



Country fact sheet for the CRC

COUNTRY: HAITI

REPORT N°	N° 2-3 periodic reports for the UN Committee on the Rights of the Child
PRE-SESSION/ SESSION	Pre-session: 71 st (8-12 June 2015) Session: 71 st (11-26 January 2016)
LAWS (THC-1993, GUIDELINES, DOMESTIC LAWS)	<ul style="list-style-type: none"> Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993), ratified in December 2013 and into force since the 1st April of 2014 Loi réformant l'adoption [Law reforming adoption], published in <i>Le Moniteur</i> N° 213 of 15 November 2013
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<ul style="list-style-type: none"> In 2012, 4,261,900 out of a total population of 9,996,731 (2014 est.) were children, out of who 430,000 were orphaned. The country faces challenges related to great poverty and unemployment levels (before the earthquake in 2010, an est. 80% of Haitians lived below the poverty line) Large numbers of children are separated from their family. Their exact number is unknown. They are often placed within their extended family while their parents live and work abroad. According to UNICEF, over 250,000 are placed with other families for domestic work (so called "Restavek"). Limited initiatives to prevent family separation and to support the biological family; most often started by NGOs; some rare 'sponsorship' initiatives enabling children to remain in their families thanks to a private monthly subsidy (RELAF = Latin American Foster Care Network); Several initiatives launched by the <i>Institut du Bien-Être Social et de Recherches</i> (IBESR), aimed at strengthening the support offered to families and placements at national level, but their implementation still requires time. <p>Sources: CIA Factbook, Haiti, https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html UNICEF Haiti, Child Protection, Challenges, http://www.unicef.org/haiti/french/protection.html; Country statistics http://www.unicef.org/infobycountry/haiti_statistics.html.</p>
ALTERNATIVE CARE OPTIONS	<ul style="list-style-type: none"> Foster care: the exact number of children living in informal foster care settings remains unclear. However, the new law on adoption includes the development of a foster care programme as an alternative to care centres. Residential care most widespread: according to a census of 2012, over 28,000 children are being taken care of in approx. 700 residential care homes, which are orphanages and so-called <i>crèches</i>. 80% of those children are not orphans having lost both parents. As many NGO's and church-based groups aim to set up orphanages instead of supporting families, institutions appear attractive to poorer families and there is an apparent lack of accreditation and monitoring of these private organisations. There is consequently a genuine risk that this temporary placement of the child by his family results in an 'abandonment', which may end up in a declaration of adoptability of the child. ❖ In practice: lack of necessary resources of IBESR to ensure compliance of placement procedures and provide parents with necessary explanations on the implications of their child's placement. This is especially problematic because of: <ul style="list-style-type: none"> - 'closed-door' policies in institutions, <i>i.e.</i> every aspect of children's lives take place within the institution (education, health, etc.).



- exclusive financing of institutions through foreign support, mostly adoption agencies. In the light of the absence of adequate family-based alternatives or national adoptions, this leads to massive violations of the subsidiarity principle. Now, institutions must provide proof of other financial sources, but acceptance among institutions remains difficult and transparency is not yet ensured.
- far from optimal living conditions. The legislation in this regard is out of date (1971) and incomplete in order to ensure the protection of all children's rights (no individual life plan, no monitoring mechanisms, and other permanent alternative care measures not explored).
- ❖ **Reforms:** new monitoring and evaluation procedure of *crèches* launched through 2012 census; closure of about 10 *crèches* where the children's care conditions were obviously inadequate. Ongoing task during 2013. Without other efficient alternative placement possibilities, several "transit centres" have been inaugurated.

Sources: 2012 Regional study undertaken by the Inter-American Commission on Human Rights and UNICEF's Regional Office, <http://www.oas.org/es/cidh/infancia/docs/pdf/Informe-derecho-nino-a-familia.pdf>; Initial Report to the Committee on the Rights of the Child: Haiti, CRC/C/51/Add. 7, 21 June 2002; Dambach, M. & Baglietto, C, *Haiti – 'Expediting' intercountry adoptions in the aftermath of a natural disaster ... preventing future harm*, International Social Service, August 2010; 'Bleak Portrait of Haiti Orphanages Raises Fears', *The New York Times*, 6 February 2010, <http://www.nytimes.com/2010/02/07/world/americas/07trafficking.html>; Red Latinoamericana de Acogimiento Familiar (RELAF), <http://www.relaf.org/BoletinJunio12Contenidos.html#editorial>; *El derecho del niño y la niña a la familia – Cuidado alternativo: Poniendo fin a la institucionalización en las Américas*, CIDH, UNICEF, OEA, 2013. Available at: <http://www.oas.org/es/cidh/infancia/docs/pdf/Informe-derecho-nino-a-familia.pdf>.

ADOPTION

- **Widely spread practice of intercountry adoption, despite the existence of serious concerns** i.e. the lack of supervision by a governmental authority with sufficient human and financial means, the lack of control of the declaration of the child's adoptability, the lack of control of care centres which role is dominating in intercountry adoption procedures, the gaps linked to the implementation of the principle of subsidiarity (children declared adoptable while temporarily placed), etc.
- **Deterioration of situation after the 2010 earthquake:** disproportionately high number of children adopted in the days and weeks following the natural disaster, violating the principle of the prohibition of intercountry adoptions taking place during situations of conflict, natural disaster or considerable human displacement (impossibility to ascertain the children's personal and family situation), with the aim to give priority to efforts reuniting displaced and separated families.
- **Since 2012, important processes launched:** strengthening of the IBESR in its role of Haitian Central Authority and the launch of new procedures for birth registration, child abandonment, monitoring, etc.
- With the technical support of the Permanent Bureau of the Hague Conference on Private International Law and ISS, the ratification of THC-93 through the **Law reforming adoption** entered into force at the end of 2013. These fundamental reform measures are to be **congratulated** and **following elements are worth mentioning:** poverty is no sufficient reason for adoption (art. 3); the explicit mentioning of the principle of subsidiarity (art. 3 and 4); the prohibition of independent and private adoptions (art. 6 a)) and undue material benefits (art. 6 e) and 74); the detailed provisions concerning the biological parents' consent (arts. 6d), 44-45); the prohibition of undue material benefit (arts. 6 e) and 74); the specific consideration of children with special needs (arts. 22 and 46.2). **However, the challenge will be the effective implementation and monitoring of these principles.**
- On June 9, 2014 IBESR reopened the submission process of files for the renewal of authorizations for accredited adoption bodies and children's homes, as well as the authorization for the creation and operation of the latter. Now, IBESR sets out quotes per country, except for the adoption of children with special needs and relative adoption. On August 14, 2014 IBESR published an official scale of adoption costs.

Sources: Hague Conference on Private International Law, *Press release: Haiti earthquake and intercountry adoption of children*, 20 January 2010 http://www.hcch.net/upload/wop/adop2010_rpt_en.pdf; US Central Authority <http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/haiti.html>; French Central Authority <http://www.diplomatie.gouv.fr/fr/adopter-a-l-etranger/comment-adopter-a-l-etranger/les-fiches-pays-de-l-adoption/fiches-pays-adoption/article/adopter-en-haiti>; IBESR, *Note administrative rel. aux coûts de la procédure d'adoption internationale*; IBESR, *Note d'information relative à la gestion de la phase de transition de l'adoption*, <http://www.ibesr.com/fichier/Note%20d'information%20gestion%20transition%20d'adoption.pdf>

STATISTICS

The statistics relating to the number of intercountry adoptions undertaken prior to the 2010 earthquake are:

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Canada	150	159	115	123	86	146	89	172	77	31	34
Belgium	7	6	4	1	0	3	1	11	3	7	0
France	542	507	475	571	403	731	651	992	34	49	31
Germany	0	35	37	23	31	61	30	0	0	0	0
Italy	6	9	13	2	2	0	0	0	0	0	0
Luxembourg	0	0	1	1	7	8	3	0	0	3	0
The Netherlands	69	42	51	41	28	91	60	108	0	0	0
Spain	17	36	24	15	22	0	13	0	0	0	0
Switzerland	9	7	8	10	12	4	9	16	14	12	0
U.S.A.	250	356	231	309	190	301	380	133	33	154	388
TOTAL	1'050	1'157	959	1'096	783	1'347	1'223	1432	161	265	453

Sources: ISS/IRC Monthly Reviews and AICAN, Intercountry Adoption Statistics, <http://www.aican.org>.

RISKS

- The insufficient support delivered to biological/extended families puts the respect of the principle of subsidiarity at risk. Temporarily placed children are at high risk of being declared adoptable.
- Reforms of the legislation, policy and practice relating to the support and protection of children deprived of a family, or who are at risk of being so, must be considered by the country, especially in the light of the CRC and the UN-Guidelines for the Alternative Care of Children. Therefore, the coordination of reform measures and the investment of adequate resources in the fields of child protection and intercountry adoption is essential. It is also incumbent upon all intercountry adoption actors to support Haiti, without interfering in the processes of change and by respecting the fact that the transition towards the new system will take time. Even more important is for receiving countries to adopt a common position.

POTENTIAL QUESTIONS

- How does the country further plan on supporting families in order to prevent their separation?
- What is envisaged to develop and strengthen family-based alternative care measures or national adoptions?
- What efforts are done to reintegrate institutionalized children into their family and to ensure the continued contact between children and their biological family?
- What is currently done to improve the living conditions of children in institutions?
- What alternatives are envisaged to ensure the care of de-institutionalized children? And if there are, what kind of support is foreseen for children leaving care?
- Is the temporary placement of children in “transit homes” respected in practice?
- What is done to monitor costs and financial transactions of institutions proposing children for adoption?
- Are the adoption evaluations, the matching and the child’s preparation processes undertaken by multi-disciplinary teams?