavek system. As we previously mentioned, the populations' lack of access to education, and other social services; and the government's weak implementation of the national laws, and violations of the multiple international conventions enacted to condemn slavery, such as, the 2014 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Prostitution and Child Pornography, and ILO Conventions 182, and 138; to name a few, have also made the restavek practice prevail. Kevin Bales' theory of Modern-Day Slavery, where he argues that population growth, impoverishment, and corruption are predictors of slavery in a country, fits exceptionally well while studying the case of Haiti since all these factors are incredibly present in the Caribbean region.

Although we have seen the Haitian government implement some programs to help mend the issue, there are still significant gaps in these programs and policies that aim to address the problem of the restavek practice. As previously identified, it is crucial for the Haitian government to ensure that Articles 19, 28, and 32 of the Convention of the Rights of the Child are respected and implemented in the country. There also needs to be a change within the cultural norms in the country to lead to a refusal of such a system. The government needs to strengthen the rule of law to protect children and sentence perpetrators. Hence, build and reinforce the capacity of governmental justice systems. It should also ensure better enforcement of Article 335 of the Haitian labor code, which prohibits the employment of minors below the age of fifteen, by setting up a complaints system and appointing more inspectors and prosecutors to the cause. The state also needs to compile with the act passed in June 2003 that outlawed the placement of children into the restavek service and the abuse and maltreatment of children in general, to see some changes.

If Haiti does not take immediate action, this system of modern-day slavery will continue to grow, the country will remain in the same wretched state it has been for the past years, and the chances of it worsening will increase. Although Haitians pride themselves on being one of the first nations to abolish slavery, the presence of restaveks in the country demonstrates that there is another form of slavery that thrives in its place.

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