



**Monthly Review N° 04/2012
April 2012**

EDITORIAL

Haiti, two years on: A time of waiting

Two years after the earthquake, the issue of whether to resume intercountry adoptions with Haiti is insistently being raised, but for the ISS, it remains too early.

Last February, at a press conference in Haiti, the joint mission of the Committee on the Rights of the Child and the Inter-American Commission on Human Rights presented its initial findings in clear terms¹: 'Intercountry adoption in Haiti is an issue of growing concern'. The absence of a child protection system, inadequate and insufficient resources from the Institut du Bien-Être Social et de Recherches (Institute of Social Welfare and Research, IBESR – Haiti's adoption authority) and illegal adoptions carried out by some nurseries, are all factors that have been highlighted by the delegation.

For adoption professionals, these elements are nothing new. The ISS report on adoptions undertaken after the earthquake had already noted that the general adoption conditions did not meet legal requirements and international standards, and that the 2010 catastrophe had even further weakened the already failing system. Regarding the 'aftermath', the testimony of an expert offers insight into the psycho-traumatic consequences for Haitian children adopted following the earthquake (see p. 6).

Ratification is not a panacea

The receiving countries involved with Haiti, as well as the joint delegation mentioned above, argue, quite rightly, for Haiti to ratify the 1993 Hague Convention, which it signed in March 2011. However, this crucial step cannot be completed successfully without meeting the conditions necessary for the Convention's implementation. Amongst these, the adoption of a new adoption

law replacing the – now obsolete – text of 1974 is vital. Yet, several versions of the new law have been submitted for consultation in recent years, but because of a lack of coordination, a version accepted by the Parliament has now been put before the Senate, while a new version still in development should be submitted to the Parliament soon. Moreover, according to Haiti's monist legal system, when the Hague Convention comes into force, it would entail the repeal of existing legal standards that do not comply with it, which is the case – at least in part – with the 1974 law. Consequently, there is a risk of creating a legal gap, should there be a rushed ratification, without any appropriate prior legislative review.

Temporary suspension

The practice of intercountry adoption has often demonstrated the need and usefulness of temporarily suspending adoptions when a country of origin has had to deal with comprehensive reforms of its adoption system as well as with bad practices inherent to that system's weaknesses (see p. 7). In addition, the transitional phase that must allow for the move towards applying the Hague Convention and its implementing legislation must, on the one hand, allow for pending cases to be completed, and, on the other, prepare for new procedures to be undertaken. To effectively carry out these essential steps, it is necessary for the country of origin to have time, and for it to clearly define the steps of this transitional phase. A temporary suspension of procedures remains the most effective way to achieve these goals.

This position is in line with the manifesto recently published by UNICEF France, which also calls for a moratorium by the French Government at times of natural disasters in the country of origin with a view to freezing hasty and hurried adoptions².

Necessary support

The international community is now mobilising to support Haiti in its efforts. UNICEF, the Permanent Bureau of the Hague Conference and receiving countries members of the Group of Montreal are developing a strategy to strengthen the IBESR and improve the adoption system. ISS and Terre des Hommes are working on an additional project promoting the protection of children.

While there is hardly any doubt that adoption, whether domestic or intercountry, continues to be a useful measure to protect Haitian children deprived of their family, we must now allow Haiti to take the time required to ensure it is applied while respecting their rights.

The ISS/IRC Team
April 2012

¹ *Le Nouvelliste*, 22 February 2012:

<http://www.lenouvelliste.com/article.php?PublID=1&ArticleID=102940>.

² UNICEF France,

<http://www.unicef.fr/contenu/actualite-humanitaire-unicef/pour-une-adoption-internationale-respectueuse-et-protectrice-des-enfants-2012-02-10>.