



# Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States

By Jenny Rodriguez

## CHAPTER FIVE: HAITI EARTHQUAKE

*The U.S. Committee for Refugees and Immigrants (USCRI) and The Children's Village present chapter five of Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States. The retrospective reviews the Unaccompanied Children's Program from the passage of the Homeland Security Act (HSA) of 2002 until today. It assesses 20 years of legislation, policies, litigation, and, most importantly, the U.S. federal government's care of unaccompanied migrating children, with a view toward the next steps and improvements for the years ahead. The fifth chapter examines the Haiti earthquake in 2010 and the processing of Haitian children as unaccompanied children.*

On January 12, 2010, a 7.0 magnitude earthquake devastated Haiti, and an estimated 92,000 – 220,00 people were killed and many more injured. The earthquake ravaged the country, causing a significant loss of homes and severe damage to infrastructure, including schools, healthcare facilities, and orphanages. Many children living in orphanages at the time were in the process of being adopted by families in the United States. Recognizing this, the U.S. government undertook efforts to evacuate those children from Haiti. Based on their lack of immigration status and parents in the United States, children in the process of being adopted were categorized as unaccompanied children, and the Office of Refugee Resettlement (ORR) became responsible for coordinating and implementing their care and placement, as mandated by the Homeland Security Act of 2002.

"I got a call from my adoption agency and was told that my then-husband and I were vetted with a successful home study. They told us that two young Haitian boys in Pittsburgh needed a home. Without hesitation, my husband and I said yes, we'd love for these boys to be a part of our family. This was not a regular adoption, and we didn't have anyone working on the Haitian side to help with the adoption. We navigated the adoption ourselves and completed so much paperwork. After ten months, our sons Rocky and King settled with us in Colorado. Rocky and King overcame many obstacles in Haiti and witnessed terrible things. Still, they are incredibly resilient. I'm proud to see the incredible young men they have become," said Mardi Ketchum, mother to King and Rocky, two Haitian children airlifted to Pittsburgh.



## Action to Safeguard Orphan Welfare

Shortly after the earthquake, on January 18, 2010, the Department of Homeland Security (DHS) Secretary Janet Napolitano, in coordination with the Department of State (DOS), announced a humanitarian parole policy allowing orphaned children from Haiti to enter the United States temporarily on an individual basis to ensure that they received the care they needed.<sup>1</sup>

"While we remain focused on family reunification in Haiti, authorizing the use of humanitarian parole for orphans who are eligible for adoption in the United States will allow them to receive the care they need here," said Secretary Napolitano.<sup>2</sup>

The program criteria were as follows:

- (1) Children who have been legally confirmed as orphans eligible for intercountry adoption by the Government of Haiti and are being adopted by U.S. citizens.
- (2) Children who have been previously identified by an adoption service provider or facilitator as eligible for intercountry adoption and have been matched to U.S. citizen prospective adoptive parents (PAP).<sup>3</sup>

The children were then placed into one of two categories:

Category 1: Haitian adoption completed; adoptive family awaiting completion of the process through the U.S. embassy to secure travel documents for entering the United States

Category 2: Haitian adoption process begun but not completed; child legally eligible for adoption and matched to U.S. family, i.e., the child was in the queue for adoption prior to January 12, 2010.

## The Haitian Orphan Process

To better understand the Haitian children's evacuation and adoption process, I sat down virtually with Dr. Elaine Kelley, who served as the Associate Director for Child Welfare at the Office of Refugee Resettlement during the period following the Haiti earthquake.

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<sup>1</sup> Secretary Napolitano announces Humanitarian Parole Policy for certain Haitian orphans Secretary Announces Humanitarian Parole Policy for Certain Haitian Orphans | Homeland Security, <https://www.dhs.gov/news/2010/01/18/secretary-announces-humanitarian-parole-policy-certain-haitian-orphans>

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



“The Haitian adoption process in 2010 typically took three to four years, but given the circumstances of this unprecedented crisis, the U.S. government worked diligently with the Haitian government to speed up the adoption process.”

Dr. Kelley provided the steps of the adoption process for the orphaned Haitian children.

**Step one:** At the U.S. Embassy in Port-au-Prince, DHS issued a humanitarian travel letter for children who met the established criteria.

**Step two:** At the port of entry (Miami), DHS/Customs and Border Protection (CBP) reviewed documents and:

- (1) If Category 1, CBP released the child immediately to the adoptive parent.
- (2) If Category 2, CBP released the child to the Department of Health and Human Services (HHS), specifically the Office of Refugee Resettlement (ORR).

The Category 2 child was then transported to His House, an ORR-funded childcare facility. His House provided food, shelter, and safety for the children while ORR representatives met with prospective adoptive parents (PAPs) and made determinations about the release of the children into the care of PAPs.

**Step three:** HHS/ORR Process- His House, Miami

While children were at His House, ORR staff reviewed home studies, FBI clearances, identity documents, and other information about PAPs to determine if they could provide appropriate care for the children. During this time, PAPs could see the children they planned to adopt, play with them and get to know them better. Once ORR was satisfied that the family appeared able to provide for the physical and mental well-being of the child, ORR would release the child to the PAP, who was awarded physical custody. The ORR release was based on safety and child well-being and was not meant to serve as federal approval for adoption. Only a court in the PAP state of residence was authorized to determine whether the family met state adoption criteria, i.e., evidence of adoptability (child is relinquished and eligible for adoption) and evidence that the family could provide for the child’s needs.

### Category 2 Haitian Orphans

Haitian orphans classified under Category 2, who entered the humanitarian parole program were deemed to be unaccompanied children because they met the legal definition of an unaccompanied child as they were:

- (1) under 18 years of age
- (2) without immigration status (humanitarian parole, which the children received, is not considered a lawful immigration status, although the U.S. government authorizes entry and is aware of the parolee’s presence); and



(3) without a parent or legal guardian to provide care and take physical custody.

If a child met the legal definition of an unaccompanied child at the port of entry in Miami, DHS/CBP released the Category 2 children into the care and custody of ORR.

## Pittsburgh 12

Sisters Jamie and Ali McNutrie, originally from Pennsylvania, lived in Haiti when the earthquake struck. The McNutrie sisters had dedicated their lives to caring for orphaned children and ran the BRESMA orphanage in Haiti. Following the earthquake, Ali made her way to the U.S. Embassy, wanting to evacuate the children at the orphanage, but received no assistance. Because they feared for the children's safety, the McNutrie sisters acted fast, without concern for the children's legal situations, and utilized every resource and connection possible, including the help of Governor Ed Rendell (D – PA). Governor Rendell helped secure a private plane to Haiti to help evacuate Haitian children. After a 22-hour odyssey, Governor Rendell and other aid providers in Port-Au-Prince successfully airlifted 53 Haitian children to the Children's Hospital of Pittsburgh, Pennsylvania. Unfortunately, not all the children were eligible for adoption in the United States.

"It's important to understand that certain children living in Haitian orphanages at that time were not there to be adopted. Some children were sent there by their parents because they couldn't afford to feed, house, or care for them. When the BRESMA orphanage was evacuated, one major problem was that not all 53 children were awaiting adoption. In fact, 12 of the children had not been legally relinquished for adoption, but due to the widespread chaos after the earthquake, the primary concern was for the safety and well-being of all 53 children, so all 53 flew to Pittsburgh" said Dr. Elaine Kelley.

The case of these 12 children was complicated and politically sensitive. Their fate was unclear. The United States and Haiti struggled to determine how best to proceed.

"A meeting was proposed between HHS, DHS, the State Department, and the Haitian Prime Minister's office. This meeting was convened to discuss the situation of these 12 children and to learn what the intentions were of the biological parents when they placed their children in the BRESMA facility. With great difficulty, due to the displacement of families after the earthquake, and with the help of the U.S. Embassy and the American Red Cross, we located the parents of these children. The Haitian government met with them to discuss their intentions and their children's futures. To assure the parents that their children were safe, they were shown pictures of them at the Holy Family Institute in Pittsburgh, an ORR-funded child care facility where ORR had placed them for temporary care. The parents were then asked if they wanted their children returned to Haiti, which we would have immediately arranged, or if they had



decided to legally relinquish their parental rights. Every parent decided to relinquish their child for the purposes of adoption. I still keep in contact with some of the U.S. families who adopted these children, and from my understanding, some still keep in touch with the families in Haiti. It has been wonderful to see how these children have flourished and adjusted to their new lives, with many now in high school or college or pursuing careers,” said Dr. Elaine Kelley.

The earthquake exacerbated the number of Haitian orphans creating a crisis to which both the Haitian and U.S. government responded. The response to the earthquake presented many challenges to federal agencies in the United States and Haiti. I sat down with Eskinder Negash, President and CEO of the U.S. Committee for Refugees and Immigrants, who was the Director of ORR at the time.

“When the catastrophic earthquake struck Haiti, the Office of Refugee Resettlement was faced with an unprecedented event. For an agency with no experience or policy manual to help us navigate during this difficult time, the agency maximized its efforts to respond as quickly as possible. In just 38 days, more than 835 flights left Haiti, ORR processed more than 700 Haitian orphans and evacuated 28,000 U.S. citizens and their families. ORR staff worked day and night on repatriation efforts following the catastrophic earthquake.”

### Help Haiti Act of 2010

There were some practical issues that PAPs faced: unexpected timing of the child's arrival; the family needing to prepare financially or otherwise; changes in family dynamics; challenges in securing social security numbers; cultural/language adjustment of children; issues with school enrollment; and loss of original legal documents.

On December 9, 2010, President Obama signed the Help Haitian Adoptees Immediately to Integrate Act of 2010 (Help HAITI Act of 2010).<sup>4</sup> This new law made it possible for certain Haitian orphans paroled into the United States to become lawful permanent residents (LPR) of the United States (i.e., receive green cards). If adopted by a U.S. citizen before his/her 18<sup>th</sup> birthday, the child was deemed to meet the requirements of sections 320 and 322 of the Immigration and Nationality Act (INA) and automatically became a U.S. citizen and eligible to apply for a certificate of citizenship.<sup>5</sup>

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<sup>4</sup> 8 U.S.C. 1101 and 1182

<sup>5</sup> Only Haitian children who entered the special orphan humanitarian program qualify for the benefits of the Help Haiti Act; i.e., a Haitian child entering under humanitarian parole for medical purposes is not eligible.



The Help Haiti Act helped address issues that Haitian orphans faced in the United States. This help was imperative as Haitian orphans who experienced the earthquake went through traumatic events. Many lost their parents and then moved to a new country where few people knew their culture or spoke their language. Many of these children benefited from this Act and have become successful.

"I am in awe of the amazing young men that both Rocky and King have become. Rocky (now 18) is a straight-A student. He's a leader both in and outside of school, an incredible athlete, and was nominated by his peers to represent them at a leadership conference. King (now 22) graduated high school in 2020 and is working while pursuing his associate's degree. He hopes to pursue a career in real estate and is the best role model for his younger brother, always lending a helping hand. I can't imagine what their lives would've turned out like had they not been brought to the U.S.," said Mardi Ketchum, mother to King and Rocky, two Haitian children airlifted to Pittsburgh.