



UNACCOMPANIED MINORS TODAY

EXTRA! Unaccompanied Minors Imprisoned.

Unaccompanied Minors

Each year thousands of helpless, unaccompanied children from all over the world arrive in the United States seeking protection. Increasingly, children have become victims of human rights abuses such as genocide, forced military recruitment, female genital mutilation, forced marriages and child labor. Like adults, many of them flee war and political upheaval. Some children have been forced to leave their homes and live on the streets because their families abused, abandoned or neglected them. Still others are victims of trafficking and have been smuggled into the United States for such illicit purposes as forced prostitution.

The children range in age from toddlers to teenagers. While each child's story is unique, they all share an incredible vulnerability upon arrival in the United States. They are not only traumatized by what they have experienced in their home countries, but also by the circumstances of their flight and separation from their families. In 2005, approximately 7,000 children were in immigration detention.

Detention is especially terrifying for children, who are unable to comprehend the complex immigration system in which they find themselves. Because they are not in criminal

proceedings like juveniles accused of committing a crime, children in immigration custody are not entitled to a free attorney. Less than

half have an attorney, and there is no system for the appointment of guardians ad litem. The failure to provide these children with legal assistance during their immigration proceedings stands in sharp contrast to other legal proceedings in the United States affecting children. It is also out of step with the practices in many other countries.

FIAC is the only nonprofit group providing free legal services to children in immigration custody in South Florida. FIAC's Children's Legal Project provides pro bono representation to all such children

in Miami and Tampa, who have no means to hire an attorney. FIAC conducts weekly Know Your Rights presentations for these children. FIAC also represents immigrant children who have been abused, abandoned or neglected and are dependents of the state. These children are eligible to become lawful permanent residents as Special Immigrant Juveniles. FIAC advocates for improvements in the care of both groups of children as well as for improved immigration policies for all children in immigration custody and has issued reports to call attention to their plight.



Photo by: Bruce Weber

"How can you imprison a toddler?"

Jonathan Demme,
Academy Award-winning
Director, February 2003

Following are case summaries of four children whom FIAC has represented.

Fega



Fega was seven years old when she arrived alone in New York City on an airplane in May 2000. With a terrible rash covering her body, she immediately presented apparent signs of abandonment and neglect. When Fega was very young, her father forced her and her mother to leave their home in Nigeria. Her mother fled to the United States, leaving Fega in Nigeria to live with an uncle.

Shortly thereafter her uncle sent Fega to the United States. Undocumented and scared, Fega's mother sent a note to the INS indicating that she would not be coming for Fega. The INS Deportation Officer later contacted her father who stated he did not want Fega back in Nigeria.

FIAC met Fega when she appeared alone in court. FIAC helped Fega present her case for asylum and requested her release to a relative in Connecticut who wanted to care for her. During her 15 months in detention, Fega

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Excerpt of Transcript of Fega's Master Calendar Hearing on April 6, 2001:

INS Trial Attorney (TA): ...[T]he Service is not willing at this point in time to concede that an attorney may represent a child of that minor age in an immigration proceeding...

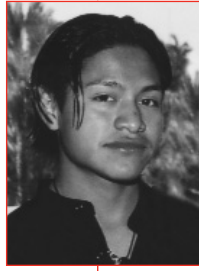
Judge: Now wait a minute... So you're saying that she cannot be represented?

INS TA: ... I'm saying that an attorney cannot represent a minor of that age before an immigration court absent a guardian.

Judge: So, all right, there's no guardian... The regulations seem to say the head of the [Krome Detention] camp is the guardian...

INS TA: Correct...

Alfredo Lopez Sanchez



At age 14, Alfredo fled Guatemala in fear for his life. His father had physically abused Alfredo and his siblings for years, killing one of them, and his mother suffered from mental illness. Upon arrival in the United States in June 2001, Alfredo was placed in immigration custody. While in detention he was diagnosed with a wide range of special needs, including Post Traumatic Stress Disorder. His situation was exacerbated by the fact that he spoke a rare Mayan dialect; his inability to communicate verbally initially rendered him helpless.

During his detention Alfredo was transferred from one facility to another ten times, at times handcuffed and shackled. The transfers took him to a facility in Key West, designed for adult criminal offenders and on occasion juveniles charged as adult felons, and to Pennsylvania, where he was far removed from his FIAC attorneys.

Alfredo's request for asylum was denied

even though the immigration judge believed that Alfredo had suffered terrible abuse in Guatemala and that the Guatemalan government couldn't protect children like Alfredo.

FIAC finally got permission from immigration officials to take Alfredo's case to state juvenile court, the first such grant of consent in the INS Miami District, where it was determined that Alfredo was a victim of neglect and abandonment and that it was not in his best interest to be deported to Guatemala. Alfredo was finally released, after 18 months in detention, to live with the volunteer Guatemalan interpreter FIAC found to help with his case. He now has his green card and is working and living in Ohio.

"I want to say thank you to FIAC for everything they did for me. Whenever I was taken somewhere FIAC was always there to help me out and to visit me."

—Alfredo Lopez Sanchez

Excerpt of the Immigration Judge's Decision in Alfredo's Asylum Case:

"[T]he Respondent has suffered severely at the hands of his father...and suffers today from that experience.... No child should suffer the beatings, and hardship that [Alfredo] has.... If this Court were deciding whether the respondent should be allowed to remain in the United States for humanitarian reasons, it would be a simple decision...."

"Respondent's attorney has submitted background information demonstrating that children are abused in Guatemala, and that the government is unable or unwilling to protect these children. The State Department confirms that abuse is a large problem.... Street children remain a big problem, and most of these are from abused families. The State Department says, 'The Government and a number of NGO's operate youth centers, but funds devoted to them are not sufficient to alleviate the problem.'"

February 14, 2002

Fega – continued from page 1

was generally unable to communicate with the other children or officials at the shelter. Fega wept when she heard Yoruba, her native language, for the first time in over a year of detention in the United States.

When Fega had been in INS custody for more than 13 months, the New York Times ran a front page Sunday story about her case. As a result of growing public pressure, Fega was finally released to a cousin on August 14, 2001. Following her release, Fega attended a Senate hearing in February 2002 to call attention to the plight of children in immigration detention.

A Nigerian girl named Fega was arrested at age 7 when she arrived alone at New York's Kennedy Airport with a fake passport...

For the next 15 months, Fega was marooned at an INS shelter on the outskirts of Miami. She picked up enough English to ask every woman who visited, "Are you my mommy?"

"Who Will Stand Up for Them?"

A report by David Oliver Relin, *Parade Magazine*, April 4, 2004

Xi Mei

Xi Mei, a slight and timid 17 year old girl, immigrated from rural China after being repeatedly physically and emotionally abused by her parents. Xi Mei was the third, unwanted daughter in the rural part of China where her family lived. When her parents sold her to marry an older man, a relative helped her to escape.

Xi Mei arrived in Miami in September 2003 and was detained at Boystown for about a year. FIAC eventually got permission from INS to take her case to state juvenile court and in August 2004, the state court judge ruled in her favor. When the judge granted the dependency order, Xi Mei dropped to her knees and bowed her head to the judge in gratitude.

The next day, INS announced that it would no longer grant residency to children unless they were under 18 years of age (versus 21 as had previously been their policy) at the time residency was granted. Xi Mei should have had three years to apply for and secure residency. Instead, she suddenly had less than 2 days. Each step to obtain legal residency for Xi Mei, which usually takes weeks or months, now had to be done in hours. Through extraordinary efforts and despite the anticipated arrival of a major hurricane, FIAC staff obtained her residency at 5:30 p.m., the Friday before her 18th birthday. FIAC called community groups which helped her to find a good family with whom she could live upon her release. She has since moved to Oklahoma and has a full time job.

"There is no reason for you to kneel or bow in the United States. We value you here... I'm terribly impressed with your strength."

Judge Ellen Sue Venzer to Xi Mei
August 11, 2004

"I had no money to hire a lawyer. The FIAC lawyers never gave up on my case, they never thought about themselves, they gave me a lot of time and effort to help me. And now I have a green card. I wish that FIAC gets lots and lots of support so they can help more and more people."

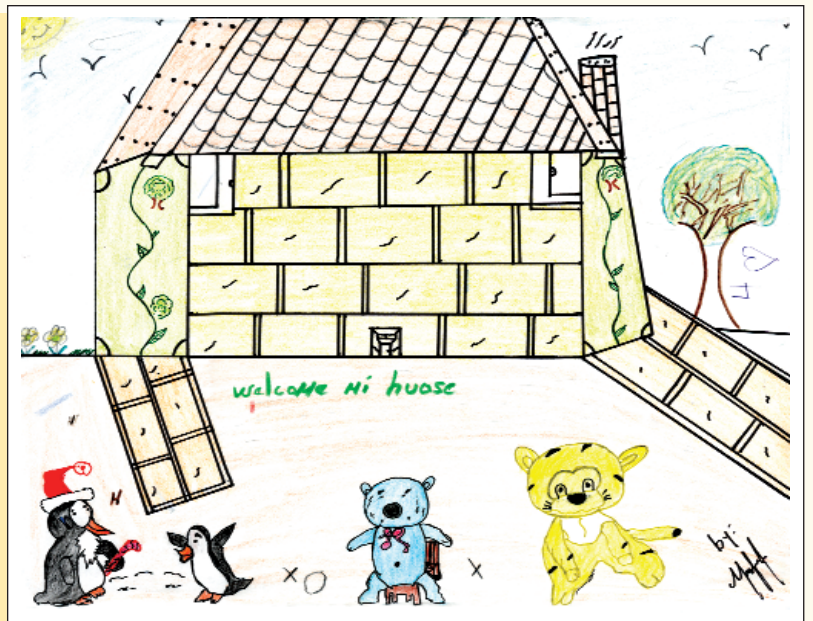
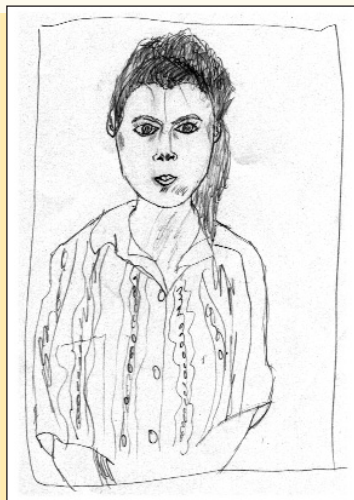
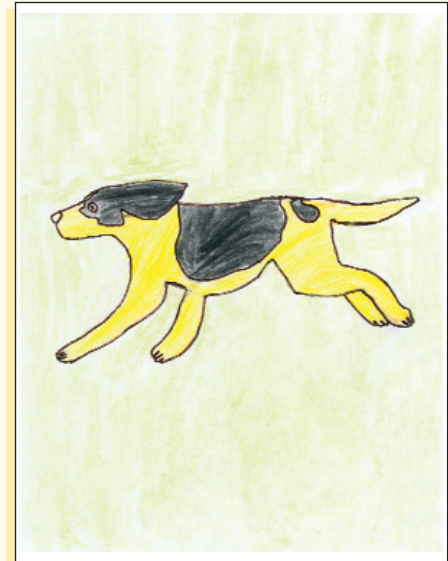
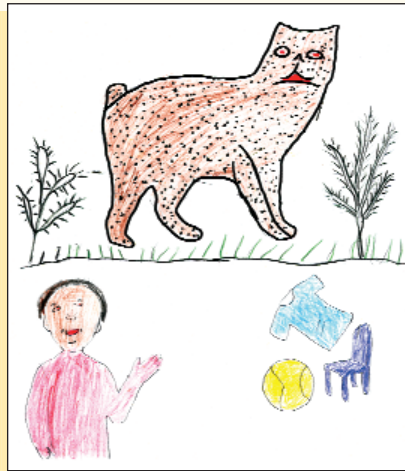
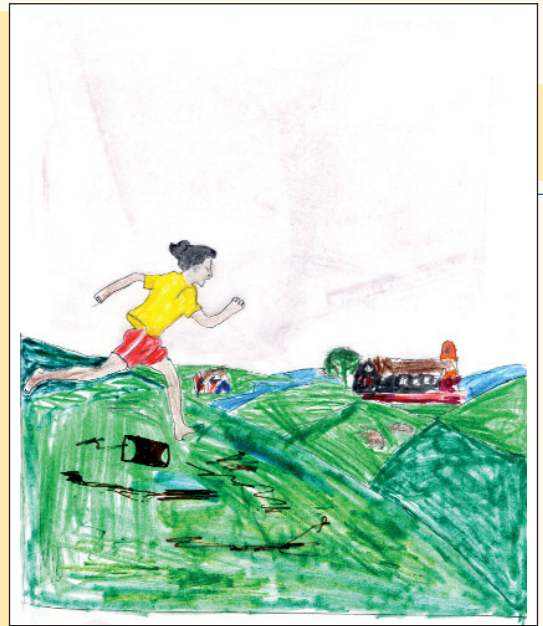
—Xi Mei Chen
Age 17

Art

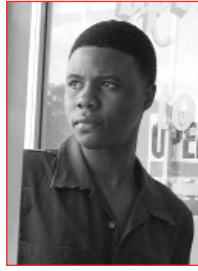
Artwork by unaccompanied minors
in immigration detention



The artwork on this page was created by children in detention at Boystown in Miami. The children's creativity and artistry was under the guidance of local artist Jandel and with assistance from Jane Herron, FIAC board member and Boystown volunteer.



Ernesto "Ernso" Joseph



Ernso was 15 when he arrived on the October 2002 boat in Key Biscayne. Shortly after being handcuffed and placed in immigration custody, immigration officials subjected him to dental and wrist x-rays and determined he was an adult. As a result, Ernso was placed in an immigration detention center with male adults.

Despite being granted asylum in September 2003, Ernso was kept in detention while government attorneys appealed the judge's decision. A few months later, the government appeal was upheld and Ernso was ordered to report for deportation. He spent the next several months in detention while

"It's particularly a pleasure for me [to allow you to file for permanent residency] because I remember when you appeared before me [in January 2003]. And I thought you should have been allowed to stay then."

– Immigration Judge Denise Slavin to
Ernso Joseph
July 11, 2005

FIAC attorneys scrambled to obtain further proof of his age and even flew someone to Haiti to obtain a sworn statement from the Director of Haiti's National Archives to verify the authenticity of Ernso's birth certificate.

On January 28, 2004, DHS finally granted Ernso permission to take his case to state juvenile court and the judge ruled in his favor. But on December 20, 2004, the Miami District Director denied Ernso a visa, arguing that he was not a minor even

"I was a Captain in the Florida Highway Patrol, and I can tell you from personal experiences that we treat hardened criminals in this country better than we are treating [Ernso] Joseph. It is not an exaggeration to say that dogs in kennels receive more humane treatment and have more attentive and kinder human contact than this Haitian teenager has received at the hands of the federal government."

– U.S. Congressman Kendrick B. Meek, (D-FL)
to Homeland Security Secretary Thomas Ridge,
November 12, 2003

"(A)ll I do is think all day.. And that hurts me, so I just try to go to sleep so I can forget what's happening to me.... (But) I keep thinking about what my life will be like if I'm sent back to Haiti. I don't know how I'll survive there, only God knows."

– Ernso Joseph, October 2004

though the Florida court determined he was. FIAC challenged this decision and on March 17, 2005 the Administrative Appeals Office reversed DHS' denial of Ernso's application for relief from deportation. On July 11, 2005, just a few days before his eighteenth birthday, Ernso's application for a green card was approved by the same immigration judge who a year and a half earlier had granted him asylum. Although FIAC attorneys worked tirelessly on this case, without help from U.S. Congressman Kendrick Meek, Ernso would in all likelihood have been deported.

"I cannot help but reflect on the terrible treatment that Ernso had to endure and the many months of often frustrating work by so many that was necessary to bring about a result that I believe could have, and should have, been determined last year.

I hope Ernso's story will draw more attention to the plight of those seeking refuge in the United States, especially children. So many...are sent back, even though they desperately need and deserve our protection."

– U.S. Congressman Kendrick B. Meek, (D-FL)

FIAC at a Glance

Policy Advocacy

FIAC identifies and challenges discriminatory acts and policies targeting immigrants. Using creative tactics including litigation, media relations, communication, networking, education and technical assistance, FIAC addresses the issues that impact large groups of immigrants to develop solutions that will be most beneficial to them.

Regional and Statewide Services

FIAC provides leadership in helping to form immigration units in each of the seven regions spearheaded by The Florida Bar Foundation. FIAC also provides training and technical legal support to these newly established immigration units.

Individual Representation

FIAC's clients come from all over the world. Legal representation in immigration matters is provided to the most vulnerable, including families with children, asylum seekers, elderly and disabled immigrants, people with AIDS or HIV positive, migrant farm workers and those in detention.

LUCHA: A Women's Legal Project

FIAC represents immigrant women who are victims of violent crimes, including sexual assault, stalking, domestic violence and human trafficking. In response to the growing need for comprehensive services to trafficking victims and public education

on the issue, FIAC has partnered with other service providers in the community to form the Florida Freedom Partnership (FFP), to ensure that human trafficking survivors receive services in a holistic manner. This includes legal representation from FIAC, and social, employment, case management, and mental health services from the other partners.

Asylum Services

FIAC represents asylum applicants, who have experienced persecution or who fear persecution if returned to their home country, at every stage of their immigration proceedings.

Immigration Court Representation

FIAC defends immigrants with complex cases in immigration court, frequently raising difficult or cutting-edge legal issues.

Detention Project

FIAC defends the basic rights of detainees, including immigrant women and children, and monitors conditions of detention to bring about systemic change.

Public Benefits for the Homeless Project

FIAC represents homeless immigrants who are elderly, disabled or families with children in securing public benefits at both the Federal and local levels. The Project works closely with the Immigrant

Welfare Implementation Collaborative partners, an alliance of national advocacy groups and immigrant coalitions from several states to advocate for fair policies nationally and within the state.

CABA Pro Bono Project

In conjunction with the Cuban American Bar Association (CABA), FIAC refers low-income, Spanish-speaking immigrants to CABA pro bono attorneys for assistance with general civil matters. The Project also provides uncontested divorce services to Spanish speakers.

FIAC

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