

# Shaking up the Grounds for Human Trafficking on Hispaniola

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## Abstract

The migration of Haitian women to the Dominican Republic is part of the so-called “feminization of migrations” caused by changes in labour markets as well as the precarious situation of women and their families in the neighbouring country of origin. The sequel to the earthquake in Haiti on January 12, 2010 has aggravated gender violence, in the makeshift camps in which hundreds of thousands of displaced persons are still living a year later, according to the reporting of human rights organizations, international organizations, women’s organizations and ordinary citizens. Although the unprecedented urban displacement provoked by the earthquake has not led to a stampede of Haitians attempting to cross the border to the western side of the island of Hispaniola, it has exposed migrants, particularly women, to new situations of vulnerability which may lead to human trafficking. This paper seeks to characterize the evolving situation. It examines how there is a new opportunity for civil society activists to direct attention towards possible humanitarian gaps as regards Haitian migrant women who have crossed the border, helping *inter alia* to strengthen protection measures across the island, in part because the issue of gender violence in Haiti has become more visible than previously.

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## Introduction

The migration of Haitian women to the Dominican Republic is intrinsically linked to the “feminization of migrations” which is in turn part of the so-called “new Haitian immigration” (Silié et al. 2002), brought about by changes in labour markets as well as by the fragile situation of women and their families in Haiti (Wooding et al. 2008). Haitian immigration was given a push under the U.S. occupation of Haiti and a pull under their occupation at the same time of the Dominican Republic when both nations on the island were occupied in the 1920s and 1930s and in response to U.S. investment in sugar cane holdings, especially in the east of the Dominican Republic. While this international migration, mainly composed of Haitian men, was initially directed almost exclusively to the sugar cane enclaves known as bateyes, the changes in the pillars of the Dominican economy

and the prolonged transition towards a fully-fledged democracy following the fall of the Duvalier dictatorship in Haiti in 1986 have led to geographical dispersion, a diversification in the composition of the migrants, as well as in the labour niches they occupy. Women and girls are more than ever on the move, migrating autonomously in many cases, not just internally in Haiti (where they exceed their male counterparts as regards internal migration in Haiti) but also crossing borders (IHSI 2003; FAFO 2010).<sup>1</sup>

Women migrants are particularly vulnerable to human trafficking<sup>2</sup> and illicit smuggling

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<sup>1</sup> The former study is a nationwide household study carried out by the National Statistics Institute of Haiti with Norwegian technical cooperation while the latter study is a national survey on young people in Haiti carried out in 2009 prior to the earthquake, with the same institutional collaboration.

<sup>2</sup> The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or

of migrants<sup>3</sup> and more likely to be deprived of decent labour conditions than their male counterparts (UNFPA 2006). Their condition and position in a system of unequal power relations and discrimination on gender grounds means that they have less access to education, employment, resources and may be exposed to physical and psychological violence. Additionally, the international political, economic and social context, nationally and internationally, has led to cutbacks in public services and subsidies and has delegated responsibility and the “burden” of the care of others to women (Touzenis, Kristina 2010). Although a contributory factor to the emigration of women may well be gender violence, her migration trajectory and new pressures in the host country may be conducive to gender violence again, manifested sometimes in human smuggling or trafficking.

Moreover, it is necessary to overcome the worrying tendency to “infantilize” and over-protect women, assimilating her frequently with children, and making them visible exclusively as victims and not as autonomous social actors with the capacity to take rational decisions as regards her life and body. Thus, it is appropriate to go beyond a homogenous approach which tends towards the victimization of survivors of human trafficking and, rather, take a rights-based approach, recognizing her faculties, needs and different decisions. In the insular Caribbean context, Kempadoo has developed an instructive analysis of the situation of sex-workers across the region, developing the latter approach in a context where trafficked women are often

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use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Art. 3(a), *UN Protocol to Prevent, Suppress and Punish trafficking in Persons, Especially Women and Children*).

<sup>3</sup> The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (Art. 3(a), *UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Crime*).

stigmatized as sex workers, supposedly without agency in the matter and without attention to the intersection of gender, race and sexual labour (Kempadoo 2004). A persistent stereotype places human trafficking in almost exclusive relation to sexual labour whereas in the Hispaniola context, for example, remunerated domestic labour is another area of considerable risk for migrant women because it is unregulated in practice (Wooding and Sangro 2009).

In the case of Haiti the context from which the women migrate, from a gender justice perspective, is even bleaker than that which they encounter in the Dominican Republic. In the field of justice there is much to be done to guarantee access and impartiality, including a more effective implementation of national legislation and more accountability with international treaties. In the area of gender equality, the legislation criminalizing rape for the first time in 2005 was a significant step forward. Notwithstanding the latter sign of progress, women continue to have difficulty in accessing the judiciary system and persistent gendered stereotypes coupled with a lack of knowledge on women’s human rights by actors within the judiciary maintain a cycle of impunity. Many women are unaware of or are unable to exercise their basic rights as codified, for example in the American Convention (ratified by Haiti in 1979), the regional Convention Belem do Pará and CEDAW.<sup>4</sup> For Haitian women progress in the area of justice and consolidating the rule of law are crucial for the establishment of a context in which women’s rights are recognized and which may prevent all forms of discrimination based on gender.

It is well known that, to mainstream women’s rights into the human rights framework and bring it to international attention, the women’s human rights movement used violence as their paradigmatic example. It offered the clearest parallels to already accepted violations of human rights because it often involves bodily harm,

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<sup>4</sup> Appendix 6 of the first and only CEDAW report by the Haitian Government (March 2008) lists thirty international legal instruments relating to human rights and women’s rights, of which only five are not adhered to by the Haitian state.

torture, and even death whether in private (domestic violence) or public (rape in wartime) settings.<sup>5</sup> Pro-Women's Rights activists in Haiti had been emulating this example with some success. Spearheaded by the Ministry on the Status of Women and Human Rights in 2004, a Coalition of Government, NGO and international donors have worked together in a major campaign aimed at eliminating violence against women. In the political instability of 2003-2004, the scourge of violence reared its head especially against women and children. Accordingly, a national plan of action had been adopted, including a protocol on how to deal with the victims of violence, using didactic materials in French and Haitian Creole. This Coordination had a certain degree of outreach and was coming to the end its five year plan when the earthquake struck. In Haiti the Parliament has not yet adopted any legislation against human trafficking or the illicit smuggling of persons. Nevertheless, it is important to note that, before the earthquake, human and women's rights had been put on the agenda by Haitian stakeholders. After 01/12 there has been a tendency to downplay these indigenous efforts, possibly because all the Government ministries were decimated and, given that the Women's Ministry is a small Ministry, the disappearance of several key women was even more devastating.<sup>6</sup>

In what follows, in a first section of the paper, attention is focused on forced migration and Haiti, including human trafficking in this relation. It attempts to consider why human trafficking in relation to Haitian women has been relatively sidelined prior to the earthquake, both in relation to their male counterparts and in comparison to Dominican trafficked women. In part, the information is drawn from the findings of a three year comparative research project on the rights of migrant women in intra-regional migration, one component of which addresses Haitian migrant women's knowledge of their rights and their ability to exercise these rights against the

backcloth of different strategies and discourses being used on and off island to advance rights compliance.<sup>7</sup>

A second section of the paper examines new challenges after the earthquake, especially concerning the forced displacement of women within Haiti and across the border. There has been a wealth of material documenting gender violence against women during this period while other aspects of the Guiding Principles for Internal Displacement<sup>8</sup> have been relatively understudied. In addition to secondary material, the information takes into account interviews with women migrants, who have come for the first time to the Dominican Republic after 01/12 in two main urban areas of the country.<sup>9</sup>

A further section of the paper examines the roles and responses of different stakeholders in relation to gender violence and related topics over the past year. In part, the analysis here draws on personal experience of our participation in the sub-commission on gender violence (reporting to the protection commission) which was set up as a shadow commission in Santo Domingo to the principal "clusters" (commissions) of the UN system in Port au Prince, Haiti.<sup>10</sup> The new "political opportunity structure" obtained because of the shaking up of Dominico-Haitian relations in 2010, potentially leading to heightened rights compliance as regards Haitian migrants in the Dominican Republic, is analysed. Concepts of political opportunity structure were first developed in social movements and then

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<sup>7</sup> This research Project (2008-2010) is supported by the IDRC and co-ordinated from the University of Windsor, Canada.

<sup>8</sup> Although this is a non-binding instrument, drawn up the UN system in the late 90s, the principles reflect and are compatible with international humanitarian law and with human rights, as well as with analogous law regarding refugees.

<sup>9</sup> These interviews were conducted by the Observatory Caribbean Migrants in October/November 2010.

<sup>10</sup> In part due to the scale of the disaster, in part due to the fact that the UN Mission was an affected party *in situ* losing over 100 staff members in the earthquake, the Santo Domingo Country Team functioned as a shadow "one response" over several months in 2010, and worked 20 kilometers inside Haiti, in a *de facto* division of responsibilities for dealing with the humanitarian crisis.

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<sup>5</sup> See for example, Friedman's article on "Bringing Women to International Human Rights" in *Peace Review*, Volume 18, Issue 4, and October 2006.

<sup>6</sup> Personal communication with a functionary of UN Women, January 2011.

applied to the mobilization of immigrants and migrants (Mc Adam et al. 1996).

An endnote presents some concluding remarks, highlighting pointers for migrants rights' advocacy on intra-island human trafficking and ways in which women's rights might be advanced and may be better protected in the future. Were this to happen, it would be due in no small measure to the shaking up the grounds for human trafficking which has happened in the wake of the Haiti earthquake.

### **The Evolution of Forced Migration on Hispaniola**

Forced migration<sup>11</sup> in and outside of Haiti has been a trend with a long history. Also, the corresponding tendency has been the non-recognition of the forced migrants as such by the more important receiving countries in the region. The term "Internally Displaced Person" (IDP) had not been used in Haiti prior to the massive internal displacement provoked by the earthquake in early 2010, although in the previous decade there could have been warranted use for this nomenclature and the protection it could afford, given certain peaks of internal instability and acute natural disasters entailing significant internal displacement.

This trend of involuntary migration goes back at least to the Duvalier regime, *père et fils*. It was important before then but it became a more significant phenomenon under the Duvalier dictatorship (1957-1986) because it touched peasant families. At times of crisis, massive forced migration can and does happen. One such turn of events took place in the early 80s and was popularly known as the crisis of the "Boat People". The new U.S. policy of 1981/1982 came about after the exodus of Cubans from Cuba, the Mariel crisis to which the Castro regime turned a blind eye. The radical change in U.S. policy implied the interdiction of the so-called "Boat People" at sea and their repatriation to Haiti without due process. This prohibition

<sup>11</sup> Forced migration is understood to be that which results from coercion, violence, political or environmental crisis or other forms of coercion, instead of voluntary actions (UNFPA 2006).

of flimsy Haitian boats happened exactly when the policy of "indefinite detention" of Haitians began in the Krome detention centre in Miami and other places. This migration policy has had its variations over the last three decades but in essence has not changed.

The U.S. Government maintains fairly efficient floating wall between Haiti and the U.S., alleging that it is necessary to prevent terrorists and economic migrants alike from reaching their shores. Unsurprisingly, the majority of the "Boat People" are intercepted and involuntarily returned to Haiti. Those who are not deported are held in the U.S., with few being released. Human rights activists have expressed concern over the "shout test" in which the U.S. coastguards allegedly give preliminary interviews to potential refugees only if they shout manifesting their fear of persecution if returned to Haiti.

For this reason, among others, the Dominican Republic, sharing a land boundary with Haiti, has become the more common safety valve for the international migration of lower income Haitians.

Moreover, and as is a common practice towards other countries in Latin America and the Caribbean, the U.S. began again in 2005 the removal and deportation of Haitians residing in the U.S. Some have finished serving sentences in prison for crimes while others have been deported for administrative infractions of migration laws. Both groups are forcibly returned to Port au Prince, where they may be detained on arrival.<sup>12</sup> While "Temporary Protection Status" (TPS) was granted to those Haitians with irregular status who sought to come forward after the earthquake and who were already in the U.S., this has been short-lived. As of early 2011, deportations from the U.S. have started up again, despite exhortations from the Inter-American human rights system that the Government of Haiti is ill-placed to re-integrate these citizens and a reported death from cholera of a recent returnee (IACHR January 2011).

A similar hard-line migration practice has been routinely enforced in the Dominican Republic

<sup>12</sup> Article entitled "Anywhere But Here" in the Annual Report of the Lutheran World federation, 2005

which consists of recurrent deportations of Haitians in the Dominican Republic suspected of not having their papers in order. Official figures give a total of around 21,000 removals of Haitians annually. In the first half of 2010, there was a slowing-down by the Dominican authorities who deported some 2,500 Haitians, but there was business as usual by the second half of the year despite the United Nations High Commission for Refugees (UNHCR) pleading against this (UNHCR press note March 2010).

While historically this has been a commonly carried out measure, the breakdown in the seasonal importing of labourers for the sugar harvest when the Duvalier dictatorship was terminated in 1986 has accelerated the use of this strategy as an apparent means to control irregular Haitian migration. However, it is a blunt instrument given that the border is porous and that Haitian immigration is not adequately controlled at the point of entry. It is by no means certain that those who have entered irregularly are those who are being summarily deported, given the lack of due process.<sup>13</sup>

In the interviews we carried out with Haitian migrant women prior to the earthquake they were unanimous in drawing attention to the fact that the border was more virtual than real. The vast majority of women arrive initially in the country *amba fil*. Many women assume that it is “normal” to enter the country in this way if lack a passport or a passport with the relevant visa<sup>14</sup>. On being asked as to how they entered the Dominican Republic, the reply is prefaced with adjectives such as “*normal*”, “*alezman*”, “*kom sa*”. These are all terms in Haitian Creole which tend to normalize the border crossing without

<sup>13</sup> Despite the fact that a binational protocol for minimum standards by which to carry out the repatriations was drawn up between Haiti and the Dominican Republic in the late nineties and ratified in 2002, this agreement is honoured only in the breach.

<sup>14</sup> We use the neutral term “*Amba fil*” (literally under the wire) because of the difficulty of distinguishing clearly between irregular migration, and smuggling or trafficking situations. The UN rapporteur has also discussed the real difficulties in clearly defining these different notions since overlap and evolution are always possible (Bustamante, February 2008).

the correct documents. This banality makes invisible the risks of irregular migration, pointing up institutional weaknesses which may lead to human rights abuses. The other side of the coin is the encouraging of clientelism and the tacit invitation to illicit smuggling rings or traffickers to take part in the process.

Another matter generating distrust between Haitian migrants and Dominican society at large, which has been a constant over time and has persisted after the 01/12 disaster, is the exaggerated notion that Haitian women will inevitably and exclusively engage in sexual labour when they migrate across the island. As is well known, this is a common belief in migrant-sending countries as regards female emigration, irrespective of whether the migration is within the global south or to the north. In the case of the Dominican Republic as a migrant-sending country, for example, it is assumed that all Dominican women in Haiti are prostitutes even though this is not the case. Similarly, the imaginary of Dominican women who migrate to Spain and elsewhere in Europe as well as throughout Latin America and the Caribbean is that their mobility is most likely to be in function of sexual labour, although it is a minority who earn a living thus. Independently of the objective facts, the net result is that the misleading representations of female migrants endorsed by the media in sending and receiving countries alike tend to homogenize and stigmatize a heterogeneous group of people in ways which predispose public opinion and are inimical to the proper integration of women migrants and treatment of the issue of human trafficking within a broader frame.

Our recent interviews in October/November 2010 with displaced persons from Haiti repeat this stereotype, irrespective of whether the interviewee is male or female. Below (with pseudonyms) two young earthquake displaced persons comment on this enduring myth, firstly a male and then a female.

“Michel :*avan mpat konnen l mpat renmen l,men konye a m ladan l m oblije renmen l.e sa ou te konn tande wap di de li konye a ou vin viv li ou wè se pa vre.*

Entrev. :*Men kisa ou te konn tande wap di ?*

Michel :*bon,gen anpil bagay moun nan di yo di ,men yo pa viv li. Si tou ayisyen le mte ayiti,mtoujou tande pi fò fi ki vin nan sendomeng yo vin lave boutèy, ki jan lave boutey la, lè fi a vin isit, li vin fe pwostitiye.E pou tan li pa yon reyalyte, si majorite ladan yo vini pou fel,y opa kapab met tout moun nan menm sak,gen moun ki vini ki vin onet,ki vin chache la vi."*

"Michel: Before I came I didn't like Dominican Republic but now I am here inside the country I am obliged to like it because what you heard before you came here was not true.

Interviewer: But what was it that they said?

Michel: Well, there are a lot of things that people say but they do not live here. I always heard from Haitians in Haiti that women come to Santo Domingo to "wash bottles",<sup>15</sup> that when women come here it is for prostitution. And yet that is not the reality, even if the majority of women were to come to do (it) you should not put everyone in the same sack, there are people who come for honest reasons, to look to earn a living."

« Entrev. : *Nan ki sans ou panse y opa respekte dwa fanm nan sen domeng ?*

Claire : *Non paske le w ayiti yo di w pa al sen domeng kisa ki gen nan sen domeng,paske gen anpil fanm se boutey w'ap lave nan sen domeng se pou tèt sa se eksperyans sa m fè.*

Entrev. : *Ou rekonet kek fi ki vin isit la ki vin lave boutèy ?*

Claire : *Non mpa konnen. »*

"Interviewer: In what sense do you think that women's rights are not respected in Santo Domingo ?

Claire: No, because when you are in Haiti people say you should not go to Santo Domingo because a lot of women go to Santo Domingo to "wash bottles". That was what I expected.

Interviewer: Have you met any Haitian women who are "washing bottles"?

Claire: No, I haven't come across any."

There are perhaps two factors which have led to less attention being directed towards human trafficking as regards Haitian women as a general rule. On the one hand, although more Haitians currently live and work outside of the *bateyes* (UNCHR 1996), the criticism of alleged Dominican mistreatment of Haitian migrant workers is still

<sup>15</sup> "Washing bottles" (*lave boutèy*) is a common expression in popular Haitian Creole meaning prostitution.

rooted in the past. Thus the focus is on a situation with "akin to slavery conditions" of the male workers in the sugar cane harvest. Because of the low profile and unregulated niches occupied by the women migrants (such as informal trading, remunerated domestic work, services including sex work) they are often left out of the equation from a forced migration and rights compliance perspective. When they are depicted, it is almost exclusively in their reproductive role, as pregnant women using exorbitantly the public health services in the Dominican Republic.

On the other hand, the Dominican Republic is often mentioned in the same breath as Brazil, Colombia and the Philippines as a country resonant with trafficked women. Of course, the reference is to Dominican women who are trafficked abroad, especially to Europe, as well as across the length and breadth of Latin America and the Caribbean. Indeed there is more known about Dominican women who have been trafficked to Haiti (where they are well known as sex workers) than there is about Haitian women in similar circumstances in the Dominican Republic (COIN 2008). Evidence of this short-sightedness is to be found in the Inter-Institutional Committee for the Protection of the Woman Migrant (CIPROM), located in the Dominican Women's Ministry since the late nineties, which deals almost exclusively with Dominican women and hence leaving out of its purview the Haitian woman migrant, bearing in mind that the Haitians are the single largest cohort of migrants in the Dominican Republic.

However, the Haiti earthquake has served to shake up the issue of forced displacement across the island, such that the Haitian woman migrant will no longer be invisible or quite as stereotyped as previously, and has led to new challenges for public policy-makers and migrants rights activists alike.

### **The new migration configuration after the earthquake**

Decades of unchecked Haitian migration to the neighbouring Dominican Republic has resulted in a significant population of Haitian workers in that country. Not only is their status uncertain, but

these workers are also vulnerable to widespread discrimination and poor human rights conditions. In the Dominican Republic no legal framework consistent with international norms exists yet. Civil society practitioners in the human rights movement both nationally and internationally 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 descendents nationwide. One notable change in the movement in recent years concerns the leading role played by Dominican NGOs, with international partners providing support rather than vice versa (Wooding and Moseley-Williams 2004).

The “open border” policy on the part of the Dominican authorities in the immediate aftermath of the earthquake was an instantaneous humanitarian response marking a new departure in relations between the two countries. At the same time the Dominicans 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.

Over the past year, the situation has become more complicated on the border, although many Haitian earthquake survivors who had moved to the border have now returned to the Haitian capital in the hope of becoming beneficiaries from the promised aid programmes and especially once the schools have re-opened. Border control has been reinforced in the Dominican Republic in the wake of the cholera outbreak in Haiti in October 2010, especially since early 2011.

Since the earthquake, Dominico-Haitian relations have been based on the idea of shared sustainable development, in those aspects which involve the two societies and their economies. The latter include: health, the border, security, climate change/environment and cross-island trade. Migration and human rights challenges remain, which continue to be the Gordian knot for the future of the relations between the two countries sharing the island of Hispaniola (Lozano 2010). Nevertheless, since a humanitarian prism still persists, the new political opportunity

structure represents a new opening for pro-migrant rights activists.

The concept of “Political Opportunity Structure” has been widely used in research on migrants’ political behaviour and activities, including voter turnout and representation in political bodies, membership in political parties and organizations, lobbying, public claim-making and protest movements. The political opportunity structure consists of laws that allocate different statuses and rights to various groups of migrants and formally constrain or enable their activities, of institutions of government and public administration in which migrants are or are not represented, of public policies that address migrants’ claims, concerns and interests or do not, and of a public culture that is inclusive and accepts diversity or that supports national homogeneity and a myth of shared ancestry (Rainer 2006).

As has been the norm in recent decades after sudden onset natural hazards and peaks of political instability on the west of the island, there has been no stampede of Haitians attempting to cross the border. Some always cite this possibility as though it was a real security threat for the Dominican Republic, even though it never materializes. On the contrary, the bulk of the forced displacement has taken place within Haiti. Some 2.1 million people had left their homes – over 1.7 million had been living in camps and spontaneous settlements in Port au Prince, while some 400,000 have taken refuge with families and friends in the provinces, 160,000 of whom had moved to regions within 20 kilometers from the border with the Dominican Republic. By early 2011, there were still almost a million people living in makeshift camps and the best estimates still seem to suggest a housing deficit in the immediate future (Government of Haiti projections).

There had been the perception that gender violence in Haiti and its repercussions for female migrants was an area where little progress had been made, despite Haiti’s first (cumulative) report against the Convention on the Elimination of Discrimination Against Women (CEDAW) in 2008, some 27 years after this Convention was

ratified by the Haitian state in the early eighties. Gender violence against Haitian migrant women takes place, for example, in sexual favours which may be required to informally cross the border into the Dominican Republic or in human trafficking where women migrants once they arrive may be working in exploitative situations to which they have not consented.

On this latter issue, while it is true that the sequel to the earthquake has presented new challenges because of the context in which gender violence can (and has) spread, it has also revealed that Haiti had made considerable strides towards recognizing the extent of the phenomenon and dealing with it, notwithstanding formidable obstacles. Much attention has been paid to fresh challenges in Haiti, given the precarious camp and host houses situation for earthquake survivors, conducive to gender violence including, for instance, transactional sex in order for women to gain access to food distribution. It has been difficult to achieve the 1999 template of the international non-binding Guiding Principles for Internally Displaced Persons (IDPs), on most counts and including the gender benchmarks, not least because of the magnitude of the catastrophe (UNHCR 2010). Notwithstanding the decimation of the Women's Ministry and the difficulties of re-establishing the national coordination, led by the Ministry since 2003 against gender violence, the international community has been able to build on the initiatives and groundwork of this coordinating body.

The vast majority of the women consulted through our interviews warned that the earthquake had increased the vulnerabilities faced by and the needs of Haitian women, as confirmed by civil society organizations and the media. The number of female-headed households has increased because of the death of male partners or kin. Also, it is the women who are caring for the injured and disabled, reducing their opportunities for engaging in remunerated work or income-generating activities (Inter-Action 2010; IJDI et al, July 2010; Refugees International, October 2010; Schuller, Mark 2010; and Toupin, Sophie 2010).

While the vulnerabilities experienced by those forcibly displaced across the island relate to obstacles faced over time by female migrants on the east of the island, the earthquake has served to magnify these and add new variants. Thus it is still the case that newcomers are disadvantaged by their relative lack of knowledge early on, for example, of local mores and language in contrast to old-timers. Jeanette (pseudonym) affirmed in November 2010: "*w konnen m kongo, m pa konnen*" which translates as "you know I am a Congo<sup>16</sup>, I do not know" when asked about her knowledge of possible support or aid in the Dominican Republic. Jeanette is a single parent, 36 years old, mother of four children, who had been in the Dominican Republic, for the first time, since February 2010. Her small scale trade mainly in *pepe* (used clothing called so because of the jean brand "pepe") had been wiped out by the earthquake.

Another interviewee Liline (pseudonym) expresses in her testimony the importance she places on losing the family's documentation under the rubble. While the scale of the damage to the Haiti civil registry has been highlighted for the Haiti side (for example, constraints on drawing up a current and complete voter registry for the ongoing electoral process), less has been said about the increased vulnerability for those who cross the border *sans papiers* because of irretrievably buried papers.

« Entrev.: *Koman zon nan kote w te rete Potoprens te afèkte akòz de tranblèman de tè a?*

Liline: *bon, m te lakay yon sè m, epi pandan m te nan lari a, avek sè m nan tranblèman e tè a te pase bò 4:00. nou te deyò epi kay la te panche, epi nou pat gen tan prann anyen andan kay la, pandan kay la plònje nou te deyò nan lari, ansanm avek sè m, avek tout timoun yo. Ak te nesans mwèn pedi, tout papyè sètifika batem mwèn pedi, tout papyè timoun yo pedi sètifikayò pedi, konyà ak de nesans mwèn avek pa timoun yo pedi, nou pa jwèn yo.*

Entrev.: *konbyen moun ki te rete nan kay la etan Potoprens?*

<sup>16</sup> Congo is the expression used in the Dominican Republic for new Haitian migrant labourers, initially referring to those cutting the sugar cane but subsequently extended to all new migrant workers.

Liline: *Sè m la avek mari l, avek yon pitit li, mwèn menm avek de timoun pa m yo. Nou sis (6) ki te nan kay la.*"

"Interviewer: How was the zone where you were living in Port au Prince affected by the earthquake?  
Liline: Well, I was outside the house, and then when I was in the street when the earthquake happened around 4.00PM we were outside when the house pancaked, and then we had no time to take anything out of the house. When the house collapsed we were in the street, with all the children. I lost my birth certificate, my baptismal certificate, all the children's documents, certificates, so that we could not find these documents.

Interviewer: How many people were living in the house in Port au Prince?

Liline: Me and my husband with our children. There were six of us living in the house".

Liline subsequently found out that she was a widow since her husband was killed in the earthquake and after unsuccessfully trying to make do in one of the so-called "tent cities" in Port au Prince she is brought across the border for the first time by a relative when one of her children gets a bad flu due to the leaky tarpaulin. Lack of documents affects not only vulnerability to round-ups and repatriations but also jeopardizes access to services, such as health and schooling for family members in the Dominican Republic as the host society. Many of the female interviewees bore witness to this reality in their responses to questions posed in this regard while noting how they juggle care for trans-national families.

Irregular crossing of the border (the norm in recent decades but aggravated by lost documentation in the 01/12 catastrophe) has been further complicated by the outbreak of cholera since mid October 2010 in Haiti. One interviewee, Myriam (a pseudonym), reported that Dominican public transport was no longer accepting undocumented Haitians as passengers, fearing that cholera was contagious. Clearly, as a consequence, smugglers and traffickers may be more called upon than before.

Emblematic of increased gender violence reported in Haiti has been the number of rapes in the camps, including of girls as young as five years old (CIDH, 18 November 2010). Equally,

there has been a considerable rise in the rate of pregnancies in the metropolitan area of Port au Prince, many of which were unwanted, giving rise to the suspicion that there could be a direct correlation with the number of rapes.<sup>17</sup> Even before the earthquake, gender violence in relation to Haitian migrant women had already been highlighted by Dominican NGO. For instance, a programme set up by a Dominican legal aid NGO CENSEL, mediated through Catholic Relief Services, based in Santo Domingo, to address gender violence faced by vulnerable Haitian migrant women ended up treating three times as many as the anticipated number of clients (2009-2010).

However, the sequel to the earthquake has required an even sharper focus on gender issues in relation to Haitian women and children migrants in the Dominican Republic. In the ensuing chaos in the immediate aftermath of the earthquake there was more human trafficking and smuggling of migrants reported, especially by social organizations. While women migrants were vulnerable, the situation of children was underscored because of the phenomenon of irregular adoptions (one facet of human trafficking) of supposed "orphans", including through the Dominican Republic. To date there has only been one case which has gone through the Haitian judicial system with those involved in the alleged kidnapping eventually being released from jail, although the Haitian Prime Minister has questions as to whether justice was effectively done.

Some of the new challenges emerging may be quite clearly seen as cross-border. Initially, when a humanitarian corridor prevailed across the southern Dominican border into Port-au-Prince, Haiti there were no substantial hold-ups on the border for the humanitarian response. When the state of exception was lifted the truck

<sup>17</sup> According to press reports from information generated by UNFPA, before the earthquake of January 12 2010, the pregnancies in the urban zone of Port au Prince were 4% of women in reproductive age. After the catastrophe the figure has tripled in the camps of displaced persons. And, of these, two of every three is unwanted, while 1% of the cases exhibited sexual violence at the time of conception, [www.elpais.com](http://www.elpais.com)

drivers have to spend several days on the border, considerably elevating the demand for sex workers, Haitian and Dominican women alike, and on both sides of the border, in precarious conditions. We should, however, also take care to distinguish between the victims of trafficking and those who elect sex work as a form of labour – seeking to eradicate the former while providing alternatives, protections and rights for the latter.<sup>18</sup>

Given the relatively little progress on reconstruction in Haiti and the particularly fraught circumstances for women who are displaced, it is perhaps surprising that there are not more crossings being made by female migrants. That said, our informants reported increased costs for migrants being smuggled across the border, gender violence against women coming through the bush, akin to a “rite of passage”,<sup>19</sup> and increased difficulties to find income generating activities in the Dominican Republic partly because there has been a crack-down on selling food on the street as a cholera prevention measure. Some complained that there was an automatic assumption, on the part of Dominicans, that they were working in prostitution even when this was not the case.

In the light of these new challenges, including old challenges with new variants, the following section examines the roles and responses of some of the main stakeholders.

### **The roles and responses of stakeholders**

First, as hinted above, it should be acknowledged that the bulk of forced displacement following the Haiti earthquake has been concentrated on the island of Hispaniola for reasons of *force majeure*. As happened under the *coup* which propelled President Aristide into exile in the early nineties (Women’s Commission for Refugee Women and Children 2003), the forced

displacement, this time occasioned by a natural disaster of unprecedented dimensions in Haiti, has had to hold tight on Hispaniola. The regional and international response has been mainly hard-line, especially from the U.S., as explained above. Equally, the Platform “Support Group for Haitian Deportees and Refugees” based in Port au Prince (GISTI September 2010) has drawn attention to the difficulties faced by Haitians trying to enter France legally, due as much to the bureaucracy prior to leaving Haiti as to the complications relating to settlement in France.

The response has been no less frigid in the insular Caribbean where the involuntary return of Haitian *boat people* has been registered from various islands in the archipelago. These latter include, for example, Jamaica which traditionally had been a more hospitable nation towards those displaced from neighbouring Haiti for reasons of political instability or because of natural disasters.

In the face of this unwelcome rejection, what follows summarizes the response of some key stakeholders across the island, notably with regard to their approach to forced migration; gender violence; and illicit smuggling of persons or human trafficking which are often an unfortunate combined result of the first two topics.

As is well known, the international community has been challenged as never before by the enormity of the task in Haiti. As one international functionary bluntly paraphrased the response to the humanitarian crisis, “It is like driving down the highway at night with no lights”. Paradoxically, some issues which were more difficult to tackle before the earthquake have become more feasible to operationalize after the tragedy, on the part of some of the UN agencies. For example, the increased spotlight on the border (not always for the most altruistic reasons on the Dominican side since in part it may be in order to use the border zone as a buffer against increased Haitian migration) means that UNFPA can legitimately deepen their work on gender violence in this strategic zone. The possible spin-offs of this are clear for analysing and addressing illicit smuggling of persons and human trafficking.

<sup>18</sup> Minutes of the shadow sub-cluster on gender violence, Santo Domingo, May/June 2010.

<sup>19</sup> The agency demonstrated by the women in these circumstances is not dissimilar to that which has been described in the case of female migrants from Central America in transit in Mexico en route to the U.S. This situation of these latter so-called trans-migrants is well analysed in Castro et al. (2010)

Civil society organizations island-wide have had a wide-ranging role in response to the earthquake, especially because of their traditionally close relations with many of the survivors and their families. However, the fact that many of the Dominican civil society organizations began to dedicate themselves almost exclusively to work in Haiti (including up to the present, more than a year after 01/12) has had certain consequences. On the one hand, there has been little time to dedicate to new humanitarian challenges on the ground in the Dominican Republic, caused by the extra baggage of disadvantage (as described above) carried by those new Haitian migrants who have been forcibly displaced across the Haitian-Dominican border.

On the other, there has been less time for reflection and consensus building on policy advocacy questions concerning the new configuration of migration across the island. In this tenor, there is an important debate to be had on possible protection gaps for displaced persons who cross a border. Broadly speaking, opinion may be divided into two camps: one of which favours so-called “assisted voluntary return”;<sup>20</sup> and the other of which is more supportive of the “temporary protection status”<sup>21</sup> route. Equally, the gender implications of these positions need to be rehearsed and lobbying positions developed. This debate is outstanding and well-argued agreed positions have not yet emerged on the part of Dominican civil society.

The fact that the Women’s Ministry in the Dominican Republic has been actively looking at how to help Haitian women subject to gender

violence opens a new space for dialogue on the part of civil society. This could be used to continue to advocate for more just migration policies and their more holistic application, including a more robust implementation of the legislation on human trafficking and the illicit smuggling of migrants adopted in 2003 but to relatively little effect.

In this context, the concept of “political opportunity structure” emphasizes that migrants are not only objects of laws, policies and discourses but also agents, who pursue their interests either individually or collectively. From this perspective, the point of analysing a political opportunity structure is to identify institutional incentives and disincentives that help to explain a certain choice of migrants’ political strategies. This need not imply that these choices are always rational ones or that they generally achieve their goals. There is, however, an alternative research perspective that regards the political opportunity structure not as given and as explaining migrants’ activities but is instead interested in explaining how these structures change over time and in comparing them across countries, regions or cities. Combining the two perspectives helps to understand changes in an opportunity structure as a result of political migrants’ choices and activities. Piper and Uhlin (2002) used the concept of political opportunity structures to analyse emerging transnational NGO networks in the area of trafficking. We believe that such an analysis could be usefully employed on Hispaniola, using this kind of lens.

The two incumbent governments across the island have shown much interest in broadening the coordination between relevant ministries, independently of the extra coordination engaged in between the UN system in the two capitals on the island in 2010. Not only the ministries which historically have met and decided upon bi-national actions (for instance, public health, agriculture and the environment) but other ministries, such as the respective Women’s Ministries, have begun to organize meetings to discuss topics of mutual interest.

There has been a noteworthy development on the protection of Haitian girls and boys in

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<sup>20</sup> Logistical and financial support to rejected asylum seekers, trafficked migrants, stranded students, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin (IOM glossary).

<sup>21</sup> Procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there exists also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection (IOM glossary)

the Dominican Republic. For the first time the National Council for Children and Adolescents (CONANI) has a Protocol to deal with Haitian children (especially unaccompanied youngsters who have crossed the border after the earthquake), who hitherto had been practically outside the scope of their responsibilities, after early work with the United Nations System on forcibly displaced Haitian youngsters in 2010. New studies on children begging in the metropolises show an increase in this Haitian population, acknowledging that the younger the child the more Dominican pesos they collect, and that they do even better if they are a girl, earning more on a daily basis than a day-labourer construction worker.

Finally, the two states have appreciated the new climate of distension brought about by the earthquake and are beginning to think about a range of topics requiring a new approach. The preparation for a fully-fledged re-launch of the official Bilateral Mixed Commission (BMC) is evidence of this new departure.<sup>22</sup> Civil society needs to be alert to the possibility of agreeing on their representation which could be consulted by the BMC as appropriate.

### Conclusions

The migration configuration, including forced displacement island-wide, has become more complex since 01/12 as have the fluctuating relations between the two nations that share Hispaniola. The positive spin-offs have been that some Dominican authorities have begun to address rights issues in relation to women and children migrants, building on previous work or, in some cases, starting a new caseload from scratch. The Women's Ministry in Santo Domingo has been able to draw on work being carried out prior to the earthquake, notably in the border provinces on gender violence and expand this work, including the circulation of support materials in Haitian Creole. For the first time the

National Council for Children and Adolescents (CONANI) has drawn up a Protocol to deal with Haitian children (especially unaccompanied youngsters), who hitherto had been outside the scope of their responsibilities, after early work with the United Nations System on forcibly displaced Haitian youngsters following the earthquake.

In these circumstances, it may be that women and children migrants are being instrumental in changing the discourse around Haitian immigrants towards a more enabling and inclusive environment *in situ* and facilitating a new "political opportunity structure" which should not be overlooked by pro-migrant rights activists. As explained above, concepts of political opportunity structure were first developed in social movements and then applied to the mobilisation of immigrants and migrants. In this new more pro-active approach by local actors, external pressures should be used prudently, such as that of the U.S. State Department whose last annual report (2010) gave the Dominican Republic a low ranking on its combating of human trafficking.

It is opportune for key civil society groups locally to take stock of policy advocacy strategies (in each country but also across the island) with a view to making good use of the new situation, including more openness to deal with certain aspects of the migration dossier on the part of the two states. This humanitarian prism may well not endure over time.

Paradoxically, it has taken the earthquake to reshape the narrative of these two nations on Hispaniola, the second largest island in the Caribbean. There is an historical opportunity to move forward on the Haitian question in the Dominican Republic, given the leveling effect that the Haitian earthquake has had on the earlier ultra-nationalist discourse. In particular, the myth of the Haitian invasion has been debunked once and for all. New positive overtures by certain Dominican authorities towards particularly vulnerable migrants, especially women and children, need to be heralded and built on with a view to achieving more lasting change. While this new turn may not be entirely altruistic and may,

<sup>22</sup> This official body was established in 1976 but has remained largely dormant since then partly because the two States in question have differing agendas in terms of the priority topics to be tackled with migration representing the single thorniest issue.

in part, be directed towards using the border as a buffer zone to prevent unwanted immigration, there are positive policy breakthroughs on the realisation of women and children's rights,

recognising that re-activating the necessary over-arching framework of the Bilateral Mixed Commission in order to make it functional may still remain elusive for a while.

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