

# AFTER THE EARTHQUAKE

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HAITIAN CHILDREN SEEKING SAFETY IN THE UNITED STATES

FIAC

FLORIDA IMMIGRANT ADVOCACY CENTER



# **After the Earthquake:**

## Haitian Children Seeking Safety in the United States

By Susana Barciela, Deborah Lee, Michelle Abarca and Cheryl Little

January 11, 2011

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3000 Biscayne Boulevard, Suite 400  
Miami, Florida 33137  
Tel 305.573.1106  
Fax 305.576.6273  
[www.fiacfla.org](http://www.fiacfla.org)

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*To protect and promote the basic rights of immigrants*



## **About Florida Immigrant Advocacy Center**

Florida Immigrant Advocacy Center (FIAC) has been fighting for the American dream since its founding in 1996. One of the nation's largest non-profit immigration law firms, FIAC represents vulnerable immigrants at no charge. This direct service work informs its broader policy work. FIAC influences national policy; successfully litigates or otherwise challenges patterns of abuse; and educates the public about the impact immigration laws and directives have on our communities. FIAC is dedicated to protecting and promoting the basic rights of immigrants.

## **For further information contact:**

Michelle Abarca and Deborah Lee, *Children's Legal Project Co-Directors*  
Cheryl Little, *Executive Director*  
Susana Barciela, *Policy Director*

Florida Immigrant Advocacy Center  
3000 Biscayne Boulevard, Suite 400  
Miami, Florida 33137  
Tel 305.573.1106  
Fax 305.576.6273  
[www.fiacfla.org](http://www.fiacfla.org)

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## **About the cover:**

The Statue of Liberty was drawn by a 10-year-old girl, one of FIAC's unaccompanied child clients.

## About FIAC's Children's Legal Project

In fiscal year 2009, the Department of Homeland Security (DHS) placed more than 6,000 children into U.S. immigration custody.<sup>1</sup> Each is an “unaccompanied minor”—a child who is here without a parent or legal guardian and lacks legal immigration status. Many are victims of abuse, neglect, persecution, trafficking, or other horrors. While most come from Central America, FIAC represents children from all over the world. Last year, we served 350 to 400 such children in three children's shelters in Miami-Dade County.

Each unaccompanied child brings a unique and often a heart-wrenching story. Yet rather than find themselves welcomed with open and comforting arms, these children encounter a complicated legal system that is bewildering and frightening.

FIAC is the only nonprofit organization that provides comprehensive free legal services to children in federal custody in South Florida who otherwise have no means to hire an attorney. In addition, we represent immigrant children in the state foster-care system and vulnerable children and families in the community. FIAC represents children in both immigration and state juvenile courts, files lawsuits in federal court when necessary to protect a child's basic rights and challenges unlawful practices and policies.

FIAC's Children's Legal Project has been a continual force advocating for immigrant children's issues. In 2002, FIAC published its children's report, “I running out of hopely...”—Profiles of Children in INS Detention in Florida.” In 2004, FIAC along with American Immigration Lawyers Association successfully advocated for children's immigration court hearings to be heard at the downtown court instead of at the Krome Detention Center, where many children were frightened by the sound of gun shots from a nearby target practice range.

FIAC has influenced national policies and laws affecting immigrant children and is widely recognized as an expert in immigrant children's issues. FIAC attorneys repeatedly have been invited to present at national conferences for immigration judges, family and juvenile court judges, as well as children's legal advocates. In 2007, FIAC hosted On Their Own: The 2<sup>nd</sup> Annual Conference on Unaccompanied Immigrant Children, a national convening of legal and social service advocates for immigrant children. FIAC was proud to host this conference again in 2010.

## Acronyms

BIA	Board of Immigration Appeals
DCF	Florida's Department of Children and Families
DHS	U.S. Department of Homeland Security
DUCS	Division of Unaccompanied Children's Services, part of ORR
FIAC	Florida Immigrant Advocacy Center
HHS	U.S. Department of Health and Human Services
ICE	Immigration and Customs Enforcement, a DHS agency
ORR	Office of Refugee Resettlement, part of HHS
SIJ	Special Immigrant Juvenile
TPS	Temporary Protected Status
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
USCIS	U.S. Citizenship and Immigration Services, a DHS agency

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### Introduction

The January 12, 2010 earthquake wreaked unspeakable loss in Haiti, already one of the world's poorest countries. An estimated 300,000 people died and 1.5 million remain homeless, most of them living in tent cities.<sup>2</sup> Almost a year later, reconstruction and improving conditions remain painfully slow.

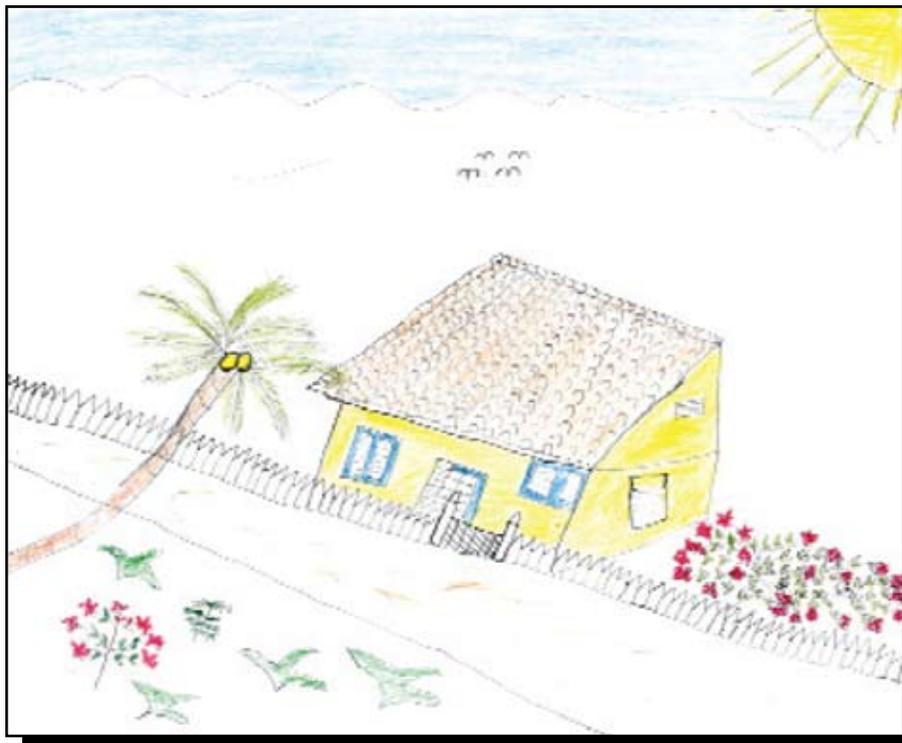
With its historic ties and proximity to Haiti, the United States is home to the largest group of Haitians in the diaspora, some 535,000 immigrants including 45,000 children. That group now has grown due to post-earthquake arrivals, particularly in Florida where the country's greatest concentration – 46.4 percent – of Haitians live.<sup>3</sup> Among them are the most vulnerable of all immigrants: Haitian children here without their parents or legal status.

Some of these children were rushed here for medical treatment after surviving life-threatening injuries in the catastrophic earthquake. Others arrived before the earthquake but have been separated from their parents for years. Many have been abused, abandoned or neglected or are living in vulnerable situations. These unaccompanied Haitian minors are the focus of this report.

Deported, these children would face horrific conditions in Haiti's post-earthquake environment. Beyond difficulty finding food and shelter, unprotected children risk being trafficked, enslaved, prostituted, raped or murdered.<sup>4</sup> Most recently, a deadly cholera outbreak and heightened likelihood of future earthquakes make matters worse.<sup>5</sup> These children's prospects for getting appropriate education, medical attention and mental-health care are slim in a Haiti still overwhelmed by death and devastation.

Under these circumstances, returning unprotected children to Haiti at this time clearly would not be in their best interests.

Fortunately, many of these children may be eligible for deportation relief. The challenge is to ensure that unaccompanied Haitian children find competent immigration counsel to navigate a complicated maze of immigration and state juvenile laws, and multiple legal options that must be considered. Most of these unaccompanied children in our community also need other services – including medical care for injuries, mental-health treatment for Post-Traumatic Syndrome Disorder (PTSD), educational assistance, and other social services.



## Children at Risk

For many Haitian children, inadequate documents, ignorance of U.S. law, and irregular entry to the United States compromise their options and best interests. At stake is their chance to be protected from deportation. Legalizing their status, even temporarily, may offer safety, well-being, education and a better life.

Among the most serious risks for a child is to be forced into slavery as a “restavek,” a term for a Haitian indentured child servant. Starting at a young age, restaveks often are subjected to brutal physical and sexual abuse.<sup>6</sup> Over the years the practice has come to the United States, and in 2008 FIAC assisted with the criminal prosecution of a family responsible for enslaving a young Haitian child. (See: A Modern-Day Slave, page 2).

The poorest country in the Western hemisphere, Haiti has no lack of vulnerable children, including orphans as well as children who cannot be adequately fed or cared for by destitute parents or relatives. Before the earthquake, up to 380,000 children lived in Haiti’s orphanages.<sup>7</sup> Some 228,000 children also were exploited as restaveks. Additionally, numerous homeless children – among them many former restaveks and other victims of physical and sexual abuse – lived alone on the streets. All of these populations have swelled in the earthquake’s aftermath.<sup>8</sup>

Consequently, training and advocacy are needed to understand this restavek practice and develop protocols to identify vulnerable Haitian children who may be coming to this country and may be at risk of suffering and exploitation.

### A Modern-Day Slave

*Simone Celestin washed, cooked, and cleaned 15-hours a day, seven days a week without compensation and deprived of an education. Brought to the United States from a Haitian orphanage at age 14, she didn’t run away from the family who abused her for fear that she would be deported.*

*For nearly six years she ate leftovers, bathed with a bucket, slept on a mattress on the floor, and was beaten with hands, shoes, brooms and a mortar—whatever was handy. She never was sent to school. Like some 200,000 children in Haiti, Simone was a slave. (See “Children at Risk,” page 2).*

### “Motor oil or bleach”

*Eventually Simone escaped, and her tormentors faced criminal charges in a Miami federal court. At the trial, Simone testified that she grew so despondent as a “slave” that she considered suicide, weighing whether to drink “motor oil or bleach.” Ultimately the family who brought and enslaved Simone was convicted of human trafficking and violating her civil rights.*

*After her escape, Simone was referred to FIAC by Sant La, a local Haitian community group. FIAC worked with the U.S. Attorney to prepare her for trial and found her a trauma counselor. We also helped her legalize her immigration status through a special T visa for victims of trafficking. Approved in April 2010, her T visa allows her to legally work, stay in the country and in due time apply for lawful permanent residency. All this will help her recover and move on with her life.*

Dear Deborah 9-28-10

Hi MS. Deborah, I would like to take this opportunity to thank you for your time and also to express my sincere appreciation for your support of helping me getting my permanent resident card. I appreciate the fact you didn't give up on my case even though it took a lot of going to courts days, a lot of work and also a lot of years to get completed. I also appreciate that you was always really kind to me and my dad whenever we come to your office. I thank you for all your hard work to get this case (my case) completed. I will never forget you and how you helped me. I will always keep you in my prayers for the lord to keep on blessing you, give you strength and also the opportunity to keep on helping immigrants. Thank you for your time. God BLESS...

Sincerely... [Redacted Signature] ☺

### A Haitian Child's "Best Interests"

Any unaccompanied immigrant child "should be treated with dignity, respect, and special concern for his particular vulnerability as a child."<sup>9</sup> According to international law and widely accepted international standards, government authorities should protect the "best interests" of such vulnerable children. Unfortunately, this does not always happen when they reach the United States.<sup>10</sup>

Unaccompanied children typically arrive traumatized by what they have experienced in their home countries as well as by the circumstances of their flight and separation from their families. Many such children suffer from anxiety and depression about their uncertain futures. PTSD and other psychiatric conditions are disturbingly common among them.<sup>11</sup>

Haitian children are no different. Following the earthquake, many were evacuated from Haiti for medical care or adoption. Some are orphans, others have parents in Haiti. Many were deemed vulnerable by a government or social service agency returning to the United States. These earthquake survivors are even more likely to suffer PTSD if not other complications from physical injuries, the loss of loved ones and what they experienced during and after the catastrophe.

The Office of Refugee Resettlement's (ORR) Division of Unaccompanied Children's Services (DUCS), a U.S. Department of Health and Human Services (HHS) agency, is charged with the care of unaccompanied minors in federal custody. Many of the Haitian children have been placed in custody at ORR-contracted shelters and will eventually be released into foster care programs. Other children not in federal custody have been living in local communities with distant relatives or caretakers, sometimes for years, but are also vulnerable due to their lack of a legal guardian.

In many instances, as the examples in this report will attest, the situations of these Haitian children are so complicated that even experienced immigration advocates find it difficult to determine the best course of action to take in their cases.

### *Baby Margaret's Legacy*

*"Baby Margaret" first appeared in immigration court in the arms of a deportation officer. A FIAC attorney spotted the officer carrying the crying toddler at Krome Detention Center's Immigration Court in 2000. The baby had been smuggled into the country, and no one had claimed her. When the immigration judge asked the officer if he would represent the toddler, FIAC's astonished attorney immediately volunteered to take the case. Thus, 18-month old Baby Margaret inspired the creation of FIAC's Children's Legal Project.*

*Since then, FIAC has provided legal services to thousands of vulnerable children thanks to funding by The Children's Trust, Our Kids of Miami-Dade Monroe, The Florida Bar Foundation, Vera Institute of Justice, Sisters of the Humility of Mary, and Franciscan Sisters. Over the years, as we realized that detained children needed more than legal counsel, FIAC developed a partnership to provide complementary services such as trauma-focused individual treatment, social support services and policy advocacy.*

### *A model program*

*In 2006, a grant from The Children's Trust allowed FIAC and its non-profit partners to launch a program that coordinates care and better serves unaccompanied children in Miami-Dade County. Together, the partners now provide comprehensive services to unaccompanied children – thus helping them find the sense of security and protection they desperately need.*

*Named the Immigrant Children's Legal and Service Partnership (ICLASP), the program offers pro bono group therapy, trauma-resolution therapy, youth development activities and life-skills workshops in addition to comprehensive legal services. FIAC, the lead agency, and the partnership have garnered national recognition as a model program that serves immigrant children in a holistic manner.*

*DUCS has noted the partnership's quality work and care coordination. Maureen Dunn, DUCS Director, deemed our partnership "a model program for other care providers throughout the country." The Vera Institute of Justice also*

*has brought other service providers to Miami to observe this partnership model.*

### ***A travesty of justice***

*We are a best-practice program offering comprehensive free services to unaccompanied children in their area. For years FIAC represented every unaccompanied child in custody in South Florida who could not afford an attorney. Unfortunately, funding cuts have forced us to scale back. It breaks our hearts to turn away kids who potentially could gain legal status. Without FIAC, virtually none of these children will get effective legal representation. Yet we no longer have the resources to fully represent every child that needs our help.*

*Without a lawyer, a child facing deportation proceedings before a court of law is a travesty of justice, and Congress should address this serious concern. Meantime, U.S agencies and foundations would do well to invest in Haitian and other unaccompanied children to ensure their long term well-being.*



### **Lost Without a Lawyer**

Unlike juveniles accused of committing a crime, children in immigration court proceedings are not entitled to a free attorney or guardian ad litem.<sup>12</sup> Alone, unrepresented children must face an adult adversary: a government lawyer making the case to have them deported.

Making matters worse, pro bono attorneys with expertise in immigration and juvenile law are in very short supply. At the same time, children are especially challenging to represent, often having trouble recalling critical events and even more difficulty articulating those events in a clear manner. Not surprisingly, FIAC has spent countless hours attempting to recruit pro bono attorneys and still falls short.

Studies suggest that more than half of all unaccompanied children in this country lack an attorney to guide them through extremely complicated legal proceedings. The failure to provide these children with legal assistance stands in sharp contrast to other legal proceedings in the United States affecting children.<sup>13</sup> It is also out of step with the practices and the interpretation of children's "best interests" in U.S. family law in many other countries.<sup>14</sup>

The immense value of legal representation has been validated in studies of adults in deportation proceedings. One study concluded that being represented by an attorney is the most important factor affecting the result of an asylum case. Another found a correlation between having legal representation and positive outcomes in all deportation proceedings.<sup>15</sup>

Unknown numbers of unaccompanied Haitian children may be living in our communities without access to legal representation or other needed services. What is certain is that these children need an attorney to guide them through extremely complicated immigration and other legal proceedings to help them have a shot at the American dream. Otherwise, they will live in fear of deportation to post-earthquake Haiti, where unprotected children easily fall prey to hunger, disease, traffickers and street violence.<sup>16</sup>

# Introduction

## Options for Obtaining Legal Status

FIAC is extremely concerned that vulnerable Haitian children do not understand their options for attaining legal status and how to protect themselves from deportation. Whether in federal custody, the state foster-care system or out in the community, unaccompanied Haitian children may be eligible for several forms of immigration relief. The principal forms are:

- Special Immigrant Juvenile Status (SIJ) – for abused, abandoned or neglected children;
- Temporary Protected Status (TPS) – for Haitians present in the United States prior to the Jan. 12, 2010 earthquake;
- Family Petition – for some children in the process of adoption, typically those who are orphans or whose parents have given up parental rights;
- Deferred Action – for certain vulnerable Haitians arriving in the United States after the earthquake;
- Special visas – for victims of crimes and severe forms of trafficking; and
- Asylum – for children likely to face persecution if returned to Haiti.



The following section features cases of Haitian children who have applied for these forms of immigration relief. Though they often struggle through a lengthy process, many are thrilled to achieve permanent or temporary status and no longer constantly look behind their shoulder in fear of deportation.

### In Search of a U.S. Home

These are stories of Haitian children currently living in the United States. While some arrived after the earthquake, others have lived here for years. All of them are FIAC clients. We know many loving Haitian parents who would move heaven and earth to keep their children fed, housed and healthy, and we strive to keep families together. Sadly, not all children are so fortunate. For some, living with a loving family is not always possible.

#### Special Immigrant Juvenile Status: Children Alone

The children in this section arrived in the United States after the earthquake and are eligible for Special Juvenile Immigrant (SIJ) status, a humanitarian visa for abused, abandoned or neglected children. Unfortunately, the scarcity of pro bono lawyers will hinder many equally deserving Haitian children from pursuing SIJ cases.

#### A Miracle Child

She was near death when they pulled her out. After the January earthquake, rescuers uncovered 3-year-old Christina from the rubble next to a hospital. She could not see, talk, eat or stand. Doctors found she had serious head trauma, facial paralysis, and other conditions that required specialized medical attention, speech therapy, and extensive physical and occupational therapy. The medics thought Christina would never recover – but she has.

Evacuated to the United States, she spent almost a month getting medical care in a hospital. Without that care, she likely would have died. Christina still could not walk or speak by the time she was discharged and placed in federal custody. She remains at the shelter where she continues to receive services. Now 4 years old, she walks with hand-held crutches.

Meanwhile, Christina's parents and her 9-year-old

sister are living in a tent city in Port-au-Prince. The parents say they are unable to care for Christina and can barely ensure their own health and safety nowadays. Fortunately, the family has identified a U.S. citizen cousin who is deeply interested in caring for little Christina.

The cousin recently told FIAC: "God saved Christina for a reason, and that is to stay with us in the United States." Christina may be eligible for SIJ status, given her parents' inability to ensure her on-going medical care needs and basic protection.



#### Left at School

The earthquake caught 5-year-old Odette in a classroom. "My school fell on top of me and on all the other kids," she told FIAC. Odette recalled her anger because her teacher took his car keys and left the school. And no wonder. Her severe injuries included hip and femur fractures. She also lost a heel, and a splint on her femur became infected.

Due to the extensive wounds and fractures, she was medically evacuated for treatment in the United States and ended up spending two months in a hospital. Her heel was rebuilt and, thanks to her medical care and physical therapy, Odette is now walking normally.

Released from the hospital, Odette was placed in federal custody and sent to a shelter for unaccompanied minors in South Florida where she remains today. While still healing from her physical wounds and trauma, she is doing well in school.

## In Search of a U.S. Home

Prior to the earthquake Odette had lived with her father, her primary caretaker. Afterward, having lost their home, he was living in a tent city in Port-au-Prince with Odette's three siblings when FIAC last contacted him. By mid November, FIAC had lost touch with the father. The mother's whereabouts also are unknown.

Odette has an aunt in Naples, Florida, who is a legal permanent resident and expressed interest in caring for Odette for the long-term. In July, however, her aunt suffered injuries in a car accident and is no longer able to care for Odette.

The repeated tragedies Odette has suffered are overwhelming for this 5-year-old child. She just wants a permanent place to live. Given Odette's lack of family to provide care for her, she may be eligible for SIJ status.



### A Child Adrift

Evens, age 13, came to the United States by boat in May 2010, was picked up by federal immigration agents, placed into custody and then transferred to a children's shelter in South Florida. More than 6 months later, he is doing well in the shelter. He goes to classes and likes the people who care for him there.

Since he was approximately 2 years old, Evens was raised by different relatives in Haiti, and had not seen or heard from his parents in many years. These relatives physically abused Evens, deprived him of food at times, and resented the burden of caring for him. Following the earthquake, Evens came to the United States on a boat with unrelated adults, hoping to reunite with more caring relatives here.

Evens has a sister who lives in Fort Lauderdale. The young woman, who is in her 20s, visits and would like

to help him. Evens also would like to live with her.

As an abandoned, abused, and neglected child, Evens is eligible for SIJ status, and FIAC is working on his case. FIAC is still gathering evidence and documentation and plans to file a petition on Evens' behalf in state juvenile court. For the time being, Evens is hoping never to be sent back to Haiti and is enjoying visits with his recently found sister – even if he is not exactly clear about what the future may bring.

### Temporary Protected Status: In Both Worlds

Haitian children living in the United States before the earthquake are eligible for TPS, a temporary humanitarian protection to remain in the United States. Some arrived very young, have lived here many years, and have no relatives in Haiti able to care for them.

### A Terrifying Childhood

Stevenson was brought to the United States by his mother when he was about 1 year old. He does not remember living in Haiti and feels like an American. But his life here has been very difficult, especially after his mother married his stepfather in 2001 and the two favored their own shared children. While the parents would give gifts and birthday parties to their shared children, they gave nothing to Stevenson and his older sisters except extreme abuse.

These parents would order Stevenson to kneel and fold his arms across his chest and then beat him with their hands, shoes, belts, tree branches, or anything else they could find. Stevenson remembers his mother screaming curses in Haitian Creole and insults like "F\*\*\* you" and "Dumbass" at him. His stepfather installed locks on the inside of the doors of their small house so that they would need a key to leave the house.

The parents would keep the only keys and lock the children inside. Making matters worse, Stevenson's stepfather sexually abused his biological daughter, who lived in the home. No one tried to stop him. All the children were terrified of him.

At some point, Stevenson's mother applied for asylum and listed him as a derivative on her application. In 2002, her final appeal was denied, and she was ordered deported. At the time, his mother had already split up with the stepfather and returned to Haiti. Without making any plans for the care of Stevenson or his siblings, she simply left them all behind.

Afterward, Stevenson bounced around from place to place, trying to stay with one older sister or another. At one point, he was found delinquent for loitering because he never had a place to stay. With no one to care for him, he became extremely distraught and depressed. Earlier this year, Stevenson finally was placed into the custody of the Florida Department of Children and Families (DCF). Since then, FIAC has helped him apply for SIJ status as well TPS. We are still awaiting adjudication of his TPS application, but are hopeful it will soon be granted.

Stevenson remembers nothing of his life in Haiti, has no one there to care for him, and is scared about how he would survive if deported. At least now, at age 17, Stevenson is in foster care and has resumed schooling in Miami.

### **A Family Far Away**

Sivelia's parents sent her to the United States alone. She arrived by plane on the day after Christmas in 2009. Her parents and siblings stayed behind in Haiti. The family loves her, but is so poor that they cannot afford to care for her in Haiti or send her any money. She lives in South Florida with a family friend who earns very little but "helps her out" by letting Sivelia stay in the house and by providing her clothes and food.

FIAC met Sivelia, age 15, at one of many outreach sessions at the local high school where she is enrolled. We then filed applications for TPS and work authorization on her behalf. FIAC went with her to her fingerprints appointment and obtained the evidence needed from her school to secure the approval of her TPS application. Further, we helped get her a Haitian passport, which she submitted when the government asked for additional evidence to prove her nationality.

Granted TPS and a work permit, Sivelia now continues her education and remains in the United States without fear of imminent deportation. However, TPS only provides temporary protection from deportation and it is unclear what will happen to her when TPS expires in July 2011.

### **Afraid of Haiti**

Yves, a high school junior born in Haiti, has been living in the United States since he was about 2 years old. He came on a boat but cannot remember the journey or who accompanied him. Nor can he remember his parents or life in Haiti. In fact, he has communicated very little with his parents since he last saw them more than 14 years ago.

When he first arrived, Yves lived with an uncle in Miami. At age 7, he went to live with a cousin who was 21 at the time. The cousin has cared for him and supported him financially since then.

Recently, Yves's cousin was laid off from his job. Though he was collecting unemployment payments, those stopped after the benefits were exhausted. Currently the cousin is trying to finish his college degree and somehow provide for Yves and himself. Now 17, Yves is so Americanized that he speaks very little Haitian Creole. He is working hard to graduate from high school and yearns to live his dreams in the United States.

"I fear to go back because I have been here all my life. I don't know anything about Haiti. I can barely speak Creole. Therefore, going back is my biggest fear," Yves told FIAC. "Haiti doesn't offer anything for me. I would love to be legal."

FIAC assisted Yves with his TPS application, which recently was approved. He was ecstatic to receive his employment authorization card and is looking for part-time employment. Yves wants to work legally, apply to college and pay in-state tuition – all achievable goals now that he has TPS. FIAC is also now researching his eligibility for SIJ status.

### **Children in Foster Care and Awaiting Adoption: Longtime Survivors**

Even when unaccompanied children find loving caretakers, they face a lengthy bureaucratic minefield on the path to adoption and permanent legal status.

### **Waiting for USCIS**

Pierre, now age 11, has travelled a long road in his short life. When he was 4 years old, his father brought him to the United States by boat. Upon arrival, Immigration and Customs Enforcement (ICE) apprehended and then released both of them. The father filed an asylum application including Pierre as a derivative of his claim. However, an immigration judge issued a deportation order against them, and Pierre, therefore, remained without legal status.

Shortly after his father lost his asylum case, the Florida Department of Children and Families (DCF) took Pierre into protective custody based on allegations of abandonment and neglect. His father had been accused of sexually molesting a 3-year-old child in the home where he and Pierre had been staying. Fleeing from police, the father left Pierre behind without making any arrangements for the child's care or support.

Eventually, a juvenile court declared Pierre dependent and placed him in foster care. He has no relatives in Haiti and is dependent on the foster-care agency and his foster parent. He longs to be adopted and have a permanent home in the United States.

Now Pierre has been with his foster parent for several years. He hopes to adopt Pierre soon, but ran into a road block two years ago: the juvenile court will not approve the adoption until Pierre has obtained permanent U.S. residence, which meant navigating the lengthy process of applying for SIJ status.

With FIAC's help, Pierre filed a SIJ petition in March 2008. USCIS failed to decide his petition for nearly two years despite repeated requests and inquiries. As a last resort, FIAC prepared a federal lawsuit on Pierre's behalf. Finally, USCIS approved his visa the following month. Still, that was not the end of the process.

Because Pierre still has a deportation order, he must petition the court to reopen the immigration court proceeding and vacate the old deportation order. Getting an ICE trial attorney to join in the motion significantly improves the likelihood of a favorable decision. Recently, ICE signed the joint motion.

Hopefully, the immigration judge will decide that Pierre's court proceedings will be reopened and the removal order vacated – so that he can finally apply for lawful permanent residency in the United States and the adoption can be completed.

Meanwhile, Pierre became eligible for Temporary Protected Status in January 2010. FIAC filed a TPS petition on his behalf, and it was approved four months later. While this protects him from deportation on a temporary basis, TPS is not a permanent solution. The juvenile court continues to schedule regular hearings for Pierre so FIAC can update it on the progress of his immigration case. The hope is that his residency is granted and his adoption at long last finalized.

### Legal at Last

When Fredeline was a young child, her parents left Haiti and she hasn't seen them since. She stayed behind with an aunt who physically and emotionally abused her for years afterward. Though Fredeline was frightened of her aunt, she had no one else in Haiti to protect or care for her.

More than six years ago, Fredeline boarded a plane to the United States. Then age 13, she arrived and was stopped by immigration authorities at the airport. She was a traumatized unaccompanied child and terrified of being sent back to Haiti.

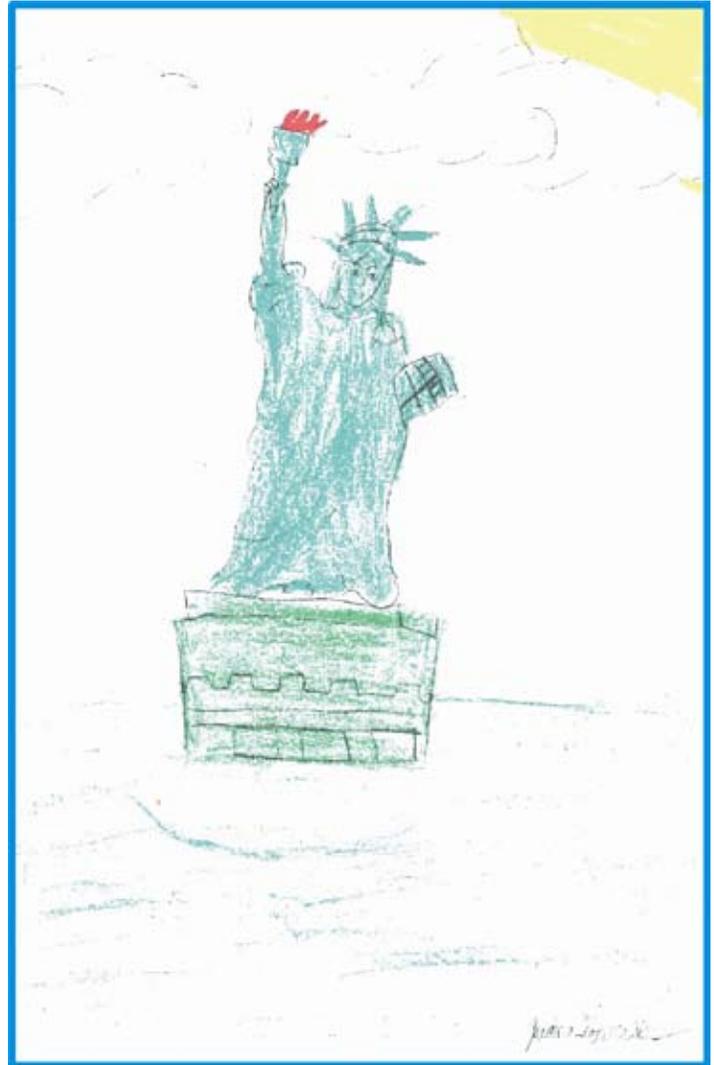
Fredeline was taken from the airport and placed in custody at a children's shelter in South Florida, where she remained for four months until released to a paternal uncle in Miami. Her uncle, a U.S. citizen, soon expressed interest in adopting Fredeline, but he, too, feared that she would be deported to Haiti because she had been placed in deportation proceedings before the Miami immigration court.

Even after finalizing his adoption of Fredeline in July 2005, she remained without lawful immigration status. Her uncle had to satisfy the required two years of having physical and legal custody of his now legal daughter before he could file a petition with USCIS to provide a visa to Fredeline.

Despite FIAC's numerous efforts requesting a decision on Fredeline's case, USCIS took several years to finally approve Fredeline's visa petition. Then USCIS took another year to finally grant an interview date for her application for legal permanent residency.

The devastating Haiti earthquake struck before Fredeline had obtained lawful immigration status, and it was unclear whether she would also need to apply for TPS. Both Fredeline and her adoptive father were anxious for a resolution but disheartened by USCIS' continual delays regarding her seemingly straightforward case.

Finally on September 22, 2010, five years after Fredeline's adoption was completed, her application for legal permanent residency was approved. Fredeline and her family were ecstatic. This now 19-year-old young woman – no longer the 13-year-old unaccompanied child who couldn't speak a word of English – has truly blossomed under the care and protection of her adoptive father. A bright and determined young woman, she will be starting college and studying nursing this year.



### Deferred Action: Waiting for Relief

Deferred action, a temporary reprieve from deportation, is a possible option for some Haitian children who arrived in the United States after the January earthquake and do not appear to qualify for any other immigration relief.

### Emotional Aftershocks

Martine, age 7, and Johanne, age 2, were at home with their mother on the day of the earthquake. Mom was helping Martine with her homework when they heard a loud noise and felt their home shake. She saw the refrigerator start to tip over by Martine, grabbed both girls and ran as fast as she could to get out of there. The house came crashing down around them, and then everything collapsed as the girls cried hysterically.

## In Search of a U.S. Home

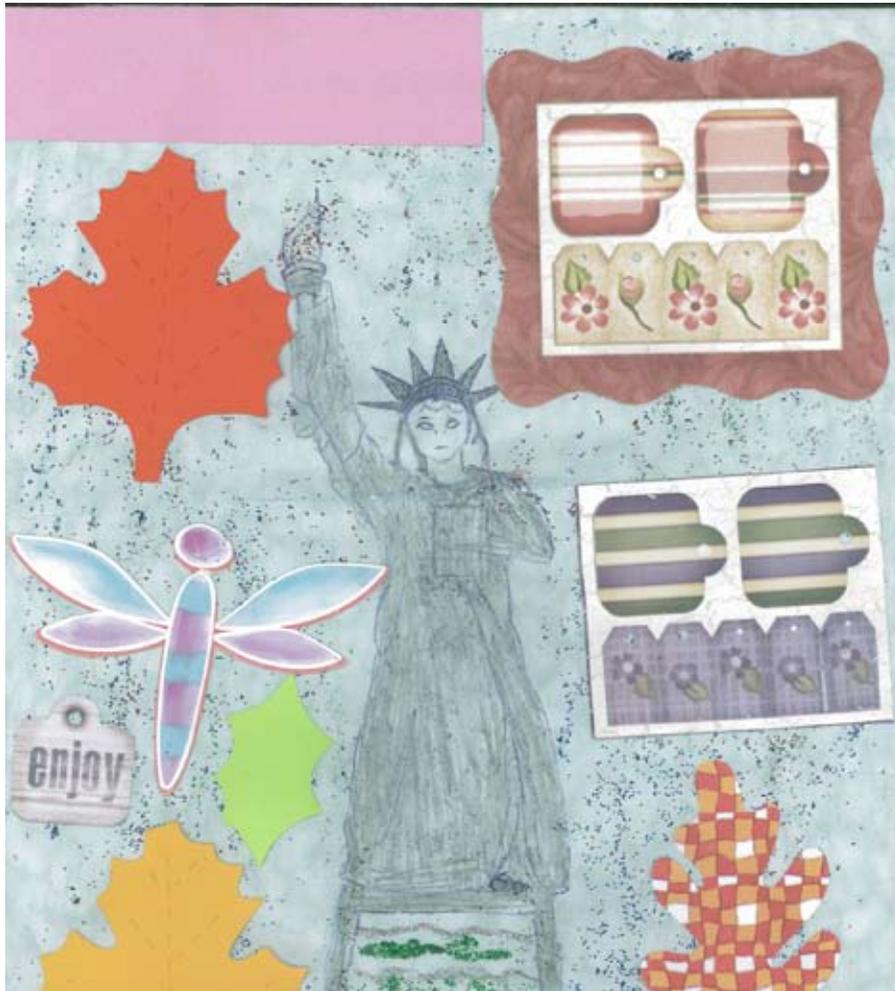
Outside, everywhere they went, dead bodies littered the ground. For days, the mother struggled to find the girls a safe place to sleep away from decomposing corpses. There were no tents or shelters. They did not know what had happened to their father. For his part, the father was stuck in a different part of town for days. He walked for miles searching for the mother and daughters after a friend told him they'd been seen alive, and he eventually found them.

Finding food and shelter remained a struggle. The young girls cried continuously and became sick. Martine could not control her bladder and Johanne would repeatedly throw up. In February 2010, the parents and girls fled Haiti and came to the United States on B-2 tourist visas. Since then, their authorized stay has expired. The parents can't get a work permit, and the family is staying with U.S. relatives, moving between homes because they have no place of their own.

Though they no longer have to contend with the earthquake's aftershocks or destruction, the sisters continue to suffer from the trauma they experienced.

Martine still feels pain in her arm and lower back from injuries sustained during the earthquake. Johanne still vomits when she feels any sort of tremor, such as when she is in a car going fast, and suffers from digestive problems. Both of them continue to have nightmares and awaken startled when they hear a loud noise at night, thinking there is another earthquake. To send these children and their parents back to Haiti when their emotional and physical wounds are so raw would run counter to the U.S. humanitarian spirit.

In August 2010, FIAC filed a deferred action request with USCIS for the family. We have not received a decision yet, so the family remains in legal limbo.



### A Brief Primer on Immigration Options

Vulnerable Haitian children – whether in federal custody, foster care or living in the community – may be eligible for immigration relief. Below find descriptions of the most common options:

- Special Immigrant Juvenile Status (SIJ) – for abused, abandoned or neglected children;
- Temporary Protected Status (TPS) – for Haitians in the United States prior to the Jan. 12, 2010 earthquake;
- Family petition – for children in the process of adoption, typically those who are orphans or whose parents have given up parental rights;
- Deferred action – for Haitians arriving in the United States after the earthquake;
- Special visas – for victims of crimes and severe forms of trafficking; and
- Asylum – for children likely to face persecution if returned to Haiti.

#### Special Immigrant Juvenile (SIJ) Status

Haitian children declared dependent by a state juvenile court due to abuse, neglect, abandonment or a similar basis under state law may apply for legal status under the SIJ statute. SIJ status has become a common form of legalization for unaccompanied children, but remains complicated because it involves both the expertise of a juvenile court and the federal authority of U.S. Citizenship and Immigration Services (USCIS) to grant legal immigration status. In rare instances, for example, some unaccompanied minors may have to obtain permission from ORR before filing their case in state juvenile court.<sup>17</sup> More information on the SIJ process may be found on the USCIS website and in a practice advisory.<sup>18</sup>

Once the court declares the child a dependent of the state and he is not in immigration proceedings, he may concurrently apply for SIJ status and lawful permanent residency with USCIS. Children with SIJ status may also qualify for federal public benefits. Both processes – in state court and with USCIS – easily take tremendous time and effort.

One of the significant challenges for SIJ cases for Haitian children includes the lack of official documentation. Many official government buildings were damaged or destroyed during the January

2010 earthquake and many of the desperate Haitian children who arrived post-earthquake have little to no documentation. Others who were in the United States prior to the earthquake have significant difficulty obtaining documentation of their own birth or documentation of the deaths of one or both parents post-earthquake.

Juvenile courts have expressed deep concern regarding the plight of many of these children. USCIS should also consider the particular difficulties Haitian children may face in obtaining requested documentation.

#### Temporary Protected Status

Shortly after the earthquake, the U.S. government granted Haitians TPS due to the overwhelming devastation. TPS allows Haitians in the United States to legally remain for a finite period until the U.S. government ends the program. Haitians who continuously have lived in the United States since the date of the earthquake, January 12, 2010, are eligible for TPS and may apply for it through January 18, 2011. Currently, TPS status is valid until July 22, 2010. With TPS, Haitians may also apply for work authorization, a State ID or driver's license, and a Social Security number. However, the process may be costly for children age 14 or older, unless they are otherwise eligible for a fee waiver.<sup>19</sup>

In previous cases involving other countries designated for TPS, the U.S. government often has extended TPS at 18 month intervals depending on the home country's conditions, ability to absorb deportees and political realities. TPS, thus, offers temporary protection from deportation for Haitians, including children who were here before the earthquake and may not have other or better options.<sup>20</sup>

Beyond organizing TPS clinics targeting vulnerable children and families, FIAC has conducted outreach activities in the Haitian community, at churches and public high schools as well as in the state juvenile court in Miami. FIAC also collaborated with the state juvenile court to identify eligible Haitians and conducted numerous trainings for child welfare workers.

Nonetheless, identifying TPS-eligible children and families remains a challenge. And if they miss the deadline, they lose an opportunity to apply for immigration relief.

## A Brief Primer on Immigration Options

### Family Petition

Certain vulnerable Haitian children may legalize their status through adoption. Adoption, in and of itself, does not confer immigration legal status. The separate legalization process can be tricky and involves key deadlines. In some cases, it may be necessary to seek legal status for the child through another legal avenue before completing the adoption. Thus, adoptive parents would do well to find a competent attorney to guide them.

Many Haitian children who were already in the process of being adopted by U.S. families were evacuated soon after the earthquake. About 1,150 children were brought to this country through the U.S. Special Humanitarian Parole Program for Haitian Orphans – a babylift that lasted from January 18 to April 14, 2010.<sup>21</sup> The group was targeted for expedited adoption, but some of the children still face an uncertain future.

While well intentioned, the humanitarian parole program demonstrated some of the pitfalls of rushing adoption proceedings in the chaotic aftermath of a disaster. Given the emergency nature of their evacuation from Haiti, some children were brought without proper entry documents or evidence of the on-going adoption process begun in Haiti. A few adoptions have failed, and some children's permanent placements are still unclear.

Adoptive parents of paroled Haitian orphans may find more information on legalization options on the USCIS website.<sup>22</sup>

### Deferred Action

For Haitian children who arrived in the United States after the January earthquake, a deferred action petition may provide temporary immigration relief. Among those who could benefit are vulnerable children evacuated for medical treatment of injuries.

USCIS has discretionary authority to defer deportations through Deferred Action: an “act of administrative convenience to the government which gives some cases lower priority.”<sup>23</sup> There is no fee or formal application for deferred action. Petitions should be addressed to the District Director of the USCIS Office with jurisdiction over the Haitian child.

Each request must be tailored to the individual child's case. It should include compelling reasons for why the child should not be returned to Haiti, including hardships that she would face. Factors considered in

granting deferred action could include sympathetic factors on the applicant's behalf, among them ties to U.S. citizens and the need for medical attention.

In FIAC's experience, the sooner the Haitian arrived after the earthquake, the better the prospects for getting deferred action. Moreover, USCIS generally will wait until the applicant's visa expires before granting the request. USCIS national guidance on deferred action for Haitian children in the wake of the earthquake could help better identify eligible children and the information that should be included in the request.

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*“My whole life is built in this country. I am now part of the people, its culture and way of life. I do not know another place.”*

*Joe, unaccompanied minor from Haiti*

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### Special Visas for Crime Victims

Haitian children who are victims of crimes and severe forms of trafficking may be eligible for “T” or “U” visas, which Congress created in 2000. Regrettably, evidence suggests that only a fraction of child victims are identified and, thus, most never seek this relief.<sup>24</sup> This further indicates the need for better screening of unaccompanied children, including vulnerable Haitians.

T- and U-visa cases also tend to be complicated and lengthy. Multiple government agencies and people often must work on both the criminal and immigration cases of the child victim. Typically the U.S. Attorney's Office, FBI, ORR, ICE as well as the victim's child advocate and immigration attorney all are involved. The cases also are sensitive due to the terrible trauma that child victims suffer, particularly when they have been physically and psychologically abused or threatened with violence. More information on these cases is found at the USCIS website.<sup>25</sup>

### Asylum

Children may also apply for asylum, now with protections afforded by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. The law exempts unaccompanied children from having to apply for asylum within one year of arriving in the United States and dictates more child-sensitive policies for those in federal custody and at risk of

imminent deportation. For example, USCIS now has initial jurisdiction over any asylum case filed by an unaccompanied child, including those in removal proceedings. Rather than filing in Immigration Court, these children file for asylum with USCIS and have their asylum claims vetted in a non-adversarial setting.<sup>26</sup>

Even so, the standard for asylum – “a well-founded fear of persecution” – is often difficult to prove and cases can stretch out for years. In many cases, evidence of persecution in Haiti is scant and tough to retrieve. Witnesses and statements also are hard to obtain, more so now in the areas affected by the earthquake. Making a case is particularly challenging for children whose experience does not neatly fit traditional asylum claims such as fleeing political or religious violence.

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***“While I was in the US, I was informed that my brother Pierre had died, but I didn’t know the cause of his death. I learned that he was beaten and killed by people wearing police uniforms, but I didn’t know if they were real police. While they were beating him he was begging them not to kill him. He told them that he had not done wrong to anyone. They killed him anyway.”***

***Marie, unaccompanied minor from Haiti***

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# A Brief Primer on Immigration Options

Mwen se [redacted] kòm ou <sup>wè</sup> m ekvil anli a deja, pou m  
komanse mwen tap viv ak youn pè m e avèk manman  
se manman m kite konn ap ekil e avèk matant mwen an  
kap adoptem nan ki te konn ede manman pou l ede m, man-  
man m pa janm kite <sup>m</sup> grangou youn jou, li pap travay men li fi  
efò a, la l vann pou l gen ti do pou l voye m lekòl e m rekonsè  
m pa se l wout m toujou pase lekòl, m gen youn frè do ki manman  
avèk m te gen youn se tou, e m gen youn frè ak se do ki papam  
sak jèm di mte gen youn se a do ki manman m nan se paske l  
mouri nan tranblemandète a, avèk pitit frè m nan ki te ti m  
tranblemandète a pran m nan lekòl m te jek pot man rekonsè  
m chita nan klas la map bay bag epi li komanse, gen youn  
gro lopital kite do lekòl la li tonbe sou klas la ak klas rete a  
chak klas rete yo te via gen 150 ou plis apèn si 10 laadan yo  
ki pou, Bondye je ~~ak~~ das mwen an pat gen anpil elèv ki  
te mouri, le mwen jive lakay mwen, kay la plat nou jwen  
sem nan aprè 3 jou nou pa plenn neve m nan fiska  
prezan, sak jèm vin Etazini, matant mwen ki adoptem  
nan te komanse prosesis adopsyon lè m te gen 8 an, m pa  
konm sak te pase li vin kanpe sa, 12 janvye avan tranble  
man an nan maten, matant mwen rel lèl mèm nan li di  
ke la se rekonsè prosesis la pou m je foto, epi man aprè mis  
alansad pral rel epi tout bagay te byen mache anbasas  
rel m tuwa ou kat jwa epi yo rel m pou m ale Miami, se sak  
je m la, mwen vin Etazini paske manman m pase anpil mis  
avèk mwen men m ak manman, mwen te toujou di nan priye  
pou manman m pa esret mwen li te pas avèm avèm nan, e mata  
renmen priye m, mwen tonbe la paske mwen renmen manman  
lè m ede. m. kak ham

al vole men je m arrive ranpli te mwen, mwen vle  
travay di anpil pou m ede manman m paske li poufri pou  
mwen anpil, mwen kite l man youn tristès paske rel pitit je  
li te genyen an mouri, e pitit gason l lan pati, tula mour  
mwen plus renmen yo se pèm nan ki mouri e, li toujou je  
nan kem, avèk manman e matant mwen ki adoptem me  
mwen pa ta renmen toumen Haiti paske mwen vle manman  
jwè de mwen, e m vle jwè de tet mwen.

## Translation of the statement on page 15

My name is [REDACTED] as shown above. To begin, I was living with my sister and my mother. My mother took care of me with the help of my aunt who is adopting me. My mother never left me hungry, not even once. She's not working but she sacrifices herself as a vendor to earn money to send me to school. I am grateful for that. I never disappoint her because I always passed my classes. I have a brother and a sister from my mother's side, a brother and sister from my father's side as well. The reason why I said I had a sister from my mother's side is because she died during the earthquake along with my nephew, who was my brother's child. The earthquake caught me at school. Recreation was just over and I sat in my classroom joking. A large hospital across the street collapsed on top of my classroom and on another room that holds the 12<sup>th</sup> graders. Each 12<sup>th</sup> grade class held about 150 students or more. About ten only were saved. Thank God, there weren't many dead students in my classroom. When I got home, I found my house collapsed to the ground. We discovered the body of my sister three days later, and we still haven't found my nephew. I came to the United States because my adoptive aunt began the process when I was 8 years old. She stopped the process, I don't know why. On January 12, before the earthquake, my aunt called my step mother to tell her that she would begin the process of adoption again and that I would provide her two photos. Then, in the afternoon, the incident occurred. About 15 days later, she said that the process was almost complete and the embassy was about to call me because everything went well. The embassy called me three to four times to go to Miami. That's why I'm here. I came to the U. S. because my mother went through a lot with me, so she will not regret what she did for me and my sister. I always say in my prayers that my mother will not regret what she went through with me. I hope my prayers will be answered accordingly because I love my mother very much. I want to work till the end to help her. I will never steal but I want to assume my responsibility toward her. I want to work hard to help my mother because she suffered a lot with me. She is in pain because her only daughter had died and her only son left her. Three people I love the most are my sister who died, my mother and my adoptive aunt. I would not like to go back to Haiti because I want my mother to be proud of me, and I want to be proud of myself as well.

## Conclusions and Recommendations

### Conclusions and Recommendations

In the aftermath of the January 2010 earthquake, countless vulnerable Haitian children are at risk in the United States. Without legal immigration status, these children face an uncertain future. Fortunately, there are legal options that provide at least temporary relief from deportation, which would provide a measure of stability.

At the same time, obstacles stand in their way. Few of these children realize the consequences of lacking legal status, much less know what to do about it. Those who are placed in federal custody and immigration court proceedings are not entitled to an attorney, where government attorneys will argue to have them ordered deported. Many of their legal options involve complicated legal requirements that a child alone cannot navigate. Yet few pro bono attorneys are available to help them.

Vulnerable Haitian children, many of them suffering the consequences of catastrophe, deserve humanitarian consideration. Child welfare advocates and agencies as well as Congress and the federal government can and should do more help keep them safe.

To that end, FIAC recommends:

- Congress and the President enact a bill that requires and funds pro bono attorneys and guardians ad litem for unaccompanied minors in federal custody.

- USCIS broaden the scope of deferred action relief and issue national guidance for Haitians applying for this discretionary relief. The guidance should indicate the factors that make children eligible and the information that should be included in the discretionary request.
- DHS, which admirably moved quickly to grant Haitians TPS, re-designate a later eligibility date in order to allow Haitian earthquake survivors, including medically evacuated and traumatized children, to seek TPS.
- DHS acknowledge the difficulties Haitian minors will face in applying for immigration relief. Obtaining official government documents from Haiti is virtually impossible for some of these children. Government buildings and homes were destroyed, and there may not be any mechanism to recover these documents.
- DHS exercise its discretionary parole authority and implement a parole program similar to the 2007 Cuban Family Reunification Parole Program for the 55,000 Haitian beneficiaries of DHS-approved immigrant visa petitions. This would expedite family reunification through a safe, legal and orderly process.
- DHS offer humanitarian paroles for parents to reunify with children who were evacuated during the earthquake and are recovering in the United States from medical and traumatic injuries.

### Letter to FIAC from Haitian child about her traumatic earthquake experience

tranbleman t de terre  
ave mamman mwen te rete mamman mwen ki konne  
anibem gade fwa li papa jwenn anfen pou  
samiwen lo tranbleman t de terre te  
pote a mwen l'ap ~~an~~ senjen  
kay la dwe ave mwen. mwen konn  
mwen konn dami man l'ari gen papil mwen ki mwen  
mamman mwen pagen anfen vye ~~te~~ pou anfen mwen  
gen de fwa li konn abite kredi. pou samou manje  
mamman gen yon mamman ki ki mabade li papa fe anfen  
mwen te rete isit Merli

I lived with my mother when the earthquake occurred. It was my mother who used to care for me. There were times when she could not find anything to give me. When the earthquake occurred I was bleeding. The house collapsed while we were in it. We ran. We used to sleep on the streets as a result. There were many people who died. My mother doesn't really have anything to take care of us. There are times she has to borrow or buy on credit in order to provide us with something to eat. My mother has a mother (child's maternal grandmother) that is sick. She can't do anything. I want to stay here.

Thank You

- <sup>1</sup> *DHS UAC Apprehensions placed in ORR/DUCS care, FY 2009 by State*. Administration for Children and Families, Office of Refugee Resettlement, Division of Unaccompanied Children's Services. [http://www.acf.hhs.gov/programs/orr/programs/FY2009UAC\\_ApprehensionsMap.pdf](http://www.acf.hhs.gov/programs/orr/programs/FY2009UAC_ApprehensionsMap.pdf); Byrne, *Unaccompanied Children in the United States: A Literature Review*. New York, 2008. Page 9. <http://www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf>. The number of unaccompanied minors in U.S. immigration detention annually has ranged from 7,000 to 9,000 from 2005 to 2008.
- <sup>2</sup> Jacqueline Charles, *U.S. to provide \$120M to Haiti*. The Miami Herald, Oct. 7, 2010. <http://www.miamiherald.com/2010/10/07/1861168/us-to-provide-120m-to-haiti.html>
- <sup>3</sup> Aaron Terrazas, *Haitian Immigrants in the United States*. Migration Policy Institute. Jan. 2010. <http://www.migrationinformation.org/USfocus/display.cfm?id=770>.
- <sup>4</sup> Kelsey Cary, *Combating Human Trafficking in the Western Hemisphere*. Council on Hemispheric Affairs. July 27, 2010. <http://www.coha.org/combating-human-trafficking-in-the-western-hemisphere-the-need-for-increased-ngo-involvement/>; Michael A. Jones, *In Haiti, Tent Cities Are Becoming Rape Epicenters*. Change.org May 18, 2010. [http://humanrights.change.org/blog/view/in\\_haiti\\_tent\\_cities\\_are\\_becoming\\_rape\\_epicenters](http://humanrights.change.org/blog/view/in_haiti_tent_cities_are_becoming_rape_epicenters); *Haiti quake victims now face rape trauma*. Associated Press, March 16, 2010. [http://www.msnbc.msn.com/id/35899757/ns/world\\_news-haiti\\_earthquake/](http://www.msnbc.msn.com/id/35899757/ns/world_news-haiti_earthquake/); Gerardo Reyes and Jacqueline Charles, *Trafficking, sexual exploitation of Haitian children in the Dominican Republic on the rise*. The Miami Herald, Oct. 23, 2010. [www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz13IAkO4ij](http://www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz13IAkO4ij); Gerardo Reyes and Jacqueline Charles, *Exclusive investigation: Guards cash in on smuggling Haitian children*. The Miami Herald, Oct. 26, 2010. <http://www.miamiherald.com/2010/10/26/1893693/guards-cash-in-on-smuggling.html>; Gerardo Reyes, *Left on road, in the bushes*. The Miami Herald, Oct. 27, 2010. <http://www.miamiherald.com/2010/10/27/1893687/left-on-road-in-the-bushes.html>; *Haiti's children smuggled, exploited*, an editorial. The Miami Herald, Nov. 1, 2010. <http://www.miamiherald.com/2010/11/01/1901996/haitis-children-smuggled-exploited.html>.
- <sup>5</sup> Jonathan M. Katz, *UN probes base as source of Haiti cholera outbreak*. Associated Press, Oct. 27, 2010; [www.miamiherald.com/2010/10/27/1895299/un-probes-base-as-source-of-haiti.html#ixzz13JdG3P3](http://www.miamiherald.com/2010/10/27/1895299/un-probes-base-as-source-of-haiti.html#ixzz13JdG3P3); Curtis Morgan, *'Blind' fault puts Haiti at new earthquake risk*. The Miami Herald, Oct. 24, 2010. [www.miamiherald.com/2010/10/24/1889667/blind-fault-puts-haiti-at-new.html#ixzz13IIBZpze](http://www.miamiherald.com/2010/10/24/1889667/blind-fault-puts-haiti-at-new.html#ixzz13IIBZpze).
- <sup>6</sup> Kelsey Cary, *Combating Human Trafficking in the Western Hemisphere*. [www.coha.org/combating-human-trafficking-in-the-western-hemisphere-the-need-for-increased-ngo-involvement/](http://www.coha.org/combating-human-trafficking-in-the-western-hemisphere-the-need-for-increased-ngo-involvement/).
- <sup>7</sup> Charley Keyes, *State Department: U.S. working to prevent child trafficking in Haiti*. CNN.com. Jan. 28, 2010. [http://articles.cnn.com/2010-01-28/world/haiti.us.children\\_1\\_child-trafficking-haitian-children-combat-trafficking?\\_s=PM:WORLD](http://articles.cnn.com/2010-01-28/world/haiti.us.children_1_child-trafficking-haitian-children-combat-trafficking?_s=PM:WORLD)
- <sup>8</sup> *Ibid*; *Trafficking in Persons Report 2010*, U.S. State Department. June 14, 2010. Page 357. [www.state.gov/g/tip/rls/tiprpt/2010/](http://www.state.gov/g/tip/rls/tiprpt/2010/); Reyes and Charles, *Trafficking, sexual exploitation of Haitian children in the Dominican Republic on the rise*. [www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz13IAkO4ij](http://www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz13IAkO4ij).
- <sup>9</sup> *Standards for the Custody, Placement and Care: Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States*. American Bar Association, August 2004. Page 3.
- <sup>10</sup> Olga Byrne, *Unaccompanied Children in the United States: A Literature Review*. New York. Vera Institute of Justice, April 2008. Pages 12-14. <http://www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf>
- <sup>11</sup> Julia Huemer, Niranjana S Karnik, Sabine Voelkl-Kernstock, Elisabeth Granditsch, Kanita Dervic, Max H Friedrich, and Hans Steiner. *Mental Health Issues in Unaccompanied Refugee Minor*. Child and Adolescent Psychiatry and Mental Health, April 2, 2009. <http://www.capmh.com/content/3/1/13>.
- <sup>12</sup> Byrne, *Unaccompanied Children in the United States: A Literature Review*. April 2008. 34-35. [www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf](http://www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf).
- <sup>13</sup> *Ibid*, Pages 34-37.
- <sup>14</sup> *Halfway Home: Unaccompanied Children in Immigration Custody*. Women's Refugee Commission and Orrick, Herrington & Sutcliffe LLP, 2009. Pages 13-14, 19-20, 23-25.
- <sup>15</sup> Byrne, *Unaccompanied Children in the United States: A Literature Review*. April 2008. 34-35; [www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf](http://www.vera.org/download?file=1775/UAC%2Bliterature%2Breview%2BFINAL.pdf).

## Footnotes

<sup>10</sup> Jones, *In Haiti, Tent Cities Are Becoming Rape Epicenters*.

[http://humanrights.change.org/blog/view/in\\_haiti\\_tent\\_cities\\_are\\_becoming\\_rape\\_epicenters](http://humanrights.change.org/blog/view/in_haiti_tent_cities_are_becoming_rape_epicenters); *Haiti quake victims now face rape trauma*. [http://www.msnbc.msn.com/id/35899757/ns/world\\_news-haiti\\_earthquake/](http://www.msnbc.msn.com/id/35899757/ns/world_news-haiti_earthquake/); Reyes and Charles, *Trafficking, sexual exploitation of Haitian children in the Dominican Republic on the rise*.

[www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz131AkO4ij](http://www.miamiherald.com/2010/10/23/1888703/earthquake-survivors-are-being.html#ixzz131AkO4ij); Reyes and Charles, *Exclusive investigation: Guards cash in on smuggling Haitian children*.

<http://www.miamiherald.com/2010/10/26/1893693/guards-cash-in-on-smuggling.html>; Gerardo Reyes, *Left on road, in the bushes*. <http://www.miamiherald.com/2010/10/27/1893687/left-on-road-in-the-bushes.html>; *Haiti's children smuggled, exploited*, The Miami Herald. <http://www.miamiherald.com/2010/11/01/1901996/haitis-children-smuggled-exploited.html>.

<sup>17</sup> Prior to the passage of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), unaccompanied minors had to obtain permission from Immigration and Customs Enforcement (ICE) to go to juvenile court. The role of ICE as jailer and caretaker was a clear conflict of interest. TVPRA transferred responsibility for unaccompanied minors to ORR, which has resulted in significant improvement in the children's care.

<sup>18</sup> 55 8 U.S.C. § 1101(a)(27)(J)(i) (2006); *Green Card for a Special Immigrant Juvenile (SIJ)*. U.S. Citizenship and Immigration Services.

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=43ce3a4107083210VgnVCM100000082ca60aRCRD&vgnnextchannel=43ce3a4107083210VgnVCM100000082ca60aRCRD>;

Deborah Lee, Manoj Govindaiah, Angela Morrison & Davide Thronson, *Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008*. AILA InfoNet Doc. No. 09021830, Feb. 19, 2009.

[www.immigrantjustice.org/download-document/500-tvpra-practice-advisory.html](http://www.immigrantjustice.org/download-document/500-tvpra-practice-advisory.html)

<sup>19</sup> *Temporary Protected Status Registration Period Extended for Haitian Nationals*. U.S. Citizenship and Immigration Services (USCIS), July 12, 2010.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=c5114b2d0c7c9210VgnVCM100000082ca60aRCRD&vgnnextchannel=17dcb6f2cae63110VgnVCM1000004718190aRCRD>

<sup>20</sup> For more information on TPS, see USCIS, *Temporary Protected Status - Haiti Questions and Answers*, at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=b7755a40a79b6210VgnVCM100000082ca60aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>.

<sup>21</sup> Ginger Thompson, *After Haiti Quake, the Chaos of U.S. Adoptions*. The New York Times, August 3, 2010.

<http://www.nytimes.com/2010/08/04/world/americas/04adoption.html?emc=eta1>; Yali Lincroft, *After the Earthquake*. The Annie E. Casey Foundation. July 16, 2010. Page 4.

[www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid=%7BCEE0F902-FE67-4281-A94F-07A4C175BD97%7D](http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid=%7BCEE0F902-FE67-4281-A94F-07A4C175BD97%7D).

<sup>22</sup> *Questions & Answers: Information for Adoptive Parents of Paroled Haitian Orphans*. U.S. Citizenship and Immigration Services (USCIS), Feb. 26, 2010.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=8c8df66872bf6210VgnVCM100000082ca60aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>.

<sup>23</sup> 8 C.F.R. § 274a.12(c)(14)

<sup>24</sup> Byrne, *Unaccompanied Children in the United States: A Literature Review*, 33.

<sup>25</sup> *Questions and Answers: Filing T, U, and VAWA Petitions with USCIS*. U.S. Citizenship and Immigration Services. Aug. 3, 2009.

[http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t\\_u\\_faq\\_final\\_for\\_website\\_8\\_24\\_09.pdf](http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t_u_faq_final_for_website_8_24_09.pdf)

<sup>26</sup> Deborah Lee, Manoj Govindaiah, Angela Morrison & David Thronson, *Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008*. AILA InfoNet Doc. No. 09021830, Feb. 19, 2009. Page 7.

[www.immigrantjustice.org/download-document/500-tvpra-practice-advisory.html](http://www.immigrantjustice.org/download-document/500-tvpra-practice-advisory.html)





3000 Biscayne Boulevard, Suite 400  
Miami, Florida 33137  
Tel 305.573.1106  
Fax 305.576.6273  
[www.fiacfla.org](http://www.fiacfla.org)

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