

## Transboundary Impacts of the 2010 Haiti Earthquake Disaster: Focus on Legal Dilemmas in South Florida

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Sapat A., and Esnard, A-M., 2013. Transboundary Impacts of the 2010 Haiti Earthquake Disaster: Focus on Legal Dilemmas in South Florida. *Oñati Socio-legal Series* [online], 3 (2), 254-276. Available from: <http://ssrn.com/abstract=2221282>



### Abstract

Catastrophic disasters affect not just the areas/regions and countries where they strike, but also have transboundary effects and repercussions on neighboring countries, which often serve as receiving areas for displaced survivors. South Florida, for example, served as a receiving area for earthquake survivors after the 2010 Haiti earthquake. To understand the transboundary sociolegal impacts on host communities, we draw theoretical insights from research on transboundary crises and interviewed key members of school districts, city and county governments, non-profit organizations, relief task forces, the Haitian-American diaspora, and local government agencies. We also looked at relevant plans/policies modified by governmental and non-governmental institutions in response to the legal issues that arose. The findings highlight the manner in which street-level workers in state and non-state organizations deal with legal complexities and ramifications, along with the role played by the Haitian-American diaspora actors and their networks.

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Article resulting from the paper presented at the workshop *Disasters and Sociolegal Studies* held in the International Institute for the Sociology of Law, Oñati, Spain, 21-22 July 2011, and coordinated by Susan Sterett (University of Denver) and Thomas Birkland (North Carolina State University). The workshop organizers are grateful for the support of the Institute, which did an excellent job of hosting the workshop and shepherding the papers to publication. The workshop was also supported by National Science Foundation SES-1051408.

The authors would like to thank the International Institute for the Sociology of Law in Oñati, Spain as well as the National Science Foundation (SES #1051408) for their support of this project. We would also like to thank the participants in the workshop on disasters and sociolegal studies that the Institute sponsored in July of 2011. The findings are based on research supported by the U.S. National Science Foundation Grants No. CMMI-1034667 and No. CMMI-1162438. The findings and opinions reported are those of the authors and are not necessarily endorsed by the funding organization.

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**Key words**

Transboundary crises and disasters; displacement, immigration and citizenship issues; Temporary Protection Status; diaspora; Haiti earthquake

**Resumen**

Los desastres por catástrofes no afectan solo a las áreas/regiones y países a los que golpean, sino que también tienen efectos transfronterizos y repercuten en los países vecinos, que a menudo sirven como áreas de recepción para los sobrevivientes desplazados. El sur de Florida, por ejemplo, sirvió como área de acogida para los supervivientes del terremoto de Haití de 2010. Para entender el impacto sociojurídico a nivel transfronterizo en las comunidades de acogida, se trazan nuevas percepciones teóricas a partir de la investigación de crisis transfronterizas, y mediante entrevistas a miembros clave de distritos escolares, gobiernos de ciudades y condados, organizaciones sin ánimo de lucro, grupos de trabajo de auxilio, la diáspora haitiano-estadounidense, y agencias del gobierno local. También se estudian los planes/políticas relevantes, modificados por las instituciones gubernamentales y no gubernamentales para responder a las cuestiones jurídicas que se plantearon. Los resultados destacan cómo se enfrentan los trabajadores a nivel de calle de las organizaciones estatales y no estatales a las complejidades y consecuencias legales, junto con el papel desempeñado por los protagonistas de la diáspora haitiano-estadounidense y sus redes de contactos.

**Palabras clave**

Crisis y desastres transfronterizos, desplazamiento, inmigración y ciudadanía; Estatus de Protección Temporal; diáspora; terremoto de Haití

**Table of contents**

1. Introduction.....	257
2. Transboundary crises and disasters.....	258
3. Study region and methodology.....	259
3.1. Methodology.....	260
4. Transboundary legal issues.....	261
4.1. Terminology and definitions used for displacees.....	261
4.2. Immigration and citizenship issues.....	262
4.2.1. Potential mass migration.....	262
4.2.2. Temporary Protection Status (TPS).....	262
4.2.3. Family reunification.....	264
4.3. Regulations and practices.....	265
4.4. Compensation, federalism, and implementation of laws.....	265
5. Discussion of findings: institutional responses, street-level bureaucrats and formal and informal networks.....	267
5.1. Street-level workers.....	268
5.2. Importance of networks and prior collaboration.....	268
5.3. Informal networks among diaspora actors and groups.....	269
6. Conclusion.....	270
Bibliography.....	272

## 1. Introduction

Crises and catastrophic disasters in today's globalized world can affect not just the areas/regions and countries where they strike, but may also have transboundary effects and repercussions on neighboring countries, and nations which serve as receiving areas and host communities for displaced survivors. These transboundary effects may have legal, social, political, and economic implications for home and host countries. While disaster research and scholarship has steadily grown in the last few decades (e.g. Dynes 1970, Quarantelli 1983, Mileti 1999, Rodriguez, Quarantelli and Dynes 2006, Oliver-Smith 2009, Smith 2011), more insights are needed on the transboundary nature of disasters and related social and legal issues that affect host countries. For instance, host communities often have to deal with immigration issues related to the medical treatment of displaced survivors. At other times, they need to navigate intergovernmental complexities in the interpretation of national or state statutes applicable to displacees. While there have been some studies on the role of first responders in dealing with disasters, these studies have, however, typically focused on domestic disasters (Schneider 1992, 1995, 2011, Flynn 2007, Dearstyne 2007). We know much less about the role played by state and non-state agencies in responding to transboundary disasters or about the legal complexities engendered by the latter.

This paper seeks to address such issues and dilemmas by focusing on the 2010 earthquake in Haiti. This catastrophic magnitude 7 earthquake and its aftermath highlighted inherent but understudied legal and related social complexities of disaster recovery and displacement on a national and transnational level. South Florida, home to an estimated 263,000 Haitians, served as a receiving area for severely injured earthquake survivors and for school-aged displacees. In doing so, host communities and state and non-state agencies had to deal with several issues for which the legal solutions were not clearly defined. This paper attempts to shed light on the transboundary effects of disasters and more specifically on the legal issues that can arise from cross-boundary displacement of disaster survivors. Our main research questions for this paper are as follows:

1. What were the transboundary legal ramifications of the Haiti earthquake?
2. How did state and non-state organizations at the frontlines of response within Florida deal with these legal complexities arising from the transboundary effects of the earthquake and the resulting influx of displacees who came into Florida?
3. What role did diaspora actors and their networks play in aiding institutional responses to the Haiti earthquake?

To address these questions, we examined four key issues: 1) terminology and definitions used for displacees; 2) immigration and citizenship issues; 3) regulations and policy practices; and 4) compensation, federalism and implementation of laws. In exploring these issues and their management, we also focus on how transnational actors such as diasporas can play a role in the framing and interpretation of legal issues. Our contention here is that these groups can be critical players in dealing with the legal and related social ramifications of transboundary crises and disasters.

We begin by discussing theories and past research about transboundary crises that are relevant to this paper. Next, we provide information on our study area, data sources and methodology which include primary data from interviews with key members of the Haitian-American diaspora, school districts, city and county governments, non-profit organizations, relief task forces, and local government agencies. We also looked at relevant plans and policies modified or adopted by governmental and non-governmental institutions in response to the sociolegal issues that have arisen as part of our analysis and when referred to by our interviewees. Based on these data, in the third section of the paper, we analyze key

legal issues discussed above in the context of South Florida, which serves as our case study. In the fourth section of the paper, we discuss the importance of street-level bureaucrats and the role of formal and informal networks as related both to inter-agency coordination and diaspora actors; we analyze some of our findings with regard to the role of these actors in responding to legal and other transboundary issues that emerged after the earthquake. We conclude with some recommendations for future research on the legal and other transnational effects of disasters, their implications for street-level bureaucrats, and the role of diaspora (or immigrants) actors in transnational displacement.

## 2. Transboundary crises and disasters

In an increasingly globalized world, crises or disasters have repercussions not just within the nation-states in which they occur; their impacts may be felt beyond nation-state boundaries. For instance, the 2004 Indian Ocean Tsunami affected thousands of people in coastal communities and tourists, businesses, and other groups around the world. More recently, the 2011 Tohoku earthquake in Japan and its effects within Japan disrupted supply chains around the world and spread fears of nuclear radiation far beyond its borders. Similarly, the focus of the research in this paper, the 2010 earthquake in Haiti resulted in the displacement of survivors across Haiti and into the United States and other countries.

Despite the disruptive nature of such crises and the ways in which they are perceived, framed, and managed by policy-makers, leaders, and citizenry of affected nation-states, there has been relatively little attention paid to transboundary crises in disaster and policy research (Boin, Groenleer and Sundelius 2007, Clifford 1956, Rosenthal and Hart 1998, Wachtendorf 2000). Only recently has greater attention been paid to the transboundary nature of disasters and its implications particularly in the context of crises and disasters that extend beyond politically and socially constructed borders (Boin 2009a, 2009b, Boin and Rhinard 2008, Ansell, Boin and Keller 2010, Wachtendorf 2000, 2009).

Some part of this scholarly work has focused on defining the concept of crises that cross boundaries; for instance, the term “trans-system social ruptures” (TSSR) was coined by Quarantelli, Lagadec and Boin (2006) to refer to events that reach beyond societal boundaries and disrupt multiple social systems. Characteristics of TSSRs by this definition are that they spread quickly, initially have no known central or clear point of origin, and have impacts that extend across national political boundaries, potentially impact a large number of people, lead to emergent behavior, and do not lend themselves to local-level solutions (Quarantelli, Lagadec and Boin 2006, pp. 25-27).

Wachtendorf (2009) extends research on TSSRs to looking at the effects of them not only on national systems as envisaged by Quarantelli, Lagadec and Boin (2006), but also on the transnational systems. She discusses transnational systems as mutually dependent cross-border systems such as healthcare, trade, and transportation using the example of such systems between Canada and the U.S, and also argues that the extent of the linkages between national and transnational systems and TSSRs impact the vulnerability and resilience of the systems themselves (Wachtendorf 2009, pp. 380-384). In discussing areas for future theoretical development, Wachtendorf (2009, p. 390) points out that “TSSRs are about significant cross-system disruption and about the people who occupy distinct national or transnational systems.”

Boin (2009b, p. 203) and Ansell, Boin and Keller (2010) also further our understanding in this area by defining transboundary crises as those that cross different types of boundaries such as: political (affecting different political jurisdictions vertically and horizontally), geographical (such as pandemics and the fiscal crisis), and functional (from the private to the public realm, such as the BP oil spill). These transboundary crises overwhelm organizations that are designed with

traditional crises and disasters in mind. Tighter linkages between countries and systems (economically, politically, and technologically) tend to exacerbate the potential impacts of transboundary crises (Boin and Rhinard 2008, Boin 2009a). In exploring this concept within the context of the European Union (EU), Boin and Ekengren (2009) studied the capacity of institutions to deal with transboundary crises. They noted that while capacities to deal with transboundary crises have grown within the EU, this development has also been marked by fragmentation and many obstacles. Similarly, Herman and Dayton (2009) analyze the decision-making challenges that transboundary crises pose to crisis leaders and argue that the manner in which decision makers perceive unfolding events informs the crisis-decision making process. In addition to decision-making challenges, transboundary crises also render it difficult for policy-makers to 'make sense' of events due to ambiguity and uncertainty (Weick 1993, Ansell, Boin and Keller 2010). These issues are relevant to the analysis here; state and non-state organizations in South Florida found themselves having to process and deal with an influx of displaced and the legal complexities and ambiguities that emerged with their ingress.

In summary, past research on transboundary and trans-system ruptures and crises has examined the impacts of these on systems (national and transnational) (Quarantelli, Lagadec and Boin 2006, Wachtendorf 2009), on leaders and institutions (Boin 2009a, Boin and Ekengren 2009), and on capacities and tools (Santella, Steinberg and Parks 2009) to respond to these crises. However, knowledge of transboundary crises and their impacts is still an area that remains, as described by Boin (2009a), *terra incognita*. The aim of this paper is to use understandings of transboundary crises to gain more insight into the linkages between disasters and crises and their transnational and transboundary effects such as occurred with the Haiti earthquake, including their legal and associated social ramifications on host communities; there is still a lacuna in research on these phenomena. The transboundary effects of the Haiti earthquake were different from other transboundary crises, as defined in past research, in that it was not a crisis like a pandemic that spread across geographic boundaries; its occurrence was local, but its effects and impact extended beyond its boundaries. These transboundary effects were due to the displacement of people that occurred, the close geographic proximity to the U.S., and because of the history and past relations between the two countries. Current research on transboundary crises has not paid much attention to how potential displacement and the subsequent legal challenges it creates affects host communities. Also, there is only a limited understanding of the role played by transnational actors and diasporas and their networks in responding to the issues associated with transboundary crises and disasters.

### 3. Study region and methodology

We focused on the South Florida region of the United States, which includes Miami-Dade, Broward, and Palm Beach counties for the following four main reasons, also documented in Esnard and Sapat (2011), and Sapat and Esnard (2012a, 2012b). First, the South Florida region immediately served as a receiving area for school-aged displaced and for severely injured earthquake survivors (Bushouse and Freeman 2010, Baker and Berger 2010). Several schools absorbed these children, including Toussaint L'Ouverture High School for Arts and Social Justice which is a charter high school in Palm Beach county. Second, Florida is also the nation's largest refugee<sup>1</sup> resettlement state. While a majority of the refugees who resettle in Florida live in Miami Dade county, there are significant refugee populations in Broward, Palm Beach, and other counties (Florida Department of Children and

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<sup>1</sup> Refugee Services is a program within Florida's Department of Children and Families (DCF). That agency defines a refugee as " someone who has fled his/her country because of a well-founded fear of persecution based on their race, religion, nationality, social group or political opinion, and has been granted refugee status in a country of asylum."

See [http://www.dcf.state.fl.us/contact/contact\\_Refugee.shtml](http://www.dcf.state.fl.us/contact/contact_Refugee.shtml)

Families). Third, South Florida already serves as a gateway to the Caribbean and Latin America and is home to many immigrants from Haiti, both legal and illegal. The region is home to more than 250,000 Haitians, many of whom have family in Haiti. Population estimates based on the 2010 American Community Survey estimates for Haitian ancestry are 116,137 in Miami Dade county, 116,334 in Broward County, and 76, 134 in Palm Beach county<sup>2</sup>. According to Fagen *et al.* (2009, p. 24), Haitians make up 4.2 percent of the population of Miami-Dade County, which now has the largest concentration of Haitians in the U.S.<sup>3</sup>. Thirty percent of the residents of the City of North Miami are Haitian and this is evident in the high number of Haitian-born politicians in that city. Fourth, South Florida is home to several Haitian–American organizations (with some whose mission has broadened since the earthquake crisis), and home to activists who have for decades been fighting causes of immigration equality for people of Haitian descent (Burch and Brecher 2010, Zezima 2010) and who play an active role in the community.

### 3.1. Methodology

The research design for this paper was based on a qualitative approach blending in-depth semi-structured interviews along with secondary data. The secondary data (coalition documents, reports, newspaper articles, website information and prior research) were used to understand the history and missions of the groups and agencies being interviewed, to generate a purposive sample of experts, and to start a snowball sample of respondents for in-person interviews (Singleton and Straits 1999).

Since qualitative research and snowball sampling has its limitations including problems of generalizability/external validity, in order to minimize the limitations of this method, we used the following as key guidelines (Miles and Huberman 1994) in setting up our interviews. The sampling method and strategy: (i) allowed a valid means by which to answer the research questions under study; (ii) provided rich and textured data given the descriptive nature of the study; (iii) was ethical and followed all the required approvals and consents; and (iv) the results generated allow transferability and generalizability to other Haitian enclaves beyond our study area.

Interviews were conducted with representatives from Haitian organizations and professional coalitions, other non-profits (e.g. the United Way), faith-based organizations, government agencies, school districts, school principals, media, immigration advocates, Florida Department of Children and Families Refugee Services, hospitals and health care administrators, Haitian diplomats and other Haitian American representatives on special task forces and commissions.

The findings presented herein are based on thirty semi-structured interviews (lasting an average of 45 minutes) conducted within the time-frame of June 2010 to March 2011. The number of interviewees by category is as follows: Haitian diaspora professional advocacy coalitions (n= 10); other non-profits (n= 4); schools and school districts (n= 4); state and local government agencies (n= 4); social service agencies (n= 3); hospitals (n= 2); faith-based organizations (n= 1); Haitian government official (n= 1); and the Haitian media (n=1). All but one of the interviews was conducted in person, the one exception being interviewed by telephone. Some interviews were conducted partly in Creole with the help of a Haitian student translator. Some interviewees received draft questionnaires upon request. All interviewees were provided with a short description of the project and a consent form and all of the recorded interviews were fully transcribed and returned to the interviewees for clarifications and edits. We used interview data as the primary source for our findings as the perceptions of front-line workers, host-

<sup>2</sup> It should be noted that margins of error range from 7,618 to 11,353.

<sup>3</sup> The second largest concentration of Haitians is King's County (Brooklyn) and the third largest is in Broward County, immediately to the North of Miami-Dade.

community organizations, and diaspora actors and their networks are critical to understanding how they interpreted statutory requirements to deal with the legal issues explored in this paper. In doing so, we reviewed interview transcripts to select appropriate interviewee quotes that dealt with how these issues perceived by our interviewees. Interview data were then triangulated with secondary data obtained from websites and other documents where appropriate to substantiate the findings. The methodology employed in this study also follows a combination of deductive and inductive reasoning. While we use theoretical understandings of transboundary crises to understand the legal issues that arose following the Haiti earthquake, our interview data also led to us to link the issues faced by front-line workers to theories of street-level bureaucracy.

Overall, these mixed methods, particularly the interviews, lend themselves to one of the strengths of qualitative research espoused by Miles and Huberman (1994, p. 10), i.e. "richness and holism, with strong potential for revealing complexity; such data provide "thick descriptions" that are vivid, nested in real context."

#### **4. Transboundary legal issues**

As discussed, we focus on key legal issues that arose in the aftermath of the 2010 earthquake which are as follows: 1) terminology and definitions used for displacees; 2) immigration and citizenship issues; 3) regulation and practice; and 4) compensation, federalism, and implementation of laws. As we analyze these issues using the data collected from the interviews, we also discuss how diaspora groups and actors played a role in framing and understanding the legal complexities that arose.

##### *4.1. Terminology and definitions used for displacees*

One of main issues that arise from displacement of peoples following crises and disasters is with respect to terminology, particularly when cross-boundary migration takes place. Terminologies used for people displaced after disaster range from 'refugee' to 'Internally Displaced Persons' to Disaster Induced Displaced Persons and these definitions remain imprecise (Mitchell, Esnard and Sapat 2012). Yet, these definitions are not merely semantic in nature; using a particular definition carries with it certain rights to and expectations for services. As scholars of social construction and policy design have pointed out, the social construction of certain populations and the language used to describe them greatly influence the kind of policies that are subsequently adopted to deal with their problems (Berger and Luckman 1966, Schneider and Ingram 1993, Donovan 1993, 2001, Stone 2001). Terminology and designations play an important role in policy design and determine who benefits and loses from policies that get adopted (Schneider and Ingram 1993). When terminology fails to acknowledge the existence of a social group, such as displaced persons, then policy and practice are unlikely to address their needs (Mitchell, Esnard and Sapat 2012).

It was for this reason that children who came from Haiti after the earthquake and who were living with family members were classified as "homeless" by the Broward and Palm Beach county school districts. This allowed the school districts to keep track of and identify the students displaced by the earthquake, which would facilitate possible reimbursement for educational costs, along with the costs for transportation, translation, curriculum support and other services that the school districts incurred. Thus, the terminology and definitions used in the aftermath of the quake were important for monetary reasons, a lesson local governments had learned after Hurricane Katrina, when close track was not kept of the number of school children who came into the South Florida school system temporarily because they had to relocate after Katrina. To deal with the absence then of formal, legal definitions of displacees, administrators within the school districts dealing with the



displacees used past knowledge and practice in a pragmatic fashion to provide assistance within the limitations they faced.

#### 4.2. *Immigration and citizenship issues*

Along with terminology, the Haiti earthquake also brought immigration issues back into the limelight. Within the domain of immigration, several legal complexities and concerns arose, of which the primary ones were: a) management of potential mass migration; b) Temporary Protection Status; and c) family reunification.

##### 4.2.1. Potential mass migration

In the immediate aftermath of the earthquake, fears arose about a mass influx of immigrants coming to South Florida (Hsu 2010). The responses were reflective of a two-pronged approach reflecting tensions between adhering to immigration laws and regulations on the one hand, and providing humanitarian aid to the disaster on the other. The political responses to immigration concerns were reflective of the former, more formalistic approach to adhere to immigration rules; it took the form of an immediate crackdown on a potential exodus from Haiti at the federal level. A federal mass migration plan, known as Operation Vigilant Sentry, was activated to stop a mass exodus of refugees. This plan had been initially put in place in 2003 because of experiences with Caribbean migrations by the Homeland Security Task Force Southeast (HSTF-SE) under the premise that "a mass migration has the potential to overwhelm independent agency action, and threaten the safety and security of the United States. Since no single agency has the capability or resources to respond effectively to this contingency, an organizational plan and structure that can rapidly and effectively combine DHS forces with those of other federal, state and local agencies is necessary" (Department of Homeland Security (DHS) 2007). News reports surfaced about how immigration authorities were clearing space in a 600-bed detention center in Miami and about the preparation of detention centers to turn away and repatriate illegal immigrants who might attempt crossing the "Miami river" (Hsu 2010). The media also reported on how South Florida counties such as Miami-Dade were refining their contingency plans to accommodate thousands of Haitian refugees (Fausset 2010).

However, perhaps due to the legal crackdown or also due to the vast devastation in Haiti itself, the initially-expected mass exodus of refugees did not occur. There were fewer displacees than expected. Apart from those who needed medical help, the first wave of survivors who came were the ones who were already either American citizens or permanent residents and were fortunate in having the means to travel back to the U.S. Those following this first wave included families and children who came in on tourist visas. While official counts are not available, a number of children were sent to South Florida to be able to continue with their studies, sometimes with or without one or both parents. Many of these children came to finish the school year, often to stay with relatives or friends they barely knew.

##### 4.2.2. Temporary Protection Status (TPS)

TPS is a temporary immigration status granted to eligible nationals of a certain country designated by the Secretary of Homeland Security because that country has experienced temporary negative conditions, such as armed conflict or an environmental disaster, that prevent nationals of the country from returning safely or for the country to handle their return adequately; it allows qualified individuals from designated countries (or parts of those countries) who are in the United States to continue to legally reside here for a limited time period (DHS 2010).

In 2008, Haiti was struck by four hurricanes and tropical storms: Fay, Gustav, Hanna and Ike. The entire country was severely damaged (800 dead, 600,000 houses damaged and more than 3 million persons affected); floods and mudslides wiped out most of the food crops and millions faced the prospect of acute hunger (Lacey 2008, p. 1). However, whether it has been political conflict or natural

disasters during the last thirty years that have prevented Haitians living legally or illegally in the United States from returning home, successive US administrations have refused to grant TPS to Haitians. After the devastating hurricanes of 2008, even concentrated lobbying efforts, letter campaigns, marches or protests did not change the administration's position. It was only after the January 12, 2010 earthquake that TPS was granted to allow immigrants already in the United States to continue living and working in the country for 18 months following the earthquake. TPS benefits were extended following this initial period. On May 17<sup>th</sup>, 2011, DHS Secretary Janet Napolitano announced an 18-month extension of TPS for Haitians. Effective July 23, 2011, this allowed TPS beneficiaries to remain in the United States through January 22, 2013. Another major change that was made was that Secretary Napolitano also *redesignated* TPS for Haiti, advancing the eligibility date by a year, meaning that eligible Haitians who had continuously resided in the U.S. since January 12, 2011 could also apply for TPS (Institute for Justice and Democracy in Haiti (IJDH) 2011). As noted, after the first wave of medical parolees, citizens, and permanent residents who came into the U.S., there were hundreds of other post-quake arrivals described above, who came on temporary and tourist visas and the implications of the redesignation were that these individuals could also apply for TPS.

During the first application period for TPS registration which expired on January 18th 2011, Semple (2011) reported that 53,000 individuals applied. This number was much lower than the 100,000 ballpark number estimated by the United States Citizen and Immigration Services back in early 2010 (Forry 2010). Several of our interviewees indicated that these low numbers of TPS applications were most likely due to a number of factors. Some of these were the monetary and procedural costs of the applications itself: the application fee for those between the ages of 14 to 65 applying for TPS and the ability to apply for employment that accompanied it was \$515 (United States Citizenship and Immigration Services 2012). The application also requires a number of supporting documents and certified English translations of all forms. Apart from cost factors, interviewees also indicated that other major deterrents were the potential fear of discovery and of future immigration possibilities, lack of knowledge of the process, lack of necessary and available documents, and uncertainty about the extension of application deadlines. As Coutin (2000) notes in her study of the quest by Salvadoran immigrants for legalized immigrant status, U. S. law makes immigrants simultaneously present and absent and the way in which official and unofficial law are intertwined challenge the authority of law itself. Illegal aliens cannot work, but to regularize their status through programs (such as TPS), they must show that they have been present and contributed to society; so at a time when they are not "officially" present, they must still produce bills, contracts, leases, receipts, and records that attest to their social participation in the United States. The TPS program for Haitians, who were in the country illegally but could apply for temporary legal status, required for instance, that they show proof of being present in the U.S. prior to the earthquake, presenting a legal contradiction, as noted by Coutin (2000) in her work. Further as she points out, these contradictions can lead to confusion and opportunities for fraud and being defrauded in concerns about immigration status.

Some Haitian organizations did try to help TPS applicants, as discussed later in this paper; nonetheless, since these organizations were limited by their resources, the obstacles discussed above still prevailed, preventing a number of potential applicants from utilizing the program. The same socio-politically rooted obstacles that hindered more TPS applications in the first round, are also likely to affect applications by those eligible under redesignation; legal issues are likely once again to be affected by social factors. Law as practiced on the ground is likely to be affected by both those administering the law and those affected by it.

#### 4.2.3. Family reunification

Another major issue related to immigration that arose was a family reunification program. After the 2010 earthquake, Haitian diaspora advocacy groups advocated more strongly for the adoption of a Family Reunification Parole Program (FRPP) as a possible way to help in the recovery process. This program would waive the waiting period for approximately 55,000 Haitians who already have approved visa petitions and whose family members are U.S. citizens or permanent residents; it would allow them to join their families in the United States quickly (IJDH 2011). For most Haitians, as for other nationalities, the waiting period for the legal immigration is a long period of time; adult children of U.S. citizens must wait six years to immigrate if they're single and nine years if they're married; siblings of citizens face an eleven-year wait; for spouses and minor children of U.S. permanent residents, the wait is about four years (Washington Post 2010).

The arguments being made by diaspora advocates for a FRPP are that: a) it would provide for a more humanitarian and orderly procedure for quicker legal migration, rather than push people to try more illegal forms of migration that are hazardous. As Laguerre has pointed out, over the years, the "tragic results of American policy *vis-à-vis* Haitian refugees has turned "the sea corridor between Haiti and Florida" into a cemetery for thousands of Haitians (Laguerre 1998, p. 85); (b) it would reduce the numbers who need aid and financial help from the U.S., other countries, and NGOs within Haiti; (c) it would increase the flow of cash remittances by increasing the pool of Haitians working in the United States (who currently provide an estimated one-third of Haiti's gross domestic product) sending cash remittances to their families (Orozco 2006); advocates point to estimates that a Haitian working in the United States can support as many as 10 relatives at home (IJDH 2011); and (d) it would not be an unusual or unprecedented policy, as it would be similar to the Cuban FRPP created in 2007 and similar to programs created for other refugees such as the Vietnamese and Kosovar Albanians; it would also, as noted by advocacy groups and in a number of editorials posted in the Miami Herald, Palm Beach Post, Boston Globe, Los Angeles Times, Chicago Tribune (Haitian Advocacy Working Group 2011), help mitigate 'double standards' in immigration treatment for Haitians as compared to Cubans.

As noted by one of our interviewees,

There's all kinds of reasons, this (the FRPP) is a no brainer. The administration can do it, no congressional action is needed, it helps Haiti recover, there is a precedent because of the Cuban program, the remittances; the remittances equal to all kinds of reasons, it's a no brainer (Source: Interviewee code 028).

As discerned from our interview data, while the FRPP would be a humanitarian solution and aid Haitian recovery, objections to the FRPP stem from concerns raised by anti-immigrant groups about more immigrants coming in, the potential drain on public services, and the potential precedent for other disasters and other immigrant groups. Objections to the FRPP are also rooted in negative social constructions of Haitian groups about Haitian immigrants bringing in crime, draining social resources, and being uneducated and unskilled; ironically however, based on past studies (Stepick *et al.* 1982) and our interview data, these perceptions are not supported by reality in terms of utilization of services. For instance, DCF reported on an extremely low utilization of the public services, (even after the earthquake) and noted that this was not a surprise to them since Haitians are probably the lowest users of services within the refugee program.

Like TPS, the calls for FRPP were increased in the aftermath of the earthquake; the transboundary effects of the quake helped strengthen the legitimacy of the immigration reform arguments made by Haitian-American diaspora groups. As a focusing event, the earthquake provided advocacy groups with an opportunity to push for their issues (Sapat and Esnard 2012b). The mobilization of these groups also exemplifies the manner in which such transnational advocacy groups can affect

legal responses to transboundary crises, both within their host and their home countries.

#### 4.3. *Regulations and practices*

As a transboundary crisis, the earthquake also prompted host communities and agencies in South Florida to enact some changes in their regulations and practices to adapt to certain cultural concerns of displaced survivors, illustrating how institutions and front-line workers within them dealt with the repercussions of the earthquake. Examples of such changes could be found in the way that the school systems dealt with school requirements such as immunizations. A number of displaced children who came over to South Florida after the earthquake did not have the necessary paperwork or documentation on immunization records. Since that is a legal requirement for schools, school district officials dealt with the problem by making appointments for students on the first day they came in to get their immunization shots. They also resorted to non-traditional ways to reach out to families hosting displaced children attending their schools by setting up KONBIT<sup>4</sup> socials. Using knowledge gleaned from Haitian diaspora members who were working for school districts and other non-profits who aided school districts in dealing with displaced Haitian children who came into the local school system, these KONBIT socials were organized with a cultural flavor that included Haitian music and food. Haitian speaking social workers and psychologists were also available to work with the families who attended, and explain to them what was available and how to get it, such as immunization shots. Other measures included setting up a website for schools and teachers on the process, procedures, and protocols that they needed to follow when they received new students from Haiti. A directory of services that a post-earthquake student could benefit and receive was also compiled, along with the adoption of other measures such as sensitivity training. For instance, as noted by one of our interviewees,

“Also ... we developed and pulled together a group of our staff and we developed a sensitivity training. And we did this by podcast so our schools could just dial in on their computers and see the whole thing and ask questions. That kind of stuff .. it was really very excellent .. we dealt with things that schools need to be aware of, as they work with students. Simple things that you wouldn't think of, for example . . . many of our schools have uniforms and some schools have red uniforms . . . and children are grieving ... red for them is a problem. They are used to wearing black or gray during the grief period.. the colors are a problem .. part of the importance of cultural awareness. But I am very proud to say that is the system we thought of those things and put that out so that our families and the schools could really be more sensitive to the needs of the kids. (Source: Interviewee Code 05).

These insights into Haitian culture led to minor, yet important changes then in certain regulations and practices; school children were allowed to wear the darker-colored uniforms. So while existing regulations and practices were adhered to by school officials, such as the requirement for immunizations and school uniforms, the manner in which those policy goals were accomplished were influenced by knowledge about and information provided by the Haitian community members who were either working within school bureaucracies or actively involved with school policies through non-profit and other agencies.

#### 4.4. *Compensation, federalism, and implementation of laws*

Following the earthquake, issues related to compensation for services rendered to displaced survivors brought into South Florida was an issue that providers of those services had to deal with. This was complicated by the question of which level of government was responsible for covering those expenses, along with the interpretation, implementation, and even suspension of relevant laws and

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<sup>4</sup> *Konbit* is a word in Haitian Kreyol for gathering, collaborating and cooperation for the greater good.

regulations to render assistance swiftly. These issues arose primarily for school children and for those with medical needs.

As previously mentioned, school districts had kept records of students displaced by the Haiti earthquake to facilitate reimbursement for educational costs, along with costs for other additional services that the schools and school districts had to provide. As of July 2010, the number of children who were enrolled in the tri-county area were as follows: ~1147 in Miami-Dade county; ~ 1200 in Broward county; and ~ 654 in Palm Beach county<sup>5</sup>. Given these numbers, there was a push by Florida's legislators to get reimbursement for these students: according to Olmeda and Freeman (2010), United States Congresswoman Wasserman-Shultz announced in July of 2010 that "the U.S. House of Representatives had approved an emergency spending measure that among other things, repaid Florida school districts approximately \$12 million for taking in 3700 students for half a year without asking for money upfront."

In terms of medical needs, there were many more complex circumstances and issues. For instance, a number of injured survivors were brought into the country by both government ships and planes and by non-profit groups and private individuals. Local hospitals in South Florida hospitals such as Broward Health, Jackson, and at Palm Beach county had to deal not only with the medical needs of the injured, but also with the legal issues that arose in the provision of medical treatment. First, they needed to deal with the immigration status of those who had been injured. A number of the seriously and critically injured patients had to be cleared by Immigration authorities before they could be brought to the hospital and as noted by one of our interviewees, for the first time, immigration work was done on the tarmac as planes landed with patients to expedite their transport into waiting ambulances that took them to various area hospitals equipped to deal with their injuries. State-level agencies like the Agency for Healthcare Administration (AHCA) and the Division of Children and Families (DCF) also helped the hospitals ensure that the immigration paperwork was correctly filled out and the American Red Cross and other non-profits such as Catholic Charities helped the families of survivors. The hospitals also had to work closely with the U.S. Citizen and Immigration Services once patients who were of Haitian nationality had to be discharged, while balancing medical concerns. Other issues that were legal in nature arose due to the lack of records, identification of survivors, and even with in translation issues. One of the healthcare providers we interviewed noted that even though there were already a number of Kreyol speaking personnel at the hospitals,

In healthcare you cannot use an employee to translate because of HIPAA (The Health Insurance Portability and Accountability Act) federal law. Red Cross has certified translators and they have to sign to protect information of the patient. On the floors where we had a Haitian patient that came from Haiti we had a translator there 24/7. It was part of American Red Cross... (Source: Interviewee Code 18).

Other legal complications that pertained to U.S. regulations were issues related to funding and assistance from the federal government via activation of the National Disaster Medical System (NDMS). The NDMS is a federally coordinated system that temporally augments the Federal, Tribal, State and Local medical response capability, by funding, organizing, training, equipping, deploying and sustaining a specialized and focused range of public health and medical capabilities. The NDMS was activated to provide services through its field care component through which 270 health and medical personnel were deployed to Haiti as part of the international medical response in the first week following the earthquake. In response to a request from then Florida Governor Charlie Christ, the NDMS was also used to reimburse U.S. hospitals that provided care to critically ill patients

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<sup>5</sup> Based on our interview data, we found that schools only kept the data on the children who came into the school system for around 6 months as they were not sure whether they would be reimbursed for any additional children coming into the school system.

([http://www.hhs.gov/haiti/ndms\\_ushospitals.html](http://www.hhs.gov/haiti/ndms_ushospitals.html)); this was the first time that this system was activated for an international disaster, which may have set an important precedent for the future. Activation of the NDMS in instances when the disaster does not impact the U.S. mainland has legal and political implications that have yet to be explored. While the activation of the NDMS following the Haiti earthquake helped, the funds, however, only covered acute care and were available only from the date of activation of the NDMS.

The fact that the NDMS only covered acute care and not rehabilitation, along with the difficulties of tracking patients led to problems in reimbursements for hospitals, prompting Charlie Christ, then Governor of Florida to declare to the U.S. Department of Health and Human Services, that Florida would have to stop taking in more patients if it was not reimbursed for these expenses (Hundley 2010). While hospitals and other medical professionals were finally eligible for reimbursement months later<sup>6</sup>, what drove hospitals and other agencies however, to continue to immediately treat and serve patients were the humanitarian issues, their concern for their Haitian employees, and their ability to help given the geographic proximity to Haiti. This occurred despite the lack of financial reimbursement or of state/federal assistance in the months following the earthquake. As pointed out by one of our interviewees:

From a business standpoint it is a no-win. Financially it is a loss no matter how to put it. There is nothing good, financially, that is going to come from it. .... We sat down and had the heart to heart talks, and we had to convince the financial folks that this is a financial write-off and it the right thing to do. The other side is that so much of our population and so many of our employees are Haitian and Haiti it is 150 miles away (Source: Interviewee Code 01).

Given the legal complexities they faced in dealing with displacees from another country and in managing transboundary issues on a vertical dimension (between the federal, state, and local level), street-level workers in state and non-state organizations as indicated by our data appear to have yielded to humanitarian impulses, along with a pragmatic approach dictated by the constraints they faced. Caseworkers and agencies made decisions that were not always tightly linked to a statute; this was similar to the manner in which housing policy was handled for Katrina displacees (Sterett 2009). As Sterett (2009, p. 87) notes, "After Katrina, the state... allowed general rules to continue while suspending them in the instance or it extended relief in a wholly discretionary way, both of which disaster relief had done before." Agencies dealing with the aftermath of the Haiti earthquake also had to use their discretion and judgment to make changes in rules and practices to accommodate displacees and provide services at times without clarity on compensation or about applicable rules.

## **5. Discussion of findings: institutional responses, street-level bureaucrats and formal and informal networks**

The discussion above highlights some of main legal issues that emerged due to the transboundary effects of the 2010 earthquake. What also emerges as being crucial to understanding these legal issues are the institutional responses, particularly those by street-level workers in state and non-state institutions. As theories of street-level bureaucracy suggest, these street-level workers did not work in isolation- rather the formal and informal networks they operated in were critical to understanding how they dealt with the transboundary legal issues they faced. As noted earlier, diaspora groups and actors were also embedded in these networks, both within government and outside of it and they did affect legal and other policy responses to the issues that emerged.

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<sup>6</sup> See <http://haiti.apprio.com/news-release.php?m3=on> for more details.

We discuss the role of street-level workers and the role of formal and informal networks more explicitly here, as follows: 1) the role of street-level workers; 2) the importance of formal networks and prior collaboration; and, 3) informal networks among diaspora groups and diasporic identities.

### *5.1. Street-level workers*

The findings in this study indicate that street-level workers were critical to understanding institutional responses to transboundary issues that emerged after the Haiti earthquake. This is consistent with past research on street-level bureaucracy which has argued that street-level bureaucrats play important policy-making roles owing to the relatively high degrees of discretion and relative autonomy from organizational authority that they enjoy; while goal expectations tend to be ambiguous, conflicting, and difficult to measure and their resources are chronically inadequate, street-level bureaucrats deal with these problems by developing patterns of practice and routines to simplify their tasks (Lipsky 2010). Also as noted by Maynard-Moody and Musheno (2003, p. 4), street-level bureaucrats bring their own views of fairness into assessments of clients, they exercise discretion subjectively and variably, and see themselves as citizen-agents, even while they act inherently as state-agents (Maynard-Moody and Musheno 2012, p. S21).

Our findings support this literature; street-level workers positively constructed displaced people, giving particular weight to images of family unification and school children needs and with this positive judgment, engaged in pragmatic improvisation of legal complexities to the benefit of this population while skirting anti-immigrant sentiments<sup>7</sup>. As discussed by Maynard-Moody and Musheno (2003, 2012), street-level workers used moral norms to deal with the issues that faced them and law was put to work in a pragmatic way to serve a population that was constructed as worthy of services under conditions of humanitarian crisis. Critical to achieving this stance towards displaced people was the bridging work of NGOs and their formal and informal networks between the Haitian diaspora living in South Florida.

### *5.2. Importance of networks and prior collaboration*

Our interview data indicate that prior interactions in the form of formal networks among agencies were critical during the short- and long-term recovery period and helped to resolve some of the main legal issues that emerged in South Florida. There were a number of agencies and organizations some of which were already used to working with each other: the Florida Department of Children and Families Refugee Services; United Way of Broward and Palm Beach counties; Broward Health Emergency Preparedness Department, the Palm Beach County Disaster Coalition, school district representatives from Palm Beach, Broward, and Miami Dade counties, and the Florida Department of Emergency Management (FDEM). Fortunately, there were also planning efforts that among other things addressed issues of mass migration, as well as repatriation. For instance, there was a State Emergency Repatriation Plan which is housed within FDEM, as well as a state comprehensive emergency plan that addresses repatriation, mass migration, hurricanes and other hazards. While FDEM was the lead agency, DCF received funding as well. They worked very closely with emergency management and all of the agencies that are part of emergency management process. New networks, partnerships, and organizations, such as the Broward Haiti Relief Task Force and Konbit for Haiti, were also forged to deal with a large spectrum of the sociolegal issues discussed above.

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<sup>7</sup> The importance of street-level bureaucrats emerged as a major finding rather than a starting point for our study and we revised and reorganized the paper accordingly. We thank anonymous reviewers and Susan Sterett for their feedback in that regard.

Prior exercises and discussions among these groups helped. For instance, as noted by one of our interviewees from the medical profession:

About 5 years ago, we did a mass migration exercise and we looked at what if Castro dies and Cuba empties out- how many would come to South Florida? So what would we do with mass immigration as far as health care, law enforcement, boarder control etc. One of the things that came up is that if you have someone that comes to your doorstep with no record, SSN, what do you do with them? Do you think immigration will come for one person when they have tens of thousands more? We knew there was a hole there and the feds knew it and of course we did not have an action plan for this. Changing laws and going through legislation at the state and federal levels would take years... We have been working for a while on a catastrophic plan. What do we do when the cat 4/5 hurricane takes out South Florida. (Source: Interviewee Code 18).

However, there were issues that were not foreseen by some of these prior exercises. For instance, despite these plans, the scenario played out much differently after the Haiti earthquake since according to one of our interviewees, the emergency plan primarily focused on a large number of arrivals, not a significant number of the severely injured people. On the other hand, the interviewee commented that:

We were lucky; honestly, that this happened in Haiti because of the unique situation of Haitian parolees in that many are able to get some medical assistance. If that had not been the case, there would have been even greater concerns about the immediate and long-term medical needs of these individuals. We know that the impact on our Refugee Medical Assistance program, which is a 100% federally funded program, exceeded 6 million dollars, because the people who came in as parolees were the most severely injured. (Source: Interviewee Code 21)

Thus, plans were important; but the exercises, existing networks, and prior collaboration among street level bureaucrats in local and state agencies and organizations turned out to be critically important.

### *5.3. Informal networks among diaspora actors and groups*

In addition to these formal networks, as noted in our discussion above, there were a number of informal networks among a number of Haitian-American diaspora non-profit organizations and faith based groups, such as Haitian Lawyers Association, FANM, SantLa, the Haitian-American Emergency Relief Committee, Haitian-American Nurses Association, Haitian-American Grassroots Coalition, Haitian-American Professional Coalition, Haitian-American Leadership Organization, Haitian-Association of Engineers and Scientists, Radio TeleAmerica, and the Notre Dame d'Haiti Catholic Church. Some of these were umbrella organizations. Familial and social networks among the Haitian diaspora themselves, as well as between the Haitian diaspora and their relatives and families in Haiti also helped in the other issues that arose in the aftermath of the quake and in tracking displacees and survivors coming in. They assisted with the flow of earthquake survivors and displacees who came for medical help, schooling, and other reasons, including helping with immigration issues. Churches and religious institutions were another major source of support in both South Florida and Haiti. The Notre Dame d'Haiti Catholic Church, based in Little Haiti in South Florida is especially noteworthy in regard. As reported by Esnard and Sapat (2011), their activities are both short term (i.e. organizing container shipments of food and medical supplies; organizing medical missions; helping with the placement of kids at Catholic schools) as well as long-term (e.g. fund-raising for eventual reconstruction of places of worship, and establishment of medical establishments).

Unity among diaspora groups was also a key factor. Prior to the earthquake, this had been most apparent in the context of immigration. Several diaspora groups and coalitions have advocated for TPS and for legal and political rights of the Haitian American community, particularly for comprehensive immigration reform in the



U.S. and even in the broader Caribbean region where Haitians have taken refuge over the decades. In fact, coalitions such as the Haitian American Grassroots Coalition were born out of the struggle of Haitian immigrants to improve their condition of life and also to be able to have a foothold in America. According to one of our interviewees:

“I don’t think we had really a common denominator in the last forty years and the only fights that we’ve been fighting is immigration, immigration, immigration then this came up” (Source: Interviewee code 23).

The reality though is that immigration and citizenship issues continue to be a unifying issue for Haitian diaspora organizations. The Haitian Consulate played a critical role with documentation such as passports and birth certificates that were damaged/lost in the earthquake. The Haitian Lawyers Association, hosted a radio program called ‘KOZE Legal,’ a legal talk show in Creole, which was one of several media avenues through which the community was educated on TPS issues. As noted earlier, a number of Haitian organizations also helped in the TPS process; they did this through holding free legal clinics and information sessions and through general education and outreach activities. According to one of our interviewees:

“Now following the earthquake.. that same TPS issue ... we actually had three successful TPS drives where we assisted hundreds of Haitians complete their TPS applications free of charge. We did two TPS drives in the city of North Miami, which has the largest concentration of Haitian Americans in the country. .... We also did one in the city of Miami Gardens, and have weekly TPS drives on Fridays where we assist Haitians free of charge in completing their TPS applications”. (Source: Interviewee Code 002)

In March 2010 (two months after the catastrophic earthquake), the Haitian diaspora had two unprecedented opportunities to provide input on a broader range of issues: (i) at the Haitian Diaspora Forum held at the Organization of American States (OAS) Headquarters in March 21-23, 2010; and (ii) at the Haiti Donors Conference held at the United Nations Headquarters in New York on March 31, 2010. The OAS Forum focused on a strategic plan for reconstruction and development in Haiti and specifically how the Haitian Diaspora will engage in capacity and nation building (OAS 2010). The Forum was co-organized by the OAS and Haitian Diaspora organizations (several based in South Florida), and the outcome and results were presented to the Haiti government at the March 31st donors conference in New York. According to one member of the diaspora, “this was the first time in the annals of the diaspora, that the diaspora had been considered as an institution versus a separate entity of one to one” (source: Interviewee code 007).

## 6. Conclusion

The earthquake in Haiti had repercussions not just in Haiti, but transnationally in other countries such as the United States. The objectives of this paper were to analyze the transnational ramifications, in particular the legal issues that emerged after this disaster for displaced survivors and receiving host communities in South Florida. Host communities and agencies within them, such as school districts and hospitals, had to deal with these issues for which the legal solutions were not clearly defined.

In dealing with these issues, we find that results from our interviews of agencies in host communities in South Florida supports prior research on street-level bureaucrats and the patterns of practice they develop to deal with uncertainties and ambiguities (Lipsky 2010, Maynard-Moody and Musheno 2003). In the absence of formal, legal definitions of displacees, organizations dealing with the displacees used past knowledge and practice in a pragmatic fashion to provide assistance within the limitations they faced. This was particularly evident in school districts, hospitals, and within non-profit organizations who were helping several schools and

hospitals in dealing with the displaced and their families. The findings here also add to the literature on the role of street-level bureaucrats, in that the focus in this paper is on how street-level workers in state and non-state organizations respond to transboundary effects and legal complexities following a disaster in another country; a dimension that has hitherto been neglected in extant studies.

Additionally, we also find that transnational actors, their formal and informal networks, and particularly the Haitian-American diaspora played a critical role in assisting Haiti with relief and recovery efforts and served as an invaluable post-earthquake conduit for Creole-speaking doctors, nurses, engineers, educators, advisers, and reconstruction planners (Newland 2010). They were also critical players in framing and understanding of the legal complexities that arose, and in dealing with sociolegal ramifications of transboundary crises. Long-standing formal and informal networks, as well as diaspora identity formation and history (especially with regard to immigration rights and reform) provided both a context to understand legal responses and it conditioned the nature of these responses. The accommodation of displaced was managed in way that reflected to some extent the disaggregated nature of the American state; as Slaughter (2005) points out states relate to each other not only through centralized foreign policy offices, but also through formal and informal networks that transcend national borders. In addition, the presence of diaspora members who worked within the government and non-profit agencies on the frontlines played a critical role in framing the response and decision making process. This helped to increase 'situational awareness' or 'sense-making,' (Weick 1993) which is particularly difficult in a transboundary crisis, when there is "incomplete, often contradictory information that is distributed over a large and shifting number of actors" (Ansell, Boin and Keller 2010). This finding also affirms the arguments made by theorists of street-level bureaucracy who argue that street-level bureaucrats "draw significantly on their general, religious, class, physical, ethnic, racial, and sexual, and gender identities." (Maynard-Moody and Musheno 2003, p. 52). Since there are a number of Haitian-Americans working as nurses, social workers, lawyers, and school district administrators in South Florida, they were able to use their knowledge and personal concerns about the Haiti earthquake to not only counter negative stereotypes of Haitians, but also to frame the response to legal dilemmas in a humanitarian light.

However, while our study does help shed light on the how street-level workers in state and non-state organizations and diaspora networks deal with legal dilemmas arising from transboundary disasters, there are several limitations as well: the research here is based on data from one geographical area and related to one diaspora group, which is subjective and subject to various other limitations of qualitative and case study research. Survey or other types of quantitative data and a broader discussion of diaspora groups may present a different picture.

The subjects of our study are also primarily from social service organizations. Future work on the legal and other transnational effects of disasters could examine bureaucratic responses by non social-service organizations (such as the police, coast guard, or immigration services); their responses are arguably likely to indicate a greater need for conformance to the rules as compared to focusing only on humanitarian assistance. More understanding is also needed of the effects of other kinds of transboundary crises that may differ in terms of the type of disaster (i.e. flooding, tornadoes, terrorism) or degrees of geographic proximity. Finally, in light of our research and findings, we conclude that future research on disasters and policy practices in disaster management needs to pay attention to diaspora (or immigrants) groups and their role in transnational displacement. This is particularly important given the potential number of refugees fleeing climate-change related events and other disasters and the effects of globalization; how these issues will be addressed by policies will have implications for disaster management.

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