

Restavek:
Child Domestic Labor in Haiti

August 1990

A report of the
Minnesota Lawyers International Human Rights Committee
Minneapolis, Minnesota

Copies of this report are available for \$7.00 from:

Minnesota Lawyers International Human Rights Committee
430 Marquette Avenue, Suite 402
Minneapolis, Minnesota, 55401
Telephone: (612) 341-3302
FAX: (612) 340-9518

Effective January 1, 1991
514 Nicollet Mall
Minneapolis, Minnesota 55402

ISBN: 0-929293-06-1

© 1990 by the Minnesota Lawyers International Human Rights Committee

Printed in the U.S.A.

TABLE OF CONTENTS

Preface	i
Summary and Recommendations	iii
Introduction	1
I. Background on Restavek and Haiti	1
A. Description of Restavek	1
B. Roots of Restavek	5
C. General Condition of Children in Haiti	8
II. Conditions of Restavek	10
A. Testimonials	10
B. The Restavek Placement	13
C. Work Performed by Child Domestic Workers	17
D. Physical and Emotional Treatment	21
E. Education	23
F. Food	24
G. Health Care	25
H. Rest and Leisure	26
I. Life After Restavek.....	27
III. Haitian Laws Regulating Restavek.....	30
IV. Recommendations.....	32
Appendix A.....	34
Appendix B	49

PREFACE

Since the February 1986 departure of Jean-Claude Duvalier for France, Haitians have suffered continued political and economic turmoil. The initial hope that, with Duvalier's departure, Haiti would finally have a representative government that strove to meet the needs of its people rather than to exploit them has not to date been realized. Instead, Haiti has endured three military dictatorships, a crescendo of human rights abuses, lawlessness that has created a profound sense of insecurity, and near economic collapse.

As this report goes to press, Prosper Avril, head of the third military government to rule Haiti since the fall of Duvalier, has left Haiti and there is a provisional civilian government preparing for national elections. Once again there is the hope that meaningful elections will lead to a civilian government that can begin the daunting task of addressing Haiti's very great social, political and economic problems. Among those problems which the Minnesota Lawyers International Human Rights Committee ("Minnesota Lawyers Committee" or "Committee") hopes the new government will address is *restavek* -- the use of children as unpaid domestic labor.

This report, based primarily upon information gathered during a December 1989 mission, was written by Leslie Anderson, E.J. Kelley and Zara Kivi Kinnunen, three members of the Minnesota Lawyers Committee. The Committee has had an active sub-group focusing on human rights issues affecting children in Haiti since 1988. The Committee sent two fact-finding missions to Haiti, in December, 1988 and December, 1989.

The Minnesota Lawyers Committee would like to thank the many Haitians who assisted us in gathering information for this report. Although December 1989 was a tense and troubled month in Haiti, our sources were uniformly generous with their time and also assisted us in making other contacts and obtaining additional information. We would especially like to thank Jean-Jacques Honorat, of the Centre Haitien des Droits et Libertés (CHADEL), for his invaluable assistance. This report was made possible largely with the support of the Dorsey & Whitney law firm, for which the Committee is enormously grateful.

SUMMARY AND RECOMMENDATIONS

During its 1988 mission to Haiti, the Minnesota Lawyers Committee learned of a common practice of domestic child labor in Haiti, known in Creole as “restavek” (derived from the French words “rester avec” -- “to stay with”). The restavek child is given by his or her (usually rural) parents to an urban family, to perform household labor. While in some instances the placement is an informal adoption that allows the rural child to be brought up in a higher socio-economic setting than would otherwise be possible, in its more typical form the child is totally cut off from his or her natural family and viewed as a source of labor, not as a child, by the “employing” family.¹ Indeed, various Haitians have characterized the practice of restavek as a vestigial form of slavery.

After further discussion about restavek with Haitians living in the United States, the Minnesota Lawyers Committee decided to focus its second mission to Haiti on restavek children. The Committee made this decision for several reasons. First, it regards the practice of restavek as a serious human rights issue that violates a number of international legal conventions, including several to which Haiti is a party. By failing to enforce existing legislation or enact appropriate safeguards against restavek, the Haitian government violates both national and international legal obligations to prohibit forced labor and slave-like practices, and to uphold the rights of children. Second, there has been virtually no discussion of restavek outside of Haiti, and only limited attention to this issue within Haiti. The information obtained about the plight of many restavek children suggested the need for Haitian and international scrutiny and

¹ The term “employing” family is used in this report to designate the family to whom the restavek child is given. It is not an entirely satisfactory term, as it implies, for example, a salary, when in fact the restavek child receives none. It does, however, accurately reflect that the typical restavek child is obtained by a family as a source of labor, not as a child to be raised and nurtured.

concern. Third, restavek is a particular manifestation of the condition of the majority of children in Haiti. Most Haitian children lack basic economic and civil rights, victims not only of their country's turbulent political history but of its crushing poverty as well.² By focusing on the restavek child, one can appreciate more concretely the effect of past Haitian governments' inability, or unwillingness, to provide for the most basic needs of the most vulnerable component of its population -- its children.

The three authors of this report visited Port-au-Prince, the capital of Haiti, in December, 1989. The delegation interviewed present and former restavek children, governmental officials, Haitian experts on restavek, human rights workers, staff from non-governmental international organizations interested in children's issues, and church workers. The delegation also obtained what is believed to be the only written study of restavek, a report issued after a 1984 conference on "Child Domesticity" which assembled Haitian government officials, sociologists, psychologists, educators, lawyers and clergy to address the subject of restavek.³

Substantial evidence exists showing that restavek is a prevalent feature of Haitian life. Large numbers of children, some at very young ages, are given by impoverished parents to more affluent families who use them as domestic servants. In many instances the restavek child has no further contact with her⁴ real family after the initial placement.

² For a general survey of human rights issues affecting Haitian children, see Minnesota Lawyers International Human Rights Committee, Children's Rights in Haiti, February 1989.

³ The reports or statements of the various contributors to this government and UNICEF supported conference were published as Colloque Sur L'Enfance en Domesticité, subsequently referenced as "1984 Conference Report."

⁴ The use of the feminine throughout the report includes the masculine; the Committee selected feminine forms because the majority of restaveks are girls.

Restavek children usually perform the bulk of the household labor, without pay. Working as a servant is the primary function of the restavek: typically she is not treated like a family member. She is therefore unlikely to attend school, even if the family's children attend school; to eat with the family; or to eat the same quality diet as the family. The evidence suggests that most restaveks are beaten, and girls may be sexually abused.

Many of the children presently living in the streets of Port-au-Prince have fled restavek situations. Children who flee, or are dismissed from, restavek situations often have no means to contact or return to their original homes.

Restavek children do not remain the "property" of the restavek families forever. When they become teenagers or reach adulthood, they may work for the same family or other families as cooks, drivers, maids, or similar positions, for pay. In most cases, the adult who grew up as a restavek has extremely limited opportunities to change the circumstances of her life as she grows older because of the limitations on education and development inherent in restavek situations. Similarly, there is a social and class stigma attached to being a restavek child.

The Minnesota Lawyers Committee believes that the Haitian practice of restavek should be abolished. The Committee appreciates that complex economic, cultural and historical forces in Haiti have contributed to the existence of restavek; that because it exists in a variety of forms it is not uniformly abusive and exploitative; and that it is difficult to analyze from a strictly legal viewpoint. In its typical form, however, restavek deprives a child of the most basic economic and civil rights: rights to family, education, health care, childhood and leisure, and in many cases, adequate shelter and nutrition.

The practice of restavek violates international prohibitions against practices similar to slavery, forced labor and the exploitation of children. These prohibitions are enumerated in the

Universal Declaration of Human Rights, as well as the following treaties to which Haiti is a party: the American Convention on Human Rights; the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and International Labour Organization (ILO) Convention No. 29 on Forced Labour.

The Haitian government's attempts to regulate restavek have failed and, even if enforced, are not adequate to satisfy Haiti's legal obligations or to end the exploitation inherent in restavek placements. Therefore, Haiti should within the shortest possible period take all necessary steps to bring about the complete abolition of restavek. The government should ensure that present and former restavek children are returned to their own families or, if that is impossible, placed in an environment in which the children's interests are paramount. International organizations and non-governmental organizations should take appropriate measures to ensure Haiti's compliance with international law and to aid Haiti in its efforts to address the roots and consequences of restavek.

INTRODUCTION

This report will present a brief background on Haiti and the conditions of children in Haiti. The report will also analyze restavek in light of relevant international legal standards, the Haitian Constitution, and pertinent Haitian law. Finally, it will offer recommendations directed toward the abolition of restavek.

I. BACKGROUND ON RESTAVEK AND HAITI

A. Description of Restavek

Restavek is a prevalent feature of Haitian society. The 1984 Conference Report estimated that 109,000 Haitian children worked as restaveks, 65,000 girls and 44,000 boys.⁵ If 109,000 children is an accurate figure today, five percent of Haitian children between the ages of five and eighteen work as domestics. Another contributor to that report thought the 109,000 figure far too low, with 240,000 a better estimate.⁶

There has been little written in or outside Haiti about restavek, other than the 1984 Conference Report. Haitian sources stated that restavek dates back to the nineteenth century, and that it occurs throughout the country. In its most typical form, a poor rural child is given to a family living in one of the larger cities, such as Port-au-Prince, Les Cayes or Gonaives, but the

⁵ These figures were provided by the Institut Haitien de Statistiques et d'Informatique and the Institut du Bien-Etre Social et de Recherches. *See* R. Dorelien, Interprétation des données statistiques relatives à l'enfance en domesticité, recueillies à partir des résultats d'un échantillon, tiré du recensement de 1982, p. 3, Table 9, 1984 Conference Report.

⁶ E. Clesca, La domesticité juvénile est-elle une conséquence du sous-développement ou le produit de la mentalité d'un peuple?, p.1, 1984 Conference Report.



Restavek children in Port-au-Prince

movement of children is not exclusively rural-urban. For example, some peasant families may have restavek children. The 1984 Conference Report estimated that 64 percent of restaveks lived in the Port-au-Prince area, 21 percent in towns of 5,000 or more, and 15 percent in the rest of the country.⁷

Rural Haitians often have great difficulty providing their children with enough food. Access to health care and schools is also extremely limited. Some rural parents, feeling they cannot provide for all their children, give one or more away as restavek children to more affluent families. Usually either a member of the employing family, or an intermediary, travels to the countryside to locate restaveks. Ordinarily the child is given away, not bought. If money does change hands, it is likely to be a very small gift to the child's natural family.

Restavek has deep and complex roots in Haitian culture and history. Restavek in part is a result of Haiti's traditional extended family structure. In this form, restavek is a sort of informal

⁷ R. Dorelien, *supra* note 5, p. 2.

adoption where poorer branches of a family send some of their children to live with wealthier ones. The Committee was repeatedly told, and the 1984 Conference Report states, that the child fares the best when the restavek placement is to a relative.⁸ The employing family will have more of a personal interest in the restavek in this situation, and the child is far more likely to have continued contact with her immediate family. Sometimes, even though there is no blood relationship, an urban family will repeatedly return to the same rural family for restavek children over a period of several generations. Because there is a real connection between the placing and the employing family, and on-going contact between the restavek child and her parents, a restavek child in this situation may be relatively well off.

There is however a much less benign source of restavek rooted in Haiti's colonial experience. There has been a long history of exploitation of the many by the few in Haiti, starting with the French slave-owners and unfortunately, in some respects, continuing to the present.⁹ Many Haitians interviewed confirmed that, in the more exploitative form of restavek, the employing family simply does not view the restavek child as a person whose rights and needs are equal to -- or approach -- those of the members of the employing family. Instead, the child is viewed as a source of manual labor. According to the Committee's sources, this exploitative form is the predominant form of restavek today,¹⁰ and this report focuses on the abuses that sometimes occur in these sorts of restavek placements.

⁸ E. Clesca, *supra* note 6, p. 3. Haitians interviewed stated that even in this form of restavek, however, there are still sharp distinctions between the treatment of the restavek children and the real children of the employing family. While the restavek child will perform the household labor, the natural child will not. The restavek child will be less likely to attend school, and school for the restavek child may be subordinated to the work schedule.

⁹ See, e.g., M. Lundahl, Peasants and Poverty: A Study of Haiti (1979), p. 23.

¹⁰ See generally F. Fontus, Etude Comparée de la Domesticité Juvenile dans Quelques Pays du Tiers-Monde, 1984 Conference Report.

The restavek child may be as young as four or five when given to the employing family.¹¹ Usually she has no further contact with her family.¹² Quite likely, the restavek child has only a vague notion of where she comes from, her age, or her family surname.

Because the placement of the child with the employing family usually severs the child's contact with her own family, her subsequent welfare is wholly dependent upon the urban family. The rural family doubtless hopes that the employing family will feed and clothe the child, send her to school, provide her with medical care, and treat her as one of the family. These hopes are not generally realized. In most instances, the restavek child is poorly fed and clothed, does not attend school, does not receive medical care, and is definitely not one of the family.¹³ Instead she is the family's servant, waiting not only on the adults but on the family's children.

If the restavek child is unhappy with the urban family, mistreated, beaten, or sexually abused, there is no effective mechanism to assist the child. While Haiti has enacted regulatory legislation intended to protect the restavek child,¹⁴ no Haitian, including governmental officials, suggested that the existing laws are enforced. In fact, the unhappy or abused restavek child is left to solve her own problems. If she runs away, her choices are few. She can join Haiti's street children living in the slums of Port-au-Prince, find another restavek placement for herself or, perhaps, find an orphanage that will shelter her. The dislocation and uncertainty of restavek is likely to traumatize the child psychologically.

¹¹ The 1984 Conference Report projected that seven percent of restaveks are under the age of five. R. Dorelien, *supra* note 5, p. 10.

¹² D. Devesin, Profil Social de l'Enfant en Domesticit , p. 16, 1984 Conference Report.

¹³ *See generally* Section II below.

¹⁴ This legislation is discussed at Section III below.

The typical restavek child thus grows up bearing emotional scars from the sense of abandonment by her real family and subservience to the new family. She also lacks education and any skilled training. Instead of the restavek placement breaking the cycle of poverty, as the rural family hoped, the cycle is perpetuated.

In the words of Haiti's former Minister of Social Affairs, the practice of restavek is "unacceptable."¹⁵ It violates basic legal pronouncements of the rights of children and has characteristics both of forced labor and slavery.¹⁶

B. Roots of Restavek

The practice of restavek in Haiti results from historical, cultural and economic causes. As a French colony after 1697, Haiti had a wealthy, productive export economy, its wealth deriving from large plantations worked by African slaves. By the end of the eighteenth century, Haiti's population consisted of 40,000 French colonists and 500,000 slaves, two-thirds of whom had been born in Africa. The French minority treated the slaves with great brutality.

In 1804 Haitian slaves succeeded in expelling the French colonists after a protracted rebellion. The new republic, the second in the new world, was isolated by European nations and

¹⁵ Minnesota Lawyers Committee interview with M. Arnault Guerrier, Port-au-Prince, Dec. 4, 1989.

¹⁶ Several contributors to the 1984 Conference Report noted similarities between restavek and slavery. *See, e.g.*, E. Clesca, *supra* note 6, p. 3; A.M. Dolce, L'Enfance en domesticité peut-elle être considérée comme une nouvelle forme d'adoption?, p. 3, 1984 Conference Report; J.S. André, Efforts entrepris par l'état Haïtien en faveur de l'enfant en domesticité, p. 2, 1984 Conference Report. One Haitian interviewed expressed his opinion that Haiti today has two forms of slavery: restaveks and Haitian sugar cane cutters working in the Dominican Republic. (The condition of the latter has been investigated by the International Labour Organization and non-governmental organizations. *See, e.g.*, Americas Watch, National Coalition for Haitian Refugees, Caribbean Rights, Haitian Sugar Cane Cutters in the Dominican Republic (Nov. 1989)).

by its fellow new world republic, the United States, for much of the nineteenth century. With slavery still prevalent in many of its states, the United States did not even recognize Haiti until mid-way through the American Civil War.

At independence in 1804, the oppressive Haitian plantation system was ruined, with many plantations burned to the ground during the previous fifteen years of revolutionary turmoil. The environmental degradation caused by deforestation, which has reached almost catastrophic proportions in Haiti today, began in this period. Some of Haiti's post-colonial rulers initially tried to resurrect the plantation system by use of forced labor that bore many resemblances to slavery. These efforts to reinstate forced plantation labor failed and subsequent land reforms distributed land to the masses. Most Haitians became what most remain today: small landholders living in isolated rural communities.

Haitian society has, for at least the past 300 years, been divided into two strata: a tiny, affluent, urban elite and the rural peasants, many of whom in the last 20 years have migrated to the cities where by and large they live marginal lives in the slums.¹⁷ The elite runs the government, and "(g)overnment in Haiti [has]... evolved as a huge extractive mechanism, sucking funds from the masses in the countryside and channelling them to the elite in the cities."¹⁸ The various governments of Haiti have done little for the rural populace in return: on average, less than ten percent of public expenditures have been devoted to the countryside.¹⁹

More recent economic and ecologic trends have exacerbated rural poverty and made it

¹⁷ Haiti's population remains predominantly rural, notwithstanding this rural exodus.

¹⁸ M. Danner *Beyond The Mountains*, The New Yorker (Dec. 4, 1989), p. 78 (initial periodical publication).

¹⁹ M. Lundahl, *supra* note 9, p. 23.

more difficult for rural families to provide for their children. Haiti has one of the highest ratios of population to arable land in the Caribbean.²⁰ At least three inter-related factors contribute to this ratio. First, Haiti has an extremely mountainous terrain. Second, Haiti's growing rural population led to repeated subdivision of plots of land and increasingly intensive cultivation. This more intensive farming, in turn, led to a third major cause of rural poverty: Haiti's massive deforestation and soil erosion.²¹ Despite recent internationally funded reforestation efforts, Haiti's ecological crisis continues to pose huge problems for the rural economy.²² For example, while U.S. AID has sponsored a program in which seven million trees are planted a year, rural Haitians are cutting trees at a rate of more than 20 million per year.²³ Haitian sources universally agreed that rural poverty is the root cause of restavek.



Street children in the slums of La Saline, Port-au-Prince

²⁰ *Id.* at 17.

²¹ *See generally*, U.S. AID/Haiti, Strategy paper for Fiscal Year 1989/1990 (Jan. 1989).

²² The U.S. AID Strategy Paper notes that “(t)he misuse and mining of the natural resource base, unless arrested, will lead to environmental catastrophe.” *Id.* at 11.

²³ A. Wilentz, The Rainy Season (1989), p. 266.

C. General Condition of Children in Haiti

The existence of *restavek* is only one example of the many problems that face Haitian children. When measured against virtually any indicator, the situation of children in Haiti is bleak. For example, in Haiti, only 82.6 percent of children born survive to age five.²⁴ This statistic, known as the under five mortality rate, is considered by UNICEF to be one of the best indicators of the overall condition of children in a country, and Haiti's under five mortality rate is classified by UNICEF as "very high".²⁵ Seventeen percent of Haitian babies are born with a low birth weight, and it was estimated in 1986 that five percent of Haitians under five suffer from severe malnutrition, a condition that is often fatal.²⁶ Fifty-two percent of Haitian children between the ages of two and five years are stunted by some degree of malnutrition.²⁷ In 1985, among Haitians generally, daily caloric intake was only 79 percent of minimum daily requirements.²⁸ Less than 50 percent of Haitian children complete primary school and only 18 percent attend secondary school.²⁹ In the rural areas, 80 percent of Haitians lived below the absolute poverty level in the period 1977-86.³⁰

The great majority of Haitian children are thus extremely vulnerable economically. It is important to stress the general poverty of Haiti's children to avoid any suggestion that the

²⁴ J. Grant, The State of the World's Children 1989 (UNICEF 1989), p. 80.

²⁵ *Id.* at 78.

²⁶ *Id.* at 96.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 100.

³⁰ *Id.* at 104.