

A CONFLICT TRANSFORMATION PERSPECTIVE ON EFFORTS TO PROTECT HUMAN RIGHTS OF HAITIAN MIGRANTS AND THEIR DESCENDANTS IN THE DOMINICAN REPUBLIC

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I. INTRODUCTION

The protection of human rights of Haitian migrants and their descendants¹ born in the Dominican Republic gained renewed visibility as a result of the Dominican Constitutional Court's ruling 168-13 of September 23, 2013, which put four generations of Dominicans of Haitian descent at risk of de-nationalisation and statelessness (Rodríguez Grullón 2014). The full consequences of the Constitutional Court's ruling and subsequent processes are at the time of writing not clear, and actors working for the protection of Haitian migrants and their descendants – both INGOs and local civil society actors in Haiti and Dominican Republic – are therefore struggling to adjust their strategies to the new and constantly changing reality.

Several observers have pointed to the limitations of the strategies INGOs and local civil society actors so far have used, and how such strategies have failed to advance the human rights situation of Haitian migrants and their descendants in the Dominican Republic. (Martinez 2014 and Marsteintredet, this issue). This article focuses on INGOs' role and considers both positive and negative effects of their efforts to protect the rights of Haitian migrants and their descendants. The article argues that when now re-orienting their strategies, INGOs would benefit from considering their engagement in perspective of the relation between Haiti and the Dominican Republic, rather than as an isolated human rights issue. This relation is characterised both by conflict and collaboration – different processes, practices and lines of thought co-exist and influence each other in complex ways. Particularly for outsiders like INGOs, grasping these parallel, contradictory currents, and understanding how to grapple with them, is difficult. INGOs have played and continue playing a role in implementing and/or supporting efforts to protect the human rights of

Haitian migrants and their descendants in the Dominican Republic. As a consequence, INGOs have also become actors in the conflict dynamics concerning these issues.

The present article takes the literature on the relationship between conflict transformation and human rights protection as a point of reference, and argues that in the future INGOs would benefit from more systematically adopting conflict transformation and human rights protection perspectives in parallel. More specifically, I attempt to show the relevance of applying systemic conflict analysis as a tool for improving INGOs' efforts to promote and protect the rights of Haitian migrants and their descendants. It does so by presenting a conflict map related to two of the proposed driving factors of conflict between Haiti and the Dominican Republic: *Level of mutual prejudice* and *Power of Dominican nationalists*. The conflict map serves to illustrate how INGOs affect the conflict dynamics in both positive and negative ways and how human rights abuses of Haitian migrants and their descendants are embedded in a larger system of conflict between Haiti and the Dominican Republic. The paper goes on to outline potential benefits and challenges from applying systemic conflict analysis and briefly discuss potential strategy implications of the conflict dynamics illustrated in the conflict map. This is done in light of Parlevliet's (2010) conceptual framework for understanding the relationship between human rights and conflict transformation.²

II. BACKGROUND: THE HUMAN RIGHTS SITUATION OF HAITIAN MIGRANTS IN THE DOMINICAN REPUBLIC AND DOMINICANS OF HAITIAN DESCENT

Before going into the relation between human rights and conflict transformation, and its application in the Dominican Republic, a brief background on the human rights situation for Haitian migrants and their descendants in the Dominican Republic is warranted. The 2012 Dominican National Immigration Survey (*Oficina Nacional de Estadística* 2013) estimated the total population of the Dominican Republic to 9,7 million, and the Haitian migrant population to 458.233, of whom 65 per cent were men, 35 per cent women. The same survey estimated the number of children of Haitian migrants born and living on Dominican soil to be 209.912 (first generation Dominicans of Haitian descent). Haitian labour migration to Dominican Republic was for most of the 20th century largely linked to the sugar cane industry in the Dominican Republic, it was primarily rural and partly regulated by agreements between the two states. However, after the decline of the sugar industry in the 1980s, the Haitian migration diversified and Haitian migrants are now present in various sectors and geographic areas (Rodríguez Grullón 2014). Until the revision

of the Dominican Constitution in 2010, children born on Dominican soil had the right to Dominican citizenship. However, in practice Dominican born children of Haitian migrants did not always acquire birth certificates, with severe consequences: in the Dominican Republic, without citizenship documents you are unable to for example attend university, access medical services, open bank accounts, marry, travel, apply for jobs, seek police protection, join unions, or vote (Rodríguez Grullón 2014, Wooding 2008).

In the 1980s a human rights movement was formed in response to the human rights abuses towards Haitian sugar cane cutters in the Dominican Republic. This movement today also works for the protection of both Haitian migrants and Dominicans of Haitian descent (Wooding 2008), and since the late 1990s the focus has been to seek legal remedy in the Inter-American System of Human Rights (Martínez 2014). Although the human rights movement has won important cases related both to the rights of Haitian migrants and Dominicans of Haitian origin in the Inter-American Court of Human Rights (IACtHR), the mentioned 2013 ruling of the Dominican Constitutional Court put this apparent success into question. The ruling, which was actually a culmination of a process of restricting Dominican migration and citizenship policies,³ stated that persons born on Dominican soil to parents who were irregular immigrants were not entitled to Dominican citizenship, and that the civil registry back to 1929 should be investigated in order to remove descendants of illegal immigrants (Marsteintredet, this issue). Consequently, thousands of Dominicans of Haitian descent were put in risk of denationalisation and/or statelessness. Despite the national regularisation plan which was launched by Dominican authorities after the ruling, many Dominicans of Haitian origin still find themselves in a limbo and at risk of deportation after the final deadlines for the plan expired June 17, 2015.⁴ Furthermore, a subsequent ruling in the Dominican Constitutional Court from 2014 (256-14) stated that the process for accepting Dominican Republic's adherence to the IACtHR jurisdiction was unconstitutional and therefore not valid. Both these Constitutional Court cases have been interpreted as a reaction to the rulings and role of IACHR in migration and citizenship related matters in the Dominican Republic (Marsteintredet, this issue), but the repercussions of the 256-14 ruling affect much more than migration and citizenship issues, and represent a setback to the entire human rights regime in the Dominican Republic.

III. LITERATURE REVIEW AND CONCEPTUAL FRAMEWORK

Peace vs. Justice? The Relationship between Human Rights Protection and Conflict Transformation

The literature on human rights based approaches to international development and its relation to conflict transformation is helpful in understanding the backlash to the efforts to protect Haitian migrants and their descendants' rights in the Dominican Republic, as this literature points to strengths, as well as pitfalls and weaknesses in current human rights protection work. The human rights based approach, or simply the rights based approach, gained ground in the international development sector in the late 1990s and early 2000s (Andreassen and Crawford 2013). Rooted in the Universal Declaration of Human Rights, it was introduced partly as a reaction to the charity oriented development aid of earlier decades. It frames development in terms of rights and duties, with the state as the main duty bearer, and poor and marginalized citizens as key rights holders. While welcomed by many for bringing a more participatory focus and a greater potential for social change, the rights based approach has also been criticized. Andreassen and Crawford (2013) point to the frequent lack of power analysis in the rights based approach, and how this limits the potential impact of the approach. In the same line, Andreopoulos and Arat (2014:131) point to the risk of misuse of human rights, that is, "actions that are undertaken by sincere and devoted advocates of human rights but unintentionally undermine international norms, question the validity of some human rights, adversely affect the well-being of their intended beneficiaries, or violate others' human rights". Insufficient or flawed analysis of the context at hand is identified as one of the risk factors for such misuse of human rights.

The rights based approach has also often been contrasted with a conflict transformation approach in international development. Traditionally the two approaches have been posed against each other and related to the wider debate on justice vs. peace. Parlevliet (2010:17) outlines how the two have been categorised as opposites on a range of dimensions: the *strategies and approaches* of the rights based approach have been portrayed as adversarial, principled, rigid and prescriptive, and emphasising the outcome of processes. The conflict transformation approach has focussed more on cooperative, pragmatic, flexible and facilitative strategies, emphasising the process in itself as important. As regards *objectives pursued*, a rights based approach focuses on justice and human rights protection as a prerequisite of pursuing peace, while a conflict transformation approach has peace and reconciliation as its main goal and sees this as a requisite for effectively protecting human rights.

These differences spell out also in the *roles played* by actors engaging in the two approaches. Human rights activists tend to take on the roles of advocates, investigators and monitors, while conflict transformation implies a focus on the role of facilitator, mediator and convenor. Finally, the *principles guiding the actions* in the two approaches are different. Speaking out on injustice and attributing responsibility is central in a rights-based approach, while remaining impartial with respect to all parties, being even-handed and not judging is at the heart of conflict transformation.

By the turn of the century, however, more and more literature focused on the benefits from considering the two approaches in conjunction (Parlevliet 2010; see e.g. Bartoli and Psimopoulos 2006). Parlevliet (2010) considers that the differences between the two fields have been over-emphasised and are partly rooted in a limited understanding of both. *Conflict transformation* is much broader than reaching a negotiated settlement to a violent conflict. It addresses structural aspects of conflict and power imbalances, has social change at its core and recognises the importance of advocacy challenging status quo. *Human rights protection* on the other hand, is not only about confrontation and “naming and shaming”, but rather adopts a broad set of tools, including dialogue oriented ones, in the attempts to protect human rights of vulnerable groups. In recent literature the discussion has moved to discussing more specific themes, taking the notion of complementarity between the two fields for granted. Still, however, Parlevliet recognises that tension remain and is likely to surface when the two approaches are applied in conjunction in specific cases.⁵

In parallel to these discussions on human rights vs. conflict transformation, the concept of conflict sensitivity has been developed and subsequently implemented by many development actors (see for example Anderson 2000 and APFO et al. 2004). The basic tenet of conflict sensitivity is that when humanitarian assistance and/or development aid is provided in a context of conflict, this support becomes part of the conflict and can either contribute to exacerbate or decrease conflict – or do a bit of both. Conflict sensitivity approaches like Do No Harm⁶ hold that any context is characterised both by “dividers”/forces for conflict and “connectors”/forces for peace. When an external actor, like an INGO, enters the context, this actor will affect both dividers and connectors in primarily two ways: by bringing resources into the context (shelter, food, skills training etc.) and by how the actor behaves (who is consulted, how resources are distributed etc.). Conflict sensitivity approaches argue that any intervention in conflict settings should be informed by conflict analysis

in order to better understand 1) how the intervention will impact the conflict and 2) what measures should be taken in order to at a minimum not exacerbate conflict, and at best, strengthen the forces for peace in the context. Conflict sensitivity is relevant for any type of development effort, including conflict transformation and human rights protection. However, conflict sensitivity tools have primarily been applied to long term development and humanitarian interventions, and not to the same extent been taken into consideration in advocacy efforts.⁷

A Conflict Perspective on the Struggle for Protection of Human Rights of Haitian Migrants and their Descendants in the Dominican Republic

Both the concept of conflict sensitivity and the discussion about the relationship between rights based approach and conflict transformation bear importance for the struggle for protection of human rights of Haitian migrants and their descendants in the Dominican Republic. Personally I have over the years many times met resistance from local actors in different positions and at different levels towards framing this issue in a conflict perspective – and towards characterising the relation between Haiti and Dominican Republic as a conflict. On one hand this resistance might relate to people's immediate conception of a conflict – it is easily equalled to contexts of large scale violent conflict or war. The relation between Haiti and Dominican Republic does by no means fill the criteria for being termed neither an armed conflict nor a war.⁸ However, conflict, as I will use the term here, is something different: "systems of dysfunctional relationships between state and/or non-state actors" (Tarusarira and Ganiel 2012:101). Such dysfunctions play out at different levels in the relationship between Haiti and the Dominican Republic. On one hand, one can point to the relative lack of collaboration over the years related to joint challenges (like environmental problems, unregulated cross border migration) and issues of common interest (e.g. further development of trade relations). On the other hand many scholars have pointed to more deep seated issues linked to the current of 'anti-Haitianism' which has run through the history of Dominican Republic (see for example Howard 2001, Krohn-Hansen 2001 and Sagás 2000). Anti-Haitianism has been a crucial part of key Dominican power holders' ideologies and for a considerable period was part of official propaganda. The basic tenet of anti-Haitianism has been fear: fear of a 'peaceful invasion' from Haitian immigrants, fear of an imagined international conspiracy to fuse the Dominican Republic and Haiti, fear of the magical powers Haitians are assumed to possess – in short, the entire future of the Dominican nation is presented as endangered by the 'Haitian problem' (see for example Balaguer 1983 and Yri and

Marsteintredet 2008).⁹ Currently this ideology is voiced by Dominican nationalists in different positions, and notably by the political party Fuerza Nacional Progresista (FNP), which was part of the government coalition for eleven years between 2004 and spring 2015.¹⁰

The reluctance towards framing the Dominican-Haitian relation as a conflict does however also rest on other grounds. Importantly, scholars point to the fact that both past and present are full of examples of collaboration and solidarity between actors at the grass roots level, in top leadership and within civil society in the two countries (see for example Baud 1996 and 2002, Martinez 2003 and Murray 2010a). Be it the collaboration around the markets in the border area, the way the Dominican Republic welcomes Haitian students to study in Dominican universities, or the Dominican spontaneous acts of solidarity after the 2010 earthquake in Haiti. These scholars point to the fact that despite challenges and occasional episodes of violence, co-habitation between Haitian migrants and their descendants and ethnic Dominicans is largely peaceful and collaborative, and the overlap between Dominican and Haitian culture is substantial. Even more importantly, the importance of anti-Haitianism and racism in Dominican Republic is questioned, by pointing for example to the fact that almost 50 per cent of the Dominican electorate voted for the presidential candidate Peña Gómez in the 1994 elections, despite the fact that he was referred to as 'el haitiano' and subject to a major campaign based on anti-Haitian rhetoric (Martinez 2003). Framing the Dominican-Haitian relation as a conflict can in this perspective be perceived as an imposition from external actors with little contact with or limited understanding of the realities on the ground. However, as underlined by the conflict sensitivity perspective, every context is characterised by a mixture of collaboration and antagonism between groups, of forces for conflict and forces for peace. The relative strength of each, and the potential for escalation/de-escalation of conflict, depends on a wide variety of factors and actors. For external actors like INGOs, understanding the dynamics of both conflict and collaboration is key. In the case of the struggle for protection of human rights of Haitian migrants and their descendants, an important question therefore is how this struggle impacts, and is impacted by, the dynamics of the relationship between Haiti and the Dominican Republic. This question is explored below through presenting a systemic conflict analysis of the relation between Haiti and the Dominican Republic. However, first a brief introduction of systemic conflict analysis is warranted.

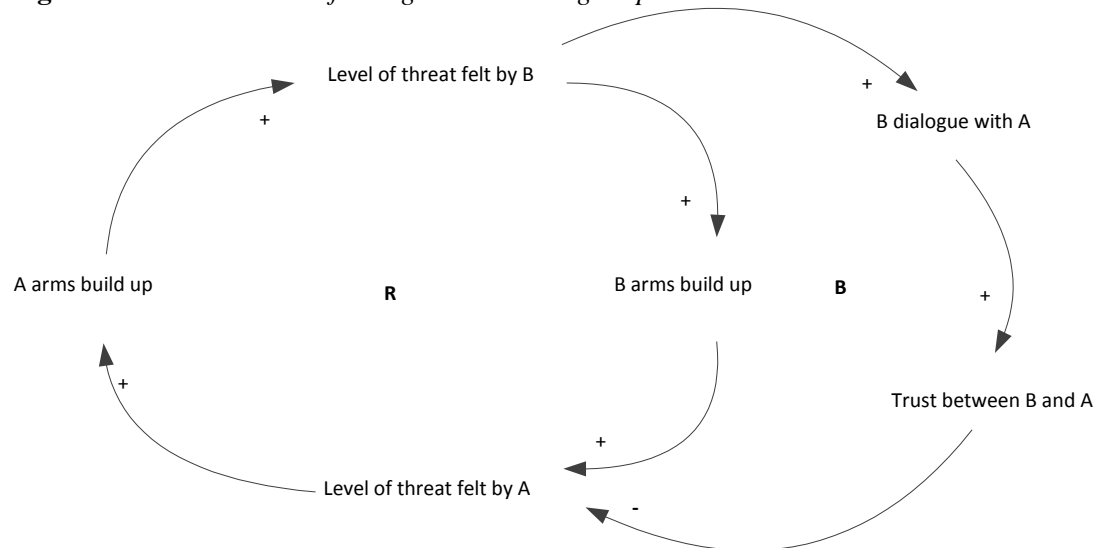
A Basic Tool in Conflict Transformation: Conflict Analysis

As outlined above, conflict analysis is a basic tool in any conflict transformation effort and in assuring conflict sensitivity – it is the foundation for developing a strategy for how to engage in conflict settings. There is a range of different ways to conduct such analysis, and approaches differ, both in regards to how information is collected and the specific analysis tools adopted.¹¹ A recurrent criticism of conflict analysis tools has however been that the resulting analysis has been too linear or static to grapple with complex conflict realities with no clear cause-effect relations. Furthermore, analysis has been criticised as being either too detailed or too superficial to provide a good basis for developing intervention strategies. In response to this, additional approaches and tools have been suggested, and applying systems thinking in conflict analysis is one of them (CDA 2013b, Ropers 2006). Systemic conflict analysis focuses on the dynamic relationships between the different factors driving a conflict. It can integrate structural causes, proximate causes, triggers of conflict, and include conflict actors' agenda and behaviour in the analysis. Importantly, it also eases the identification of points of leverage, or possible interventions that could contribute to change the conflict dynamics. The visualisation of the conflict factors eases the analysis of what ripple/indirect effects, both in positive and negative direction, different interventions could produce. Finally, the systems approach to conflict analysis allows for depicting not only the dynamics driving conflict, but also the processes contributing to decrease conflict (CDA 2013b, Ropers 2006).

A system is according to Meadows (2008:11) "an interconnected set of elements that is coherently organized in a way that achieves something". Systems thinking has a long history and different strands, and is being used in business models, environmental analysis, family therapy, organisational development theory and other fields.¹² However, no matter the field of application, the focus is on how the whole is greater than the sum of its parts and how the elements/factors in the system are interconnected. Dynamic or reverse causality is a basic feature of systems: X might cause Y, but Y might also cause, or at least influence X. This dynamic causality is illustrated in feedback loops, "a chain of causal connections from a factor or element that comes back to affect that element" (CDA 2013b:4). Feedback loops can be reinforcing or balancing. In *reinforcing loops* each factor builds on each other and strengthens the overall dynamic. It can be likened to vicious or virtuous circles. A *balancing loop* on the other hand, serves to slow down or balance the dynamic of a reinforcing loop, and can be likened to a thermostat which regulates the temperature in the room,

activating the heater if it gets too cold, and the air conditioner if it gets too warm, aiming to keep the temperature stable at a pre-set value. Below an example of an arms race between parts A and B, illustrating the dynamics of both a reinforcing loop (R) and a balancing loop (B):

Figure 1: Arms race – reinforcing and balancing loop



Adapted figure based on Ricigliano & Chigas (2011: 15)

IV. SYSTEMIC CONFLICT ANALYSIS: A MODEL FOR VISUALISING THE DYNAMICS OF DOMINICAN-HAITIAN RELATIONS

What follows is a simplified systemic conflict analysis of Dominican-Haitian relations, made primarily to illustrate some of the challenges INGOs face when intervening in matters linked to these relations. The analysis is based on reading of selected academic studies (see list of references), policy papers and practitioner documents and the author's experience from working on and off with the island over a period of 15 years, in addition to limited consultations with local and international experts on the issues at hand. The methodology outlined in *Reflecting on Peace Practice* (CDA 2012a) was used to identify key driving factors and develop feedback loops related to the different factors. *Key driving factors of conflict* are factors without which the conflict would not exist or be significantly different (CDA 2013b). As listed below, five key driving factors of conflict were identified in the analysis:

1. Level of inequity in trade relations
2. Level of elite driven politics
3. Scale of irregular Haitian migration into the Dominican Republic
4. Power of Dominican nationalists

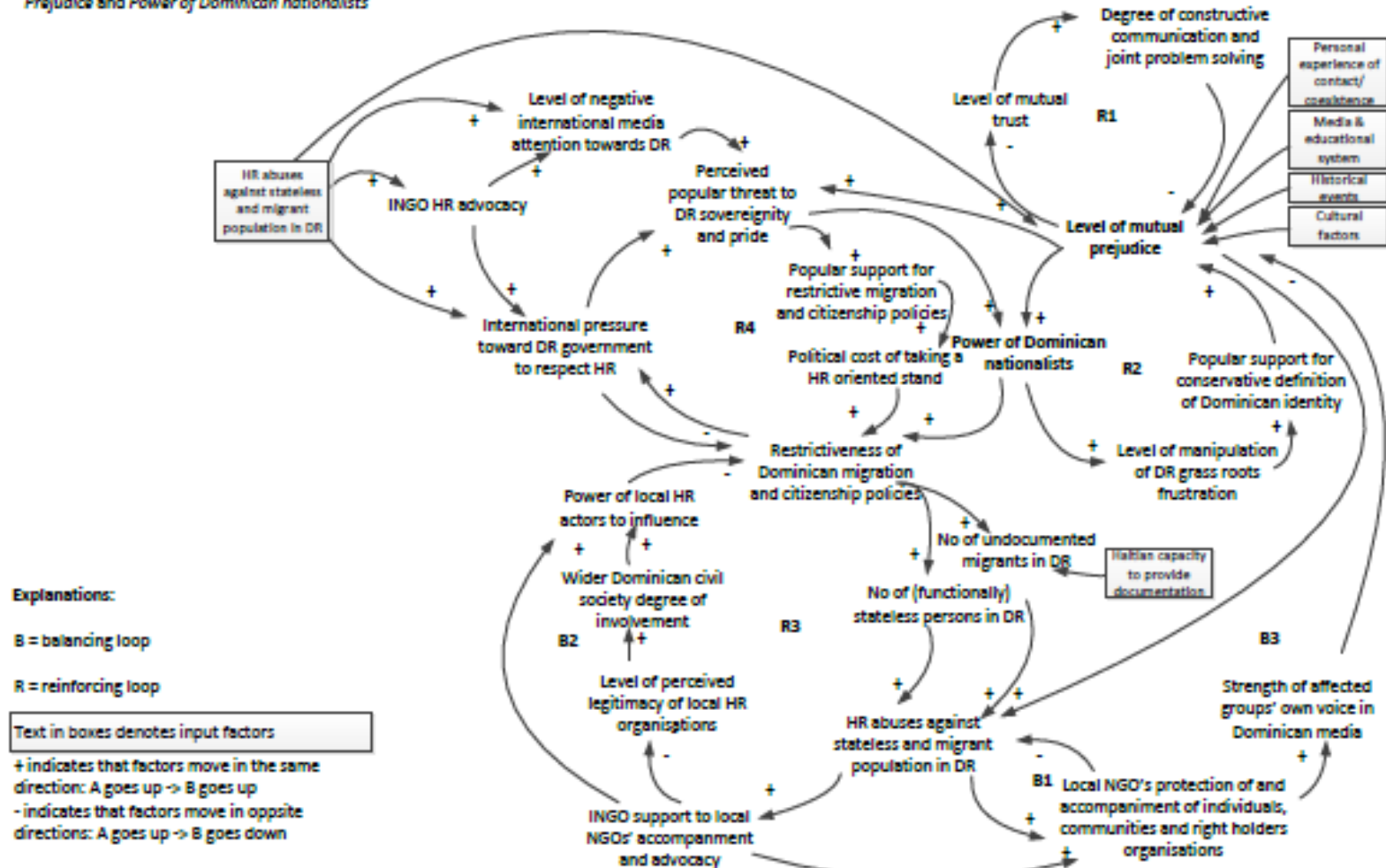
5. Level of mutual prejudice

The article focusses on factor number 4 and 5, *Power of Dominican nationalists* and *Level of mutual prejudice* as these factors are closely linked to human rights protection of Haitian migrants and their descendants in the Dominican Republic, particularly the question about the right to Dominican citizenship. Furthermore, the role of INGOs and the benefits of taking a conflict transformation perspective can easily be illustrated by zooming in on these two factors. As an implication, however, there will be a disproportionate focus on the Dominican side of Haitian-Dominican relations. It is important to underline that the key driving factors analysed here influence and are influenced by the other key drivers of conflict listed above, and to get a fuller picture, all factors and the interaction between them should be considered.¹³ In sum, it is key to keep in mind that a conflict analysis will always be formed by the one(s) drawing it up, and will simplify highly complex dynamics in order to ease understanding of the same. The main objective of the conflict map presented is stirring constructive reflections on INGOs' role in the protection of human rights of Haitian migrants and their descendants, not providing a 'correct' conflict analysis. Finally, as the focus in this article is on the role of INGOs, other actors' roles in changing conflict dynamics are primarily described in relation to INGOs initiatives. This is not to indicate that INGOs have a leading role in facilitating change or that change is not likely to happen from within. Rather, it is a consequence of the chosen focus in the article, which again is motivated by the writer's background from the INGO sector.

In the conflict map below factors in bold are considered key driving factors in the system. The arrows indicate the direction of influence between factors, and a plus (+) indicates that the factors move in the same direction, that is, if X goes up, so does Y. A minus (–) indicates that the factors move in different directions: if X goes up, Y goes down. Factors in a system can also be influenced by input factors.¹⁴ These are here depicted in boxes. See Figure 2 below on the Conflict Map

Figure 2: Conflict map

Simplified conflict analysis of Haitian-Dominican relations:
Focussing on the key conflict drivers *Level of mutual
Prejudice* and *Power of Dominican nationalists*



Reinforcing Loop 1: How Mutual Prejudice Affects the Degree of Constructive Communication and Problem Solving

In the conflict map there are four reinforcing and three balancing loops related to the key driving factors *Power of Dominican nationalists* and *Level of mutual prejudice*. In the following these are explained more in detail.

Level of mutual prejudice refers to Dominicans' prejudices against Haitians and vice versa, as explained above in relation to anti-haitianism. The first reinforcing loop, R1, depicts the dynamics related to this factor: the level of mutual prejudice is influenced by different broad input factors like aspects of historical events and the educational system. If the level of mutual prejudice is high, this undermines mutual trust, which again limits the degree of constructive communication and joint problem solving. With a decrease in constructive communication and joint problem solving, mutual prejudice increases, and a reinforcing loop is established.

It is important to keep in mind that this reinforcing loop is not by necessity a vicious circle. The dynamics can be slowed down or turned around, creating a virtuous cycle. Interventions providing arenas for interaction and skilled facilitation of processes, combined with interventions addressing the educational system, for example targeting teachers' attitudes, could contribute to initiate such a change.

Reinforcing Loop 2: The Interaction between Dominican Nationalists' Power and the Level of Mutual Prejudice

The level of mutual prejudice is intimately related to the other key driving factor of conflict identified in this analysis, namely the power of Dominican nationalists. The second reinforcing loop, R2, illustrates this relation: the level of mutual prejudice influences the power of Dominican nationalists: the higher the mutual prejudice, the stronger the power of Dominican nationalists. Increased power of Dominican nationalists means that this group will be able to further manipulate frustrations on the Dominican grass roots towards scapegoating Haitian migrants and their descendants, both traditional outgroups in the Dominican Republic. While these two groups are different and have different rights, part of the nationalists' rhetoric is lumping them together as one group, referring to both as 'Haitian'. This manipulation increases popular support for a conservative version of Dominican identity, where the Dominican Republic is defined in contrast to Haiti. In very simplified terms, this view portrays Dominicans as civilized light skinned/white Catholics with European/Spanish ancestry, in contrast to Haitians who presumably are

barbaric, black voodoo worshipers of African ancestry (See for example Krohn-Hansen 2001 and Sagás 2000). Increased support for such a version of Dominican identity increases mutual prejudice, and a second reinforcing loop is established. Again, this is not by necessity a vicious circle, and could be slowed down or turned to a virtuous dynamic either by changes from within the system itself or by interventions successfully targeting the specific factors involved, for example by decreasing the level of frustration on the Dominican grass roots (often linked to unfair distribution of resources, corruption etc.) or contributing to channel these frustrations in other ways than through scapegoating.

Reinforcing loop 3: the power of Dominican nationalists vs. human rights advocates over Dominican migration and citizenship policies

Dominican nationalists do not only influence the popular sentiments at the grass roots, they also have very real political power.¹⁵ This is illustrated by the third reinforcing loop, R3. The more power Dominican nationalists possess, the better placed they are to influence Dominican migration and citizenship policies in a restrictive direction. The more restrictive these policies are, the higher the level of a (functionally) stateless population in the Dominican Republic, and the higher the number of irregular migrants in the Dominican Republic. When the size of these populations increases, so does the number of human rights abuses against stateless persons and migrants.¹⁶ These human rights abuses unleash a range of national and international reactions. Continuing with the third reinforcing loop, we see that with an increase in human rights abuses, there is a subsequent increase in INGOs' support to local NGOs. The support of INGOs is however not only positive for local NGOs, given the sensitivities involved in this issue. The stronger (and more visible) the support from INGOs to local human rights advocates, the more the local actors' legitimacy is questioned by nationalist forces – legitimacy here understood as being seen as genuinely independent and Dominican voices. When the local human rights organisations' perceived legitimacy decreases, the wider Dominican civil society involvement in protection of Haitian migrants and their descendants' rights also tend to decrease, because the issue is seen as extremely conflictive and risky to involve in – it could lead to decrease in legitimacy and harm to other issues the organisations are working on. This process diminishes Dominican human rights organisations' power to influence both the general public and decision makers, and when these actors' power decrease, the restrictiveness of Dominican migration and citizenship policies tend to increase, as the balancing voices from civil society are largely ignored.

Reinforcing Loop 4: International Pressure as a Cause and Effect of Restrictive Dominican Migration and Citizenship Policies

The fourth and last reinforcing loop, R4, shows some of the dynamics related to international actors' involvement in advocacy on human rights abuses against stateless persons and Haitian migrants in the Dominican Republic, including efforts to bring cases to the IACtHR. An increased restrictiveness of Dominican migration and citizenship policies, combined with a higher level of human rights abuses against stateless persons and migrants lead international actors to augment their pressure towards the Dominican government to respect human rights of these groups. While this pressure on one side has the potential effect of making Dominican decision makers cede and aligning migration and citizenship policies to international human rights standards,¹⁷ it does on the other hand seem to unleash a popular perception of increased threat to Dominican sovereignty and pride, which increases support to and power of Dominican nationalists *and* increases the popular support of restrictive migration and citizenship policies. The latter increases the political cost of taking a human rights oriented stand, which again contributes to make Dominican migration and citizenship policies more restrictive, because Dominican nationalists are left to dominate this field when more moderate forces shy away from a politically very sensitive topic. These dynamics are further fuelled by human rights advocates and INGOs' human rights advocacy: on one hand this advocacy entails lobbying with own governments/relevant international actors to make these put pressure on the Dominican government. On the other hand these advocacy efforts lead to a higher level of negative international media attention towards the Dominican Republic, which tend to unleash the same popular perception of threat to Dominican sovereignty and pride.

Balancing loops: how local and international NGOs slow down the overall dynamics of the system

As can be seen from the balancing loops B1, B2 and B3, the human rights abuses and the subsequent actions from local and international human rights actors also spur dynamics that slow down and balance the general working of the system. On one hand, as seen in B1, the human rights abuses make local NGOs/networks engage in protection of and accompaniment of individuals, communities and right holders' organisations. This directly decreases the level of human rights abuses through making the affected populations better able to navigate the Dominican system and claim their rights both as individuals and collectives.¹⁸ These efforts have also increased the affected populations'

visibility in Dominican media and given the Dominican population more direct, unfiltered access to information about how these groups perceive their situation. This can increase understanding and identification with these groups, which is again likely to contribute to decrease the level of mutual prejudice (see B3).

INGOs' financial support to local NGOs contributes to enable local NGOs' protection and accompaniment of the affected groups, and thus strengthen the balancing loops already described above. Furthermore, INGOs' support increases local human rights actors' power to influence decision making through access to networks, capacity building and providing financial means to for example engage in research, fact finding missions, produce reports and alternative solutions/proposals to the issues at hand, as depicted in the second balancing loop, B2.

V. DISCUSSION

Considering the analysis above, to what extent could systemic conflict analysis be a useful tool for informing future interventions and re-orienting INGOs' strategies for protecting human rights of Haitian migrants and their descendants? Two main benefits are discussed below: 1) Ability to better foresee and act upon unintended consequences of INGOs' interventions, and 2) Improved ability to identify and address strategic points of leverage. Finally, some limitations of the proposed approach are discussed.

Foreseeing and Acting upon Unintended Consequences of INGOs' Engagement

The conflict analysis above shows how the interventions of INGOs have a range of positive effects, as depicted in balancing loop 1, 2 and 3. These effects are mainly related to enabling local NGOs to further strengthen their human rights protection efforts by providing them with financial support, capacity building and access to relevant networks. These local organisations' efforts have led to protection of individuals, strengthening of affected groups' own organisations, and have secured clear local voices opposing the human rights abuses towards Haitian migrants and their descendants in the Dominican Republic and suggesting policy alternatives. Finally, INGOs' support has played a role in enabling publicity on local NGOs' efforts outside these local actors' sphere of influence. However, the conflict analysis also shows that the positive effects of INGOs' interventions at least to some extent are undermined by unintended negative consequences of the same actors' efforts. The support from INGOs leaves local human right defenders more vulnerable to

questioning from the nationalist camp regarding their legitimacy, and this contributes to disincentive the broader Dominican civil society to support local human rights advocates' case. Furthermore, INGOs' advocacy at the international arena has had negative repercussions through activating defence mechanisms in the Dominican public and political spheres, which again has contributed to more, rather than less, restrictive migration and citizenship policies.

How can INGOs and other actors wanting to engage in protection of human rights of migrants and their descendants in the Dominican Republic minimise the negative effects of their interventions and maximise the positive? Termed differently, how can these actors be conflict sensitive in their approach? This question is not as straight forward as it might seem, because it cuts right to the core of some of the perceived differences between a rights based vs. conflict transformation approach. From a human rights perspective, why should conflict be avoided in the first place? Human rights protection is often very much about stirring tension or conflict, or making it more visible through uncovering injustice and abuse of power. Why should one emphasise dialogue with decision makers who have time and again shown their lack of commitment to human rights? What is the value of criticising decision makers in closed rooms instead of the public sphere? Shouldn't it be considered both cowardly and lacking in transparency?

Parlevliet's (2010) conceptual framework for understanding the relationship between human rights and conflict transformation can be of help when approaching these questions. She underlines that conflict sensitivity does not entail *avoiding* tension and conflict per se, but it requires careful (conflict) analysis to foresee how interventions can create tension and trigger conflict, and how to adopt strategies for managing this. Basically it is about making an informed judgement on *how much* tension can be stirred without this tension triggering outright violence or repressive action from power holders. Furthermore, the question is how much tension it is *strategic* to stir in order to best achieve the long term goals. The answers to these questions will vary with context and within context at different points of time.

Going back to the example from the Dominican-Haitian context, the conflict map presented indicates that INGOs would benefit from employing conflict analysis more systematically in order to better manage the negative consequences of their efforts. Starting with the bright side, it does seem like INGOs have learnt from past mistakes. In the early years of the struggle for Haitian migrants and their descendants' rights, INGOs had a more prominent role not only in international advocacy but also in the

Dominican context. INGOs to a much larger extent seemed to follow their own agenda, rather than supporting local actors (Martinez 2003). This has changed, and local actors are now to a much larger extent the ones leading the struggle and making the call on what measures to take and how much tension it is strategic to stir (Wooding and Kristensen 2013, Martinez 2014). This is important both because local actors are better placed to make these calls, and because they are less vulnerable to the accusations of representing a foreign agenda, accusations which feed into the negative dynamics described in reinforcing loop 3 and 4 above. According to the analysis sketched out above, INGOs would therefore do wisely in keeping with this approach, minimising their own role and letting local actors lead the efforts.

As regards INGOs role in international advocacy, the picture is more complicated, though. Some observers point quite clearly to how these advocacy efforts have created adverse effects, exemplified by the 2010 changes in the Dominican constitution, and the recent judgements in the Dominican Constitutional Court (Martinez 2014; Marsteintredet, this issue). Rather than going into a discussion on whether the situation would have been even worse without the international attention to the issues at hand, or starting questioning international advocacy *per se*, a more constructive approach is asking whether negative effects of human rights protection efforts could have been better foreseen and managed by taking a conflict transformation perspective alongside the rights based perspective when conducting analysis and developing strategies.

What does seem clear from the conflict map, is that *how* the international advocacy efforts are conducted matters. First, certain international human rights advocates have made themselves easy prey for Dominican nationalists by basing their arguments on inaccurate and/or incomplete facts, and sensationalist presentations of the situation (Martinez 2014a; Martinez 2014b). This has fed into the negative dynamics depicted in reinforcing loop 4 in the conflict map. Advocacy in such a sensitive matter should be based on carefully researched facts and a long term strategy for intervention. Occasional statements from actors otherwise detached from the Dominican and Haitian realities seem counterproductive in this setting, and more motivated by the actors' own role and reputation than the end result for the affected groups. Finally, as the conflict analysis shows, international advocacy efforts do not happen in a vacuum, and the broader system dynamics should be taken into consideration. One of Parlevliet's (2010) basic tenets is that human rights are multi-dimensional: human rights as rules, as structures and institutions, as relationships, as process. She claims that one cannot only focus on human rights as rules,

and that "a narrow, legalistic understanding of human rights is insufficient in the context of conflict transformation" (Parlevliet 2010:22). In the Dominican Republic it seems like there has been an over-emphasis on the legal aspects of human rights (Martinez 2014). In other words, tension has been stirred through confrontational advocacy approaches, but efforts to counterbalance the negative effects of such efforts seem to have been given too little weight. We turn to this next when exploring points of leverage.

Identifying and Addressing Strategic Points of Leverage

One of the proposed advantages of employing systemic thinking in conflict analysis is that it is solution oriented (Ropers 2006), that it facilitates reflection around points of leverage, and visualises gaps/biases in interventions (CDA 2013b). Following Meadows (2008:145), points of leverage are "places in the system where a small change could lead to a large shift in behaviour" (of the system). Points of leverage can often be counterintuitive and acting upon them requires additional analysis of possible unintended consequences. In the Dominican Republic, INGOs have, as pointed out above, largely targeted human rights abuses directly through advocacy and accompaniment efforts, while other factors have been targeted to a lesser extent.¹⁹ The conflict map can be used to identify points of leverage, like for example efforts to increase the wider Dominican civil society's degree of involvement in migrants and their descendants' rights; taking measures to decrease the political costs of taking a human rights oriented stand; and targeting the media and educational system in both countries in order to reduce mutual prejudice. Common to these are that they focus, in one way or another, on mobilising and expanding "the moderate middle" – those actors positioned somewhere between the nationalists and the human rights advocates. Furthermore, they focus on the broader aspects of human rights, attempting to avoid what has been termed "over-legalisation" (Marsteintredet, this issue), and bring in a focus on human rights as relationship and as process, in following with Parlevliet (2010). Such a focus would entail applying conflict transformation techniques and emphasising the role of inclusive and respectful dialogue, and of transformation of prejudice and patterns of behaviour.

Starting with civil society, the conflict map indicates that INGOs should look into how they to a larger extent could contribute to mobilise not only the traditional human rights advocates in the Dominican Republic, but also other civil society actors, like faith based organisations, trade unions and actors from the private sector. In order to achieve this, a solid foundation would need to be built in order to facilitate dialogue and understanding among the different stakeholders. The range of approaches

supported by INGOs would also need to expand – focussing more on less confrontational approaches. The aim would not be for different local and international actors to employ the same strategy or techniques – each should fill the role(s) they are best equipped to fill. Following Parlevliet (2010), in order to secure role integrity, a division of labour amongst actors is often beneficial. Still, an improved understanding of each other's respective working methods and a minimum of sustained dialogue and coordination between different actors would be required to avoid undermining each other's efforts (Parlevliet 2010). By broadening the approaches employed to protect human rights of Haitian migrants and their descendants, mobilising broader segments from the Dominican civil society would possibly be easier. The efforts to protect human rights of migrants and their descendants would then also be less vulnerable to criticism from the nationalist camp, because the human rights advocates would not as easily be dismissed as minor, marginalised groups. Adopting such an approach would by no means be easy, though. INGOs should again carefully consider how to minimise their own role and build upon the process of reorientation and re-strategising that is already taking place in Dominican civil society. Finally, the need of coordination and dialogue also applies to INGOs themselves, who should to a larger extent pool efforts, engage in joint analysis and coordinate interventions.²⁰

Secondly, the conflict map indicates that INGOs should consider how to support their local partners in more systematically mobilising and/or supporting the moderate political middle, thereby contributing to decreasing the political cost of taking a human rights oriented stand. A more detailed stakeholder analysis would be key to identify individuals in different institutions and representing different political parties and sectors, who hold more moderate perspectives on the issues at hand. Such a move would require a process of low profile dialogue, lobbying and networking with and between the identified persons.

Finally, the conflict map indicates that more emphasis should be put on the role of mutual prejudice in driving both the conflict between Haiti and the Dominican Republic, and more specifically driving human rights abuses against Haitian migrants and their descendants in the Dominican Republic. These mutual prejudices should be attacked at different levels and in different ways. Carefully facilitated arenas for joint exchange and problem solving between actors in different positions could be one option to contribute to shift the dynamics depicted in the first reinforcing loop in the conflict map.²¹ Interventions targeting the media/journalists and the education sector could be other options.²² Changing prejudices and behavioural patterns is a long term process, and moving from individual

level change in prejudice to a change in broader social norms requires scale, cultural affinity and continuity of interventions. However, although a difficult endeavour, it seems to be a crucial part in breaking with the conflict dynamics currently playing out between Haiti and the Dominican Republic. So far, the link between change in public opinion and the effective change in policies, laws and institutions appears to have been underestimated.

Limitations and Challenges to the Use of Systemic Conflict Analysis

In a practitioner's perspective, new tools are only useful to the extent they are applied and facilitate more effective and strategic interventions. The two previous points have outlined significant positive gains of applying systemic conflict analysis in the efforts to protect Haitian migrants and their descendants' rights in the Dominican Republic. Importantly, it has been shown how systemic conflict analysis can be used to inspire informed creative thinking around ways to overcome or minimise negative effects of INGOs' engagement and ways to expand and adjust current approaches to better help transform the system as a whole. In this sense, working with systemic conflict analysis is motivating for those working to change it: if used skilfully, leverage points can turn the dynamics around: balancing loops can be added or strengthened, the dynamics of reinforcing loops can be broken or become less vicious cycles, and all this will create ripple effects in the broader system.

However, there is also the potential for systemic conflict analysis to be perceived as overwhelming. First, the fact that the tool is somewhat technical and requires a minimum understanding of systems thinking – will this make it too complicated to be (systematically) applied? Secondly, while the points of leverage outlined above are worth exploring, caution should be taken not to regard these – or any other ideas for change – as quick fixes or short term solutions. Meadows (2008) underlines how the complexity of systems makes it extraordinarily difficult to identify the most effective points of leverage, and understand the direction change will take in a system. One of the reasons for this is that a basic feature of a system is having a purpose or function, which is fulfilled when the system is in a state of equilibrium. When change is induced in the system a range of mechanism sets in to bring the system back into equilibrium. Envisioning and clarifying these push backs from the system might inspire apathy rather than action from practitioners.

VI. CONCLUSION

This paper has attempted to show the relevance of applying a conflict transformation perspective in the struggle to protect human rights of Haitian migrants and their descendants in the Dominican Republic. Specifically it has looked into potential benefits and challenges arising from applying systemic conflict analysis as a tool in this work. By presenting a systemic conflict analysis of the relationship between Haiti and the Dominican Republic, the paper has attempted to show how human rights abuses of Haitian migrants and their descendants are woven into a larger set of conflict dynamics between the two countries. The paper concludes that applying systemic conflict analysis alongside other conflict transformation tools could have notable benefits, particularly in making INGOs and Haitian and Dominican civil society actors better at foreseeing and addressing negative consequences of their efforts and in enabling the same actors to better identify and act upon points of leverage/strategic opportunities for facilitating a change in conflict dynamics. An eventual introduction of systemic conflict analysis should be managed carefully, however, in order to inspire informed action rather than apathy.

The paper has also shown the relevance of using the literature on the relationship between human rights and conflict transformation to shed light on the current situation for Haitian migrants and their descendants in the Dominican Republic. In line with this literature, the paper underlines that it is not a question of either a human rights or a conflict transformation approach – both are needed to contribute to the desired changes in the human rights situation of Haitian migrants and their descendants, and should be applied in conjunction. Both lines of thought are also currently present, but the rights based approach has dominated. This might be a good moment to better strike a balance by increasing conflict transformation efforts alongside sustained human rights advocacy, since in the current context, only two things seem certain:

First, the dynamics in the relationship between Haiti and the Dominican Republic are changing as a result of the recent rulings in the Dominican Constitutional Court (168-13 and 256-14): these rulings have intensified and polarized the public debate on migration and citizenship matters, and forced more actors to take a stance, including more moderate forces. The media attention both in the Dominican Republic and internationally has been broad, and this has been used by the nationalist camp, who have framed criticism as an attack on Dominican sovereignty. While the Dominican government previously followed an ambiguous line, on one hand committing to a human rights regime, and on the other hand letting the nationalists largely dominate migration and citizenship

questions, this is now becoming increasingly difficult. The wider civil society is also more affected by the 256-14 ruling, as it affects the entire human rights system in the Dominican Republic, and this might facilitate a broader involvement of civil society in what was originally a migration and citizenship question. In other words, the power balance might be changing – or becoming more visible – and in line with the conflict map, if the power of Dominican nationalists or the political costs of taking a human rights oriented stand change, so will the system. Systems thinking clearly predicts that systems change best from within, and that external efforts to change the system are more effective when building upon/facilitating a change that is already taking place (Meadows 2008). INGOs' and local civil society actors' task is to grasp this opportunity, work with the system and contribute to a change in a human rights oriented direction. A lot is being done to achieve this, and strategies are constantly adjusted.

Secondly, caution is required: even though the system seems to be changing, it is still unclear what direction the change is taking. Furthermore, no matter what the end result of the controversial rulings 168-13 and 256-14 of the Dominican Constitutional Court will be, several of the key driving factors of conflict between Haiti and the Dominican Republic might remain largely the same, because the system is likely to find ways to resist change. It is therefore also likely that human rights abuses against Haitian migrants and their descendants will continue, albeit perhaps in a different, hopefully reduced, form. In the long term, applying conflict transformation tools alongside advocacy and accompaniment tools would be a way to address the system more holistically, and in this way augment the chance of a deeper transformation of conflict dynamics. Such a transformation would increase the likelihood of reaching an aim shared by both conflict transformation and human rights practitioners alike: that in the Dominican Republic, the human rights of Haitian migrants and their descendants are finally respected.

NOTES

¹ Throughout the article I will refer to 'Haitian migrants and their descendants', which actually refers to at least three groups: 1) Haitian migrants in the Dominican Republic, 2) Children of irregular Haitian migrants born in the Dominican Republic after the 2010 Dominican Constitution entered in vigour, and 3) Dominicans of Haitian descent. The human rights violations against each group differ and the strategies for securing the rights of each group are also different. However, for the purposes of this article, they are mainly referred to as 'Haitian migrants and their descendants', since the human rights situation of these groups are related in

similar, although not identical, ways to the dynamics of the relation between Haiti and the Dominican Republic.

² This article focuses exclusively on the human rights situation of Haitian migrants and their descendants in the Dominican Republic. However, the author believes that the framework and reflections presented here also could prove useful in other contexts, like the situation facing African migrants in the Republic of South Africa, and contribute to advancing the debate on rights based versus conflict transformation approaches to development.

³ For a description of this process, see Marsteintredet, this issue.

⁴ In an unpublished April 2015 draft contingency plan, Haitian authorities, UN agencies and NGOs estimate deportations of 40.000-60.000 people in the period July-August 2015 to be the most likely scenario, while the most dramatic scenario outlines a total of 100.000-200.000 persons deported. The total affected population is here estimated to 600.000, out of whom 300.000 are irregular migrants, and 300.000 are Dominicans of Haitian origin (Primature et al. 2015).

⁵ Hayner (2010) echoes this conclusion and points both to several concrete examples and to three sets of challenges in the relation between justice and peace perspectives, namely addressing accountability of serious crimes in peace negotiations, the influence of international criminal justice initiatives on peace talks, and finally tension between justice and peace concerns in the transition period following a peace agreement. However, although Hayner's analysis emphasises somewhat more the tension between peace and justice perspectives, her conclusion is the same as that of Parlevliet: both perspectives need to be taken into account, and how to strike the balance between them must be determined on a case by case basis.

⁶ See for example: <http://cdacollaborative.org/programs/do-no-harm/-the-relationship-framework/>

⁷ In 2013, CDA, one of the main international actors on conflict sensitivity approaches, published a guidance note on human rights and conflict sensitivity, addressing the relation between human rights advocacy and conflict sensitivity, given that these have often been posed against each other (CDA 2013a).

⁸ The department of Peace and Conflict Research at Uppsala University uses the following definition at their webpage: "An armed conflict is a contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths." See: http://www.pcr.uu.se/research/ucdp/definitions/definition_of_armed_conflict/

⁹ A parallel current of anti-dominicanism does not exist on Haitian side. Limited research has however been done on Haitians' perceptions of Dominicans and the Dominican Republic. Murray (2010b) is an exception. His findings confirm that "Dominican perceptions of and sentiments toward Haitians are much stronger than the converse" (2010b:41). However, in his fieldwork he found that Haitians' perceptions of Dominicans in 2009 were more negative than in the 1970s, and that Haitians in 2009 frequently referred to Dominicans as abusers of Haitians, pointing to the treatment of Haitian migrants and their descendants in the Dominican Republic. He furthermore found that Haitians living in the Dominican Republic had more nuanced views on Dominicans. However, the latter group frequently referred to Dominicans as looking down on Haitians and expressing fear of concrete forms of abuse. In the boarder area, harassment from Dominican soldiers and public agents was a common complaint from Haitians engaging in cross-border trade. Antonini (2010) furthermore points to cultural differences and a certain disinterest among Haitian intellectuals to adapt to the culture, language and customs of the Caribbean region, and Martínez (2003) points to a low visibility of Dominican Republic in Haitian discourse and a tendency to underestimate the importance of Dominican Republic in Haiti's development. Recent developments, like the demonstration February 25th in Port au

Prince against racism and xenophobia against Haitian migrants and their descendants in the Dominican Republic (see Listín Diario 26.02.2015), indicate that the trend described by Murray (2010b) is continuing: The Haitian public is increasingly aware of and engaged in the situation of Haitian migrants and their descendants in the Dominican Republic.

¹⁰ Dominican nationalists are however also found in other political parties, they enjoy support from segments of the economic elite and parts of the hierarchy of the Catholic Church in the Dominican Republic, and have a notable influence on Dominican media.

¹¹ See e.g. USAID (2012), CDA (2012b).

¹² The following very brief presentation of systems thinking and its application in conflict analysis is based on Meadows (2008), CDA (2013b) and Ropers (2006).

¹³ This would for example clarify the importance of socio-economic differences and other push and pull factors for migration.

¹⁴ The concepts of time delays and mental models are also central to systemic conflict analysis, but are left out here in order to simplify the analysis.

¹⁵ For many years the nationalist party FNP was part of the government coalition, and nationalists held key public posts related to migration issues.

¹⁶ Note that the focus here is on the number of *irregular* migrants, not the flow of migrants as such which is regulated by a range of push and pull factors not visualised here. Assuming that the flow of migrants is (at a minimum) constant and return rate low, and that both factors are largely independent of the level of restrictiveness of migration policies, employing more restrictive migration policies will decrease migrants' access to documents/legal entry and therefore the number of irregular migrants will increase.

¹⁷ The validity of this assumption is currently being tested in the aftermath of the contested rulings 168-13 and 256-14 of the Dominican Constitutional Court.

¹⁸ Accompaniment of affected groups is a core focus of many civil society organisations working with Haitian migrants and their descendants, particularly of less politically oriented ones. These efforts can have immense positive effects on individuals' lives, and are especially important in the current situation where many Haitian migrants and Dominicans of Haitian origin find themselves in a legal limbo and risk of deportation. A criticism towards a too strong focus on accompaniment is however, that in the long run, these efforts are unlikely to contribute significantly to change the structures which keep throwing individuals into extreme vulnerability and marginalisation.

¹⁹ This is not to say that the picture is black-white and that there has been a sole focus on confrontational advocacy approaches. Civil society organisations on both sides, like *Groupe d'Appui aux Rapatriés et Réfugiés* (GARR) and *Centro para la Observación Migratoria y el Desarrollo Social en el Caribe* (OBMICA), have for example worked with journalists to increase their knowledge and understanding of bi-national issues. Norwegian Church Aid over several years supported a dialogue process between Haitian and Dominican evangelical churches. This process led to some promising results at the grass roots in the border area and managed to mobilise for example parliamentarians and key figures from civil society on different occasions. However, the process came to a halt in the post-earthquake period.

²⁰ There are promising processes and initiatives going on related both to coordination between different actors and to mobilisation of the broader civil society. Some of these initiatives are motivated by the need to coordinate and join forces in preparation for the deportations announced to start after the national regularisation plan deadlines expire.

²¹ Different efforts are already taking place to increase dialogue and collaboration – at the grass roots in the border area, between Haitian and Dominican human rights advocates and between high level politicians in the official bilateral commission (*Comisión Mixta Bilateral*). While

some of these efforts are indeed important and promising, there are also weaknesses linked to many of them – some risk becoming isolated ‘islands of good’, others would benefit from integrating deeper conflict transformation processes, while others again would benefit from broader participation.

²² Again, previous efforts have to some extent addressed these sectors, however, not always very systematically or in a long term perspective.

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