

Haiti / Dominican Republic: upholding the rights of immigrants and their descendants¹

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■ Executive summary

This report focuses on the migration dynamics across the island of Hispaniola and the prospects for more just policies being drawn up and implemented to ensure better governance of human mobility by the governments of Haiti and the Dominican Republic, thereby enhancing the rule of law in these neighbouring countries. The short-term and longer-term impacts of the Haiti earthquake in 2010 are examined, and obstacles to and opportunities for developing a rights-based agenda are noted. Additionally, attention is drawn to the increasing difficulties faced by descendants of Haitian migrants in the Dominican Republic who are considerably challenged in trying to claim their right to Dominican nationality. The civil society pro-migrant movement across the island is discussed. Finally, recommendations are provided for advancing the realisation of the rights of migrants and their descendants across the island.

Background

The challenging asymmetries and similarities between the two countries – Haiti and the Dominican Republic – that share Hispaniola, which is the second-largest island in the Caribbean archipelago after Cuba, taking into account the post-earthquake scenario in Haiti after January 2010, have been well described elsewhere (Antonini, 2012). Building on some of these new revisionist analyses of the relationship between the two countries that were developed over the last decade (Lozano & Wooding, 2008), this report will focus on the migration dynamics across the island and the prospects for more just policies and practices being drawn up and implemented to ensure better governance of human mobility at the island level, thereby enhancing the rule of law in both countries.

Decades of unchecked Haitian migration to the neighbouring Dominican Republic has resulted in a significant population of Haitian workers in that country.² Not only is their status uncertain, but these workers are also vulnerable to widespread discrimination and human rights abuses.

Successive governments formed by the three main political parties have failed to introduce a legal framework consist-

ent with international norms. These governments have also failed to respond effectively to notorious and well-documented abuses. Political leaders in the Dominican Republic are reluctant to take a lead on this issue, fearing accusations that they are betraying national interests. In Haiti, political leaders have been equally reticent in terms of the defence of their nationals in the neighbouring country for fear of opening a Pandora's box of demands from civil society organisations (CSOs). The reluctance of most party leaders to address the issue and the ambiguous attitudes of private-sector interests have placed the onus of responsibility on civil society practitioners in the human rights movement, both nationally and internationally. This movement originated in the 1980s during the campaign against the abuse of migrant cane cutters. Today it has broadened its focus to include Haitian migrants and their descendants nationwide. One notable change in the movement in recent years is the leading role played by Dominican non-governmental organisations (NGOs), with international partners providing support rather than vice versa.³

Dominican migration to Haiti is not nearly so significant in terms of numbers and is relatively invisible, with the

1 The findings of this report are based on interviews with civil society actors, including church representatives and trade unions, academics, diplomats, and international organisation personnel in Haiti and the Dominican Republic, in addition to a review of specialised literature on Dominican-Haitian affairs.

2 The first and only national survey of immigrants in the Dominican Republic carried out in 2012 puts the total of Haitians at 87.3% of the total immigrant cohort, i.e. 458,233 people (ONE, 2013).

3 This new turn of events is analysed by Wooding and Moseley-Williams (2004).

exception of cross-border sex trafficking as an issue coming recently onto the agenda (Spraoos, 2011). Paradoxically, this new attention has in part been caused by the 2010 Haitian earthquake, which highlighted the straitened circumstances of some already vulnerable female migrants.

Post-earthquake migration dynamics

According to UN figures, between 150,000 and 200,000 people died in the earthquake; 235,000 were displaced within the country; 1,130,700 were living in makeshift camps housing 231,322 households; 491 localities were affected by the makeshift camps; and 70% of infrastructure was destroyed or damaged in the capital Port-au-Prince and 80% in towns nearer the epicentre of the earthquake, e.g. Léogane and Petite Goave.⁴ The Haitian government actively encouraged earthquake survivors to move to the provinces where they had relatives or friends by offering free transport to do so.

What is the legal framework, if any, governing these movements of earthquake survivors, both within the country and when they cross the border? Who seeks visibility and who prefers to move incognito, in the context, for example, of ambiguous migration policies in the neighbouring Dominican Republic towards impoverished Haitian immigrants?⁵ What is the role of international stakeholders at the time of a “national disaster”, not least when they themselves have been an affected party in situ?⁶ Given the enforced dispersion of the earthquake survivors, how can they avoid being sidelined in the debate and decision-making on longer-term urban restructuring in Haiti?⁷

For the first time in Haiti the non-binding Guiding Principles on Internal Displacement (UNOCHA, 1999) have been used as a template against which to evaluate the humanitarian response. However, early reports drew attention to the real difficulties in applying these principles in practice.⁸ Despite the spate of previous natural hazard incidents over the last decade, not to mention the peaks of political instability, this good-practice centrepiece is only now being pioneered within a broader legal framework.⁹

Unfortunately, there is no equivalent protection for survivors of natural disasters who cross borders, leading to

possible protection gaps in the Dominican Republic in the case of those Haitians displaced from one side of the island to the other. The unyielding stance of many neighbouring countries regarding the reception of poor Haitian migrants has been documented in the past, including the particular difficulties faced by migrant women and children.¹⁰ The issue of enforced displacement to the Dominican Republic is addressed here with a view to determining the short-term effects of the earthquake and the longer-term impacts on the migration dynamics between the two countries.

Notwithstanding the temporary protected status (TPS) available to those Haitians with irregular status in the U.S. prior to the earthquake and the initial humanitarian “open borders” response of the Dominican Republic in early 2010, since then there has been an almost blanket response of repatriation for those who left Haiti irregularly in the wake of the earthquake. Moreover, by the end of 2010, TPS had been stopped in the U.S., to be subsequently agreed for a further period, and as of late 2012 the U.S. Citizenship and Immigration Services has formally extended for an additional 18 months the re-registration period for Haitian nationals living in the U.S. who have already been granted TPS and are seeking to maintain this status.

By early 2011, after a relative lull in 2010, the Dominican authorities stepped up repatriations of Haitians suspected of not having their papers in order in the Dominican Republic to a rate almost five times higher than in 2009, deporting 40,071 persons (Riveros, 2012). The United Nations High Commissioner for Refugees (UNHCR) and Amnesty International, for example, have consistently advocated for a moratorium on enforced returns to Haiti while the humanitarian crisis persists there.

Those who were forcibly displaced by the earthquake have by and large had to remain on the island. Thus, emigration “off island” in recent years has been limited for the poor majority of Haitians. This is due, on the one hand, to the fact that hard-line reception policies beyond the island for putative displacees have been the norm. On the other hand, deportations of Haitians with irregular status on the east of the island, in the region and beyond have been resumed on a “business as usual” basis, giving the impression (wrongly) that the humanitarian crisis in Haiti is under control.¹¹

4 See <ochaonline.un.org/haiti>. The OCHA map of January 24th 2010 on the displacement out of Port-au-Prince notes that the figures for those moving across the border to the Dominican Republic are unknown.

5 The tardy coming in to force in 2012 of rules of procedure for the 2004 Migration Law have been widely contested by relevant stakeholders as unviable and likely to cause further cross-border irregular migration.

6 Over one hundred personnel of the UN country team in Haiti lost their lives in the earthquake. This represents the biggest loss of life in any UN humanitarian mission in the world.

7 The relative lack of consultation carried out with civil society organisations when the major post-disaster needs assessment was carried out has been noted. In particular, women’s organisations believe that the special needs of women and girls were not adequately taken into account and, in consequence, a shadow gender report was issued (d’Askey et al., 2010).

8 For a prime example of this real difficulty, see UNHCR (2010).

9 The decade preceding the earthquake had seen a spate of sudden-onset disasters in Haiti, culminating in the 2008 storms that left 800 dead and caused over \$1 billion in damage; the 7.0 earthquake hit on January 12th 2010.

10 See, for example, Women’s Commission for Refugee Women and Children (2003).

11 Involved countries are France, including the French Antilles and French Guyana, as well as mainland France; the insular Caribbean, including the Bahamas, Turks and Caicos, and Jamaica; and some Union of South American Nations countries such as Bolivia and Ecuador. More recently, Brazil has had a relatively more accommodating stance, granting visas to Haitians more easily in certain circumstances.

On the contrary, the humanitarian response has been slower and more cumbersome than expected in Haiti, hence the increased probability that more vulnerable Haitians will seek a way out across the border, using the traditional safety valve of the Dominican Republic. For their part, Dominican emigrants continue to look for better prospects, travelling through legal channels or informally within the region and beyond, thereby leaving the bottom-most jobs for incoming Haitian immigrants.

A 2010 UNHCR report reviewing the organisation's role in natural disasters summed up the protection vacuum thus: "One key area of particular concern relates to the status of those who cross an international border during a natural disaster" (Deschamps et al., 2010: 33).

The "open border" policy on the part of the Dominican authorities in the immediate aftermath of the earthquake was an instantaneous humanitarian response that marked a positive turn in relations between the two countries.¹² At the same time the Dominican government facilitated the first humanitarian corridor (both by land and by sea) into Port-au-Prince and other affected areas when the early international response was dominated by U.S. troops, who were perceived as hampering the relief efforts (Smith, 2010).

The fact that the earthquake did not produce a massive wave of displacees trying to cross the border may be attributable in part to the nature of the humanitarian response to the catastrophe from the Dominican Republic. The UN system on the east of the island, in collaboration with certain Dominican authorities, acted as a shadow to the UN system on the other side of Hispaniola. This so-called "One Response Shadow" created a kind of buffer zone on the border that may have served as a brake on more forced migration into the Dominican Republic. Thus the UN system, headquartered in Santo Domingo, worked in an informal arrangement with the UN system in Haiti whereby the "Shadow Response" worked at a distance of twenty kilometres inside Haiti, helping with the camps in Haiti and with host families in the provinces, and, incidentally, ensuring that the camps did not creep into Dominican territory. Clearly, this was also a stop-gap move until the UN system in Haiti recovered sufficiently from its degradation in numbers because of the earthquake. Accordingly, this short-term back-up role inside Haitian territory was disbanded by April 2010.

Since then the ongoing role of the UN Stabilisation Force in Haiti has been called into question in some quarters, in part because of the cholera outbreak that has persisted since 2010 and which has been proved to have originated from a Nepalese contingent in Haiti, and in part because of

the proven sexual misdemeanours of some foreign troops. Most recently, the UN secretary general has recommended reducing the mission and changing its focus in future to give it more of an aid bent and a lower profile in situ.¹³

Longer-term impacts

The previous administration of the Dominican Republic led by President Leonel Fernández operated with realism and intelligence in this complicated situation. Important gains were notched up, the chief of which was changing the country's image in the eyes of the international community. From being a nation inimical towards Haiti and violating the rights of Haitian migrant workers in the Dominican Republic, the Fernández administration managed to produce a counter-image of the "Good Samaritan", conducive to a new frame for Dominican-Haitian relations, based on the idea of shared sustainable development in areas that involve the two societies and their economies. These include health, the border, security, climate change/the environment and cross-island trade. As yet, the same has not been achieved for the issue of human rights and the management of the migration agenda, which continue to be the Gordian knot for the future of relations between the two countries sharing the island of Hispaniola (see Lozano, 2010).

However, in June 2013, bucking this trend towards more soft diplomacy has been the Haitian challenge to the Dominican authorities on the way in which informal trade between the two countries disproportionately disadvantages Haiti. This unexpected show of strength on the part of the Michel Martelly administration in Haiti may yet serve as a wake-up call to the Dominican authorities, encouraging them to use this surprising stand-off on the bi-national trade front as a way of generating proper attention not just to this long-standing and unresolved issue, but also to the historically more sensitive matter of Haitian labour migrants in the Dominican Republic and their family members.¹⁴

For historical reasons (little political will on the part of successive governments to recognise forced migration, evidenced in the weak refugee determination processes for Haitians seeking refugee status), it is unlikely that the Dominican Republic would consider a fully fledged TPS for those who have been displaced by so-called natural disasters such as earthquakes. Additionally, civil society lobbyists in Santo Domingo have been noticeably silent in presenting the possibility of TPS as an aspiration in the wake of the catastrophe.

Following the earthquake, much attention has focused on the Dominican-Haitian border as a point of strategic interest for Dominican-Haitian relations, despite the fact that recent studies have demonstrated that those who were

¹² The Dominican-American author Junot Díaz is eloquent on this change; see Díaz (2011).

¹³ See Ban Ki-moon's statement, August 21st 2013, <http://www.radiotelevisioncaraibes.com/nouvelles/haiti/changement_de_mandat_en_vue_pour_la_force_onusi-enne.html>.

¹⁴ See Dilla (2013), which points this out in no uncertain terms.

temporarily on the border are no longer there and the border has once more returned to being either a crossing point for cross-border migrants who live and work in the area or a transit point from which putative migrants move further into the Dominican Republic (Petrozziello & Wooding, 2012). This blinkered view has reduced the focus on forcibly displaced migrants on the move who went to major cities such as the capital, Santo Domingo, or Santiago de los Caballeros.

The Assisted Voluntary Return programme being conducted by the International Organisation for Migration (IOM) since late 2010 is a voluntary programme to resettle those Haitians who are in the Dominican Republic as a result of the earthquake and who now wish to return to Haiti. It provides them with an incentive to do so, including start-up funds for livelihood purposes and the possibility of signing up for eventual legal cross-border migration programmes, which is an innovative approach in the context. But it is not without its difficulties.¹⁵ In 2012 this initiative resettled 1,219 Haitian immigrants, mainly outside the metropolitan area, in a calculated move, however modest, to decongest the Haitian capital of Port-au-Prince.

One caveat expressed by some is that the programme appears to disproportionately privilege those who have out-migrated at the expense of those probably even more disadvantaged who remained, for example, immobilised in and around the “tent cities” for lack of resources to explore other options. Another caveat mentioned is that, were the programme to become sufficiently well known, it might have the unplanned-for effect of attracting Haitian displacees to the Dominican Republic simply in order to return in relatively better shape to Haiti. This worry is more justified since 2012, when this programme began to operate without an exclusive earthquake displacee focus.

However, the special needs and vulnerabilities of the new migrants following the earthquake have served to expose some of the more broken parts of the current migration policies and programmes in the Dominican Republic specifically dealing with Haitian migrants. This has been particularly the case with the special needs of children and women. There is ground-breaking work that has been initiated individually and collectively by CSOs, the relevant authorities or the UN system that could and should be followed up in relation to these two categories of migrants.¹⁶

Appointments made under the previous Fernández administration and continued under the current Danilo Medina administration at the top level in both the Migration Management Arm of the Ministry of the Interior and Police and in the

ministry itself indicate that there is an attempt to return to the status quo prior to the earthquake and treat as a passing anomaly the Dominican authorities’ good neighbourly humanitarian response immediately after the earthquake.

It is not clear that progress will be made in the near future on the major outstanding lacunae affecting more just migration policies and their implementation in the Dominican Republic, with special reference to the single largest migrant cohort, i.e. Haitian migrants. Firstly, the rules of procedure for the implementation of the General Migration Law of 2004, which technically came into force in June 2012, are being contested by various stakeholders as being unviable. Secondly, there is no immediate sign that a regularisation programme will be engaged for those longer-standing migrants who lack a positive migration status, notably vulnerable Haitian immigrants. Logically, such a programme should have prefaced the rollout of the application of the migration law. One political calculation might be that engaging in a regularisation programme could be tricky if, as is likely, it entailed a corollary of massive deportations of those without papers who do not fit the eligibility criteria. This latter action could be politically unpalatable at the international level, given the humanitarian crisis that still prevails in Haiti. In this regard, the Council for Hemispheric Affairs suggested that Haiti might “face its biggest challenge yet” (Mathae, 2011). This Cassandra-like warning appears – at least for the moment – to have been misplaced.

In December 2012 a *New York Times* article repeated the belief that quite possibly, when the fourth anniversary of the earthquake dawns in Haiti in January 2014, as many as 200,000 internally displaced persons may still be under canvas.¹⁷ As far as the Dominican Republic is concerned, some believe that the humanitarian policy focus following the catastrophe faded six months after the earthquake. However, new international attention directed to the island as a result of the tragedy has meant that the Dominican Republic has had to be more attentive and sensitive to wide-ranging human rights criticism over the way the state treats Haitian immigrants and their descendants. This window of opportunity needs to be further used by migrant rights activists as they seek to use the geopolitical mileage afforded to them by the Haiti earthquake and its fall-out across the island and beyond.

Descendants born in the Dominican Republic to Haitian immigrants

The lack of access to nationality rights by large numbers of people of Haitian ancestry in the Dominican Republic

15 An EFE report of June 1st 2011 (taken up in the Dominican press) suggests that the IOM programme is easing a situation where the repudiation of Haitians is taking place in Santiago de los Caballeros, the second city in the Dominican Republic. Probably the IOM would not wish to see its programme being used as an excuse for the Dominican authorities’ inability to control xenophobic attitudes in the Dominican Republic (even were these attitudes to be real and not being stirred up for nationalist ends, as some have suggested).

16 One example is a new protocol in the Dominican Republic, drawn up in 2010, addressing the needs of unaccompanied vulnerable migrant children and adolescents. Another example is training launched in 2011 for CESFRONT, supported by the UN Children’s Fund, on human rights and trafficking of persons across the Dominican-Haitian border.

17 Then-UN humanitarian co-ordinator Nigel Fisher, cited in Sontag (2012).

leaves this population vulnerable to abuse and exploitation, and without access to education, legal and dignified work, social security benefits, or the justice system. This leaves them in a complete state of vulnerability, subject to exploitation, arrest, deportation and a life in legal limbo without any hope of bettering their situation. They live as an underclass of non-citizens in the only country they can call home.

Up until January 2010 the Dominican Republic constitution provided for “birthright citizenship”, although this right was not always available in practice to many Dominicans of Haitian descent. Since 2007 the Dominican authorities have used administrative procedures to remove the Dominican nationality of increasing numbers of Dominican citizens of Haitian ancestry who had previously been granted Dominican identity documents.

In 2010 the Dominican Republic changed its constitution, and “birthright citizenship” was replaced by a right to Dominican citizenship only if a child born in the country has a parent who is a “legal resident”. But, because of its ratification of human rights conventions, the country is still obliged to grant citizenship to a child born on its territory, who would otherwise be stateless. The fundamental right to nationality is being denied to large numbers of people of Haitian ancestry in the Dominican Republic. Those who have a right to Dominican nationality cannot legally be denied access to it because they may also have the right to another nationality. Further, the Dominican authorities assume that all people of Haitian descent can automatically gain Haitian nationality, which is not the case, and many people are in fact left functionally stateless.¹⁸

Proposals for the regularisation of foreigners who have been long-term residents in the Dominican Republic have the potential to improve the situation for some groups of people and to reduce statelessness for future generations. But draft plans for regularisation thus far appear to be failing to distinguish between Haitians and Dominicans of Haitian descent. Notwithstanding the current unfavourable political climate, a consensus group of 140 businesses, faith-based organisations and NGOs has coalesced with a view to positively influencing official thinking on this matter.

Attempts supported by international institutions to improve various categories of birth registration in the Dominican Republic have so far failed to address the issue of the nationality rights of the most marginalised population in the country, i.e. Dominicans of Haitian ancestry. Recent developments include successful domestic challenges in the Dominican courts, but subsequent non-compliance by

the Central Electoral Board, which is technically charged with executing the civil registry; the increased visibility of affected persons in public spaces; and the Dominican Congress’s failure to adequately investigate allegedly questionable practices of the Central Electoral Board (Dominican Republic, 2013).¹⁹

Symptomatic of profound international concern has been the fact that in March 2013 a fifth public hearing (since the first one held in 2008) was organised by the Inter-American Human Rights System in Washington, DC on the question of people of Haitian ancestry being denied and deprived of nationality in the Dominican Republic (Riveros, 2013). Legal challenges by CSOs received a severe blow when a high court in Santo Domingo issued a controversial ruling in September 2013 effectively denationalising a broad swathe of people of Haitian ancestry born and documented in the Dominican Republic since 1929.²⁰

Current challenges facing Dominican and Haitian civil society

New citizenship and immigrant residency restrictions on people of Haitian ancestry in the Dominican Republic seem anomalous, not least because the country follows a neoliberal and post-nationalist economic development strategy. Since 2007 Haitian-ancestry Dominicans have suffered increasing restrictions on their geographical and social mobility resulting from the denial and deprivation of Dominican nationality and the state’s failure to regularise the residency status of long-term Haitian immigrants, as contemplated in 2004 migration legislation. Dominican state representatives hold that most Haitians and Haitian descendants’ ancestors entered without proper permission when many among the older generations were recruited by state agents, and the forms of immigration restriction that they supposedly evaded mostly did not exist until the turn of the century. The border may be said to have been created to intercept immigrants’ descendants in the present, with an official exclusionist project having thus been formed against the backdrop of international trade liberalisation and state entitlement retrenchment.

In response to Haitian migrants and their descendants claiming their rights and occupying public spaces, a legally encoded exclusion is being rolled out by the Dominican state. This elite nationalism should not be confused with the myth of the monolithic demonic Dominican that is played up at times, notably in visual representations of Dominican-Haitian relations, at the expense of the main gate-keepers being kept firmly to the fore.²¹ Anti-Haitian exclusionism may also be understood as part of a post-nationalist demographic economy in which low-wage

18 For an updated analysis of the existing Haitian civil registry system and wide-ranging proposals for legislative change, see Loutis et al. (2013), which is under discussion with the Haitian authorities.

19 The report on the issue was unlawfully approved by the Dominican Congress without at least 24 hours being allowed for its consideration.

20 <<http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>>.

21 By “myth of the monolithic demonic Dominican” we refer to films, photographic exhibitions and audio-visual material produced off island that tend to suggest that mob rule is the norm rather than the exception in day-to-day relations between Dominicans and Haitians in the Dominican Republic.

(and at times illicit) foreign commerce and Dominican emigrant remittances are perceived to be major engines of growth, while Haitian immigrant labour turns into a resource whose entry into the Dominican political economy is to be increasingly subject to restriction (Martínez, 2013). At the same time, the significance of Haitians sending remittances across the border to their home country has been emphasised, noting that most of those remitting from the Dominican Republic are likely to be doing so to the poorest quintile in Haiti and hence the most needy (Banco Mundial, 2012).

In the following paragraphs the response by pro-migrant CSOs is discussed, leading to some conclusions and recommendations for moving forward a rights-based agenda for vulnerable cross-border migrants.²²

Against this background, the role of CSOs, including churches and trade unions, is crucial to the extent that these organisations may support the migrant population, not just by providing welfare, but also by reinforcing capacities such that migrant organisations (and those of their descendants) may be better equipped to advocate for their own rights. However, social and faith-based intermediary organisations that have a more rights-based agenda are often challenged by the overwhelming needs of the population requiring service delivery. This reality impedes the acquisition of more social capital on the part of the migrant (or migrant-descended) organisations concerned, which could potentially lead to more skilful advocacy on their part towards the supposed guarantors of their rights across the island. Additionally, social and faith-based organisations do not always seek strategic alliances with the trade unions. Three salient trends may be observed regarding the role of CSOs.

Firstly, since the early 1990s, concerned civil society has been able to take over the lead from international civil society across the island in terms of “naming and shaming” entities that do not respect the fundamental rights of migrants and their descendants. Noteworthy has been the use of strategic litigation – so-called emblematic legal cases – that may result (and have indeed resulted) in landmark judgments (Wooding & Moseley-Williams, 2004: 80). However, mixed results, including non-compliance (and even backlash in some cases), suggest that the debate needs to be deepened on the danger of over-legalisation versus arriving at a critical mass of positive jurisprudence.²³ In the process, promising initiatives in terms of cultural change in the area of Dominican-Haitian relations need to be built on to ensure that public opinion appreciates the extent to which the erosion of the rights of migrants and their descendants erodes the rule of law for all on the island.²⁴

Secondly, there has been a turn towards accompanying migrants in the new geographic locations where they are to be found (beyond the traditional *bateyes*, or sugar cane enclaves), including urban contexts and with a more visible number of women in the new flow of migrants (Báez, 2001; MUDHA & GARR, 2005). This is important in light of the fact that more recently the worst xenophobic incidents affecting migrants (even where such incidents appear to have been stirred up artificially by ultra-nationalist interests) have occurred in urban contexts, notably the second-largest urban setting in the Dominican Republic, Santiago de los Caballeros.

Finally, the more recent involvement of evangelical churches has to some extent taken over from the hitherto-ubiquitous role of the Catholic Church. Despite this prominent role of evangelical churches in closely and successfully supporting migrant groups, the tendency remains to work within the system and not necessarily advocate for legislative change, nor indeed to lobby for the existing legal framework to be duly observed. In general, most churches exhibit many of the traces of the in-built patriarchal system. Scholars have analysed the impact of religion in other contexts of Latin America, underscoring the authoritarian aspects of various Christian traditions, typified, for example, by the increasing Pentecostalism in countries such as Brazil (Corten, 1999).

That said, cross-island Protestant church dialogue on improving Dominican-Haitian relations existed, with significant Norwegian backing (2006–09), but faltered after the Haiti earthquake in 2010, as documented in an assessment report a year later (Gomez Lopez, 2011). Positive results, including specific projects successfully carried out with young people and women on the border, have been registered, although the sustainability of these efforts is unclear.²⁵ An inter-faith grouping, Religions for Peace Platform in Haiti, established in the wake of the earthquake to combat sectarianism, has so far dedicated all its efforts to improving political dialogue within Haiti, not least to ensure the proper inclusion of, among others, the *vaudou-isans* (or voodoo adepts).

For its part, the Dominican union movement has had a relatively low profile in terms of incorporating migrants into its rank and file, recognising that migrant workers' lack of documentation may be a dissuasive factor that negatively affects the organisation of migrants in the host country. With women migrants, the majority work informally in petty trade, agriculture and other areas related to the service economy. Recently, the guild that organises remunerated domestic workers, ATH, has started to actively attract Haitian women migrants working in the country in this branch of the economy, which is an

²² A more detailed analysis can be found in Wooding (2013).

²³ See, for example, Helfer (2002).

²⁴ Examples of such endeavours include the book launch in Haiti in which the authors of this report participated in the context of the fact-finding mission in Haiti. On June 21st 2013, with Haitian state backing, a Haitian youth organisation launched five books dealing with a better understanding of Dominican-Haitian relations. The books were published by one of the few specialist publishers focusing on Dominican-Haitian relations, based in Port-au-Prince.

²⁵ Preliminary findings of a forthcoming doctoral thesis by Jorgen Yri, NTNU, based on fieldwork carried out in 2013.

unprecedented inter-ethnic effort. Moreover, the International Labour Organisation has become more active in encouraging these developments, including from a strong gender perspective.

There are at least four networks of a certain weight in local and national civil society that include in their mandate policy advocacy regarding the rights of Haitian migrants and/or their descendants. Although these platforms (and similar ones) may have problems of representivity, as often occurs with networks, they do have a history of effective work. The latter includes both support for the basic needs of vulnerable migrants and the potential to influence public policy and its implementation. The synergies among CSOs across the island have been more evident in times of prolonged crisis, as was the case after the coup against then-President Aristide's first administration, which sent him into exile (1991-94), in the context of the massive forced displacement that ensued. Otherwise, co-ordination at the island level in terms of the rights of migrant persons tends to be patchy. On the east of the island, coalition building with networks of potential allies among Dominican civil society is incipient.

To be sure, island-wide CSOs had an egregious role in the immediate response to the earthquake, especially because of their traditional proximity to many of the more impoverished survivors and their family members. However, certain key Dominican organisations opted to work in Haiti (and continue to do so). As a consequence, their capacity to confront new challenges in the Dominican Republic has been reduced, as has their ability to define fresh advocacy strategies regarding a new configuration of migration across the island (i.e. following the earthquake and the 2010 constitutional change). The humanitarian approach that persists on the part of some Dominican authorities in relation to the new Haitian immigration to the Dominican Republic, especially women and children in particularly vulnerable situations, may not necessarily endure.

For all these reasons, new initiatives that bring together and foster joint thinking on migration policies and practices on Hispaniola are welcome. One such development, for example, is the recent establishment of ObservaLaTrata República Dominicana, which is a national observatory on human trafficking in the Dominican Republic; in Haiti, a steering group is attempting to set up a similar structure (May 2013). Both observatories would include civil society actors, with academic support as necessary, and would be affiliated with a regional observatory on human trafficking based currently in El Salvador. As is well known, low-income women and children from poor families are the main victims of human trafficking. Also, by tackling the issue in a broad context, the rights violations of some Dominican women trafficked to Haiti for sexual exploitation purposes could be made more visible and appropriate solutions

sought. Equally, the full dimensions of the *restavek* phenomenon²⁶ in Haiti could be better understood in the Dominican Republic and brought to bear in seeking solutions for unaccompanied Haitian children in exploitative situations.

Conclusions and recommendations

This report has sketched the new background to migration dynamics across the island following the earthquake in Haiti in 2010. The protection challenges facing internally displaced people in Haiti and those who moved internationally have been discussed. While there are international norms (although non-binding) for those who remain internally displaced, there is a protection gap for those who cross a border after a natural disaster. Such is the case for impoverished migrants who crossed the land border to the Dominican Republic, notwithstanding the early humanitarian policy on the part of the Dominican authorities immediately after the earthquake. However, increased focus on the island by international actors as a consequence of the humanitarian crisis in Haiti means that the Dominican Republic is being called more to account than hitherto on human rights questions affecting Haitian migrant labourers and their family members.

Unfortunately, the legislative framework in the Dominican Republic is still incompatible with international standards. Additionally, more restrictive migration policies spill over to the nationality question and, since September 2013, minority but influential ultra-nationalist factions in the country are attempting to segregate Dominicans of Haitian ancestry even more forcefully than before in a process of proposed mass nationality stripping of such people, which would make them technically foreigners in the land of their birth. This move has been endorsed by a high court in Santo Domingo.

As regards what in broad terms might be considered the movement for the rights of Haitian migrants and their descendants on the island, a stocktaking exercise is needed. The moment is opportune, given the rethinking that has had to happen on the bi-national trade front because of recent Haitian overtures towards proper regulation in this regard. In other words, there is a new window of opportunity that should not be overlooked to examine other areas of bi-national interest. The proposed review of successes and reverses is needed on migration matters not just to better confront old challenges such as labour abuses and the arbitrary nationality stripping of Dominicans of Haitian ancestry (aggravated by the new exclusionary clause in the 2010 Dominican constitution), but to look more broadly at durable solutions, taking into account new developments following the earthquake at the turn of the decade. It is crucial that civil society be brought to the negotiating table, whether as an interlocutor with the

²⁶ *Restavek* refers to Haitian children, mainly girls children, given by poor families to slightly better-off families on the understanding that their basic health and education needs will be attended to, when in practice they may well not progress beyond unremunerated domestic service and/or other exploitation.

Bilateral Mixed Commission²⁷ or with other relevant state or interstate entities.

The following recommendations are made in the spirit of advancing a rights-based agenda from below on migrants' rights and those of their descendants on Hispaniola.

To the Dominican government

- Make new empirical data on immigrants in the Dominican Republic (e.g. ONE, 2013) available to CSOs to better inform their policy advocacy actions.
- Create space for dialogue between civil society actors and the official guarantors of migrant rights building on new links made, for example, by Dominican civil society with the Dominican Congress in recent years.

To the Dominican and Haitian governments

- Continue support for improving material conditions and interethnic relations in the Dominican-Haitian border zone, given the strategic significance of these borderlands not just as a transit point for migrants, but also for daily cross-border migrant workers, including bi-weekly border markets.

To the Norwegian Ministry of Foreign Affairs and other international stakeholders

- Support empirical research on other hard-to-count populations, such as Dominicans of Haitian ancestry, at risk of statelessness or functional statelessness to better inform CSOs' policy advocacy actions.
- Support cultural and creative media initiatives aimed at increasing understanding of and promoting tolerance towards immigrants and their descendants, as a means of influencing public opinion with a view to more fully recognising migrant rights.
- Encourage coalition building between different stakeholders among concerned civil society (in and between both countries) with a view to strengthening complementarities and achieving broader articulation, taking into account, for example, the historic strengths of the various churches, the women's movement and the trade union movement.
- Support applied research on understudied topics such as migration and climate change as a way of mainstreaming migration from the outset in terms of this type of cutting-edge issue.
- Draw up a didactic version of this report to enable a stock-taking exercise in the context of a bi-national workshop before the end of 2013 that would include many of the actors consulted for the present report as a means of both validating the report and also feeding back the results to interested parties.

To Dominican and Haitian CSOs

- Foster a deeper debate around the use of strategic litigation to support legal practitioners and paralegals

to further develop and refine their strategies and tactics for achieving more lasting rights-based change.

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²⁷ The official mechanism theoretically governing bi-national co-operation, set up in 1996, but underachieving to date.

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