

## Haiti after the Elections: Challenges for Préval's First 100 Days

### I. OVERVIEW

René Préval's inauguration on 14 May 2006 opens a crucial window of opportunity for Haiti to move beyond political polarisation, crime and economic decline. The 7 February presidential and parliamentary elections succeeded despite logistical problems, missing tally sheets and the after-the-fact reinterpretation of the electoral law. There was little violence, turnout was high, and the results reflected the general will. The 21 April second round parliamentary elections were at least as calm, and although turnout was lower, the electoral machinery operated more effectively. During his first 100 days in office, the new president needs to form a governing partnership with a multi-party parliament, show Haitians some visible progress with international help and build on a rare climate of optimism in the country.

Préval has a strong base in the parliament, although his Lespwa party has no majority and will need to reach out to form legislative alliances if it is to make good the chance to overcome the divisive factors that have kept Haiti the hemisphere's poorest country and a perennial candidate for failed state status. The new president also needs to choose a strong prime minister who is both committed to his program and acceptable to a broad range of opinion. Both are essential steps if the paralysis that has afflicted recent parliaments is to be avoided.

The Préval presidency likewise is dependent on strong international support. As president-elect he has travelled to the neighbouring Dominican Republic; to Brazil, Chile and Argentina; to the UN and to Washington; and to Cuba, Venezuela and Canada. He has called for the UN peacekeeping mission to Haiti (MINUSTAH) to remain and has appealed before the Security Council and the Organisation of American States (OAS) for long-term development aid. A ministerial conference in Brasilia on 23 May is an opportunity to spell out his priorities to the international community and will be followed by a donors pledging conference in Port-au-Prince in July. Préval's call for a 25-year governance and development pact is ambitious but should generate at least a consensus on the long-term nature of the peacebuilding enterprise.

Deep structural challenges still threaten what may be Haiti's last chance to extricate itself from chaos and despair, and action in the first 100 days is needed to convey to Haitians that a new chapter has been opened in their history.

- **Security.** It is essential to preserve the much improved security situation in the capital since the end of January. In large part the improvement stems from a tacit truce declared by some of the main gangs – especially those in Cité Soleil – whose leaders support Préval. The new administration and MINUSTAH should pursue efforts to combine reduced gang violence with rapid implementation of high-profile interventions to benefit the inhabitants of the capital's worst urban districts. Urgent action is needed to disarm and dismantle urban and rural armed gangs through a re-focused Disarmament, Demobilisation and Reintegration (DDR) program.
- **Policing.** To deal with the threats posed by organised criminal elements and drug-traffickers, the Haitian National Police (HNP) need to be reformed, professionalised and strengthened. The government and MINUSTAH must agree on implementation of the Security Council mandate for UN vetting and supervision of the HNP. A first priority will then be to purge it of corrupt officers and break up the police cells with links to criminal elements and political factions. That force, including the coast guard, will have to grow to some 15,000 by the end of Préval's term.
- **Political cohesion.** Urgent measures are needed to help repair a social fabric badly damaged in recent years by political polarisation, deepening antipathies between the mass of the population and the elite, worsening poverty and a generalised sense of hopelessness. These include:
  - quickly meeting some of the high expectations of the Préval supporters but also reaching out to organised middle and upper class and business sectors who voted against him but who in turn have the obligation now to meet him halfway;

- using the World Bank-sponsored Poverty Reduction Strategy Plan to provide the foundation for the national dialogue that never materialised under the transitional government, one encompassing the substantial participation of the poor, grassroots community groups and women; and
- discouraging at all costs any early return to Haiti of former President Jean-Bertrand Aristide, which would undermine the new government and instantly reignite political turmoil.

□ **Economic renewal.** Prével has declared his belief that economic development is heavily dependent on private investment, which requires at least the promise of improved infrastructure and the social and political stability provided by good governance and solid institutions. A first step is to look at ways to resolve the electricity supply crisis in the capital. Education and employment-generation also are key areas for immediate investment, particularly when students in some schools are being expelled because their parents, hit by high prices and economic stagnation, cannot pay for uniforms and school fees.

Prével should press the World Bank, perhaps with the support of the Inter-American Development Bank, to help put in place systems for economic governance that would allow him to make good on his promise to root out corruption in public administration. He also needs to concentrate new policies and programs on improving the lot of Haiti's poor majority, particularly the traditionally neglected rural poor.

□ **Judicial Reform.** All structures related to the rule of law need comprehensive reform if there is to be investment in Haiti. A joint international and national judicial panel should be formed to review quickly cases of political prisoners and those being detained without trial. Significant numbers of the 85 to 90 per cent of prisoners who have not yet been tried have been in jail longer than they would have been if given maximum sentences for their alleged crimes. Justice reform is a long-term task but it must start the day the Prével government takes office and have full international support.

## II. BACKGROUND

Faced with the prospect of large-scale clashes following an escalating political crisis, former President Aristide was pressured to leave the country on 29 February 2004, and his Fanmi Lavalas party government collapsed, replaced

by a transitional government headed by the then Supreme Court chief justice, Boniface Alexandre, as president and Gérard Latortue as prime minister. The UN Security Council authorised deployment of a Multinational Interim Force that was replaced in June 2004 by a Brazilian-led peacekeeping mission, MINUSTAH.<sup>1</sup> In June 2005, it was enlarged, and as of 31 March 2006 had 8,903 uniformed personnel – 7,151 troops, 1,752 police – supported by more than 2,000 local and international civilian personnel. It is headed by the Special Representative of the UN Secretary-General, Juan Gabriel Valdés.<sup>2</sup>

The transitional government failed to fully establish its authority in most provinces, where during 2004 and early 2005 armed former rebels and ex-members of the Haitian Armed Forces (ex-FAd'H) acted unlawfully as security providers. From the end of September 2004, armed gangs were increasingly active in many of the capital's poor neighbourhoods. Many of the gangs were manipulated by factions sympathetic to former President Aristide, others by anti-Aristide groupings, drug-traffickers or other criminal organisations and, in at least one instance, even elements of the business elite. Violent gang clashes over urban turf, politics and criminal enterprises and with MINUSTAH and the police (HNP) claimed hundreds of lives.<sup>3</sup>

In early 2005, MINUSTAH finally deployed country-wide and with a more robust approach ousted the armed former rebels and ex-FAd'H from provincial towns. The transitional government began distributing compensation payments to former soldiers in lieu of back-pay for the ten years since the FAd'H was disbanded. Disarmament and demobilisation of the ex-FAd'H has been extremely limited, however, so these groups retain a potential for destabilisation in some communities. The security situation deteriorated in Port-au-Prince, as gang activity and serious crime spread from the poor neighbourhoods, and for much of 2005 the city was in a state of siege. A new phenomenon – kidnapping for ransom – reached epidemic proportions in mid-year and again in December.

Although the organisation of elections for a new president, a parliament, municipal mayors and local government councils and assemblies was one of the transitional government's main tasks, the process ran into innumerable difficulties. Half a dozen dates for the presidential and legislative elections were announced, then postponed. Partisan and personal rifts and disorganisation within the nine-person Provisional Electoral Council (CEP) accounted

<sup>1</sup> UN Security Council Resolution 1529, 29 February 2004.

<sup>2</sup> <http://www.un.org/Depts/dpko/missions/minustah/facts>.

<sup>3</sup> See Crisis Group Latin America/Caribbean Report N°13, *Spoiling Security in Haiti*, 31 May 2005.

for most delays. There were initially dysfunctional refusals to coordinate with the OAS, which controlled voter registration, and with MINUSTAH, which was responsible for security, provided technical electoral assistance, managed the finances, hired personnel and possessed virtually all logistical resources. The OAS and MINUSTAH had to negotiate almost daily for CEP's approval. The appointment of Director General Jacques Bernard in October 2005 finally broke some of the bureaucratic logjam.

Voter registration began slowly in April 2005, but by the time it closed in November 2005, 3,535,025 – more than 80 per cent of those eligible – had registered for identification cards.<sup>4</sup> For security reasons, a much lower number of voting centres than in previous elections – 804 compared to more than 1,200 in 2000 – were established. Although one registration centre was in Cité Soleil, no voting centre was opened in the sprawling slum, which has remained more or less a no-go area for the police and MINUSTAH. CEP members had no interest in boosting turnout there anyway, and residents were forced to vote in nearby centres – which they did in large numbers.

According to opinion polls, the clear favourite for the presidency was René Préval, who held the office from 1996 to 2001. Préval had been closely involved in the Lavalas movement for political change that emerged in the late 1980s and gave rise to the Aristide presidency in 1990. He served as prime minister under Aristide in the months preceding the September 1991 coup d'état. The Préval presidency was marked by deteriorating relations with his former ally, Aristide, and when asked by Fanmi Lavalas leaders in 2005 to stand as their candidate for the presidency, he refused. Instead he forged a new political group, "Lespwa" ("Hope" in Creole), composed of two small parties that emerged from the now divided Lavalas movement, the Open the Gate Party (PLB) and the Eskap/Korega,<sup>5</sup> and two peasant organisations, KONPA and KOZEPEP, that Préval had helped establish with his friend, the broadcaster, Jean Dominique, in the late 1990s.<sup>6</sup>

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<sup>4</sup> According to the 2003 census, the total eligible voters (those over eighteen) was 4,448,065 but MINUSTAH commissioned a demographic analysis and concluded this was too high and that a more accurate estimate was between 3.4 and 3.7 million. That was clearly an underestimate, however, since 3.5 million actually registered.

<sup>5</sup> The Efd ak Solidarite pou Konstwi yon Altènativ Nasyonal Popilè/Koordinasyon Resistans Grandans (Eskap-Korega - Effort and Solidarity to Build a Popular National Alternative/Grand'Anse Resistance Coordination).

<sup>6</sup> Jean Dominique, the director of Radio Haiti Inter, was a vocal Lavalas supporter, who in the late 1990s grew increasingly critical of Aristide and the party. He was assassinated by persons unknown in April 2000. KONPA is the abbreviation

Préval's prospects were enhanced by disqualification – on grounds of dual citizenship, forbidden by the constitution for elected officials – of Dumarsais Siméus, a multi-millionaire Haitian-American businessman popular due to his 'rags-to-riches' history and lack of ties with established parties.<sup>7</sup> Another factor was the last-minute Fanmi Lavalas decision to back Marc Bazin. Having failed to register the very popular Father Gérard Jean-Juste, because he faced criminal charges, a faction of the party allied itself with Bazin and backed him for the presidency. Jean-Juste would have cut into Préval's high urban vote from neighbourhoods like Cité Soleil and Bel-Air, though how much is far from clear. By contrast, Bazin was remembered primarily as Aristide's main opponent in the 1990 election and prime minister during the 1991-1994 military regime.

Opinion polls suggested the other main contenders would be the perennial challenger, Leslie Manigat, a Christian Democrat who was briefly as president in 1988, after controversial elections backed by the army and boycotted by most parties, and Charles Henri Baker, a businessman and leader of the Group of 184 coalition of business, religious and non-governmental organisations that spearheaded the anti-Aristide movement in 2003-2004. The Group of 184's official position was neutrality in the elections, and Baker had resigned from it to campaign as an independent. Popular with certain sections of the mulatto elite in Pétionville, he improved his chances of support from the poor, black majority by entering into a tactical alliance with KONBA, the new party formed by peasant leader Chavannes Jean-Baptiste, head of the Papay Peasant Movement (MPP).<sup>8</sup> Among the other 31 contenders were party leaders who have been fixtures on the political scene for twenty years without ever building effective party machines, a coterie of Protestant ministers, and aspirants linked to the former military. Additionally, more than 40 parties put up 1,300 candidates to contest 30 Senate seats (three for each of ten administrative departments) and 99 seats in the Chamber of Deputies.<sup>9</sup>

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for Konfederasyon Nasyonal Peyizan Agrikòl (National Confederation of Peasant Farmers), an organisation that grew out of the Association des Planteurs de la Plaine de Léogâne, a peasant organisation with which Préval and Dominique were involved in the 1990s. KOZEPEP was also originally formed by Préval and Dominique in the Artibonite Department but nearly dissolved just after Aristide's election in 2000. It was reformed as the Electoral Affairs Committee for Clean Elections, and a few months ago renamed as the Peasants' Interests Affairs Committee for Integration and Progress, again maintaining the Creole acronym of KOZEPEP.

<sup>7</sup> Another Haitian-American businessman, Samir Mourra, was disqualified for the same reason.

<sup>8</sup> Konbit pou Bati Ayiti, (Cooperative Action to Build Haiti). The party's acronym "KONBA" means "fight or combat" in Creole.

<sup>9</sup> The Senate and the Chamber of deputies together constitute the National Assembly.

### III. PRESIDENTIAL AND PARLIAMENTARY ELECTIONS

#### A. THE FIRST ROUND

First round presidential and legislative elections were finally held on 7 February 2006. While international observers expressed concerns, including for violence, ahead of time, in most respects the day was a success. By the end of January, 3.1 million people had collected their voter identification cards (approximately 90 per cent of registered voters), and more than two million voted – a turnout that compares favourably with recent general elections.<sup>10</sup> The high number of voters and reduced number of voting centres, combined with logistical problems and poorly trained electoral staff, contributed to chaotic scenes in some centres, particularly the eight “mega centres” in each of which between 16,276 and 24,268 voters were registered.<sup>11</sup> Many centres did not open on time, and thousands had to wait in long lines for hours.<sup>12</sup> Centres stayed open after 4 p.m. so those already in line could vote but this meant it was already dark when counting began, and lack of electricity in many centres clearly hampered that process. The positive attitude of poll workers, party workers, and domestic and international observers in helping those bewildered by the confusion find their way to a table to vote ultimately saved the day. Party workers generally also allowed voters with registration cards to vote even if their names were not on the specific voting table list.<sup>13</sup>

Serious incidents involving violence and the loss, destruction or theft of voting materials required a rerun at fourteen centres around the country. In Port-au-Prince, a tacit truce declared by armed gangs in the weeks preceding the elections was maintained, and there were no violent incidents.

Most observers – national and international – agreed that what irregularities there were on the day were not

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<sup>10</sup> The numbers voting represented 60 per cent of registered voters, and 65 per cent of registered voters who had collected their voter identification cards.

<sup>11</sup> Crisis Group interviews, MINUSTAH officials and international observers, Port-au-Prince, February 2006.

<sup>12</sup> Crisis Group observed the delays in Port-au-Prince, as did all national and international monitoring teams. “Interim Report No. 2 November 1, 2005 through February 28, 2006”, IFES Long Term Election Observation Mission in Haiti (funded by the U.S.); International Mission for Monitoring Haitian Elections, “Supplementary Report on the February 7, 2006, Elections”, (funded by Canada), at [http://www.mieeh-immhe.ca/media\\_apr0406\\_e.html](http://www.mieeh-immhe.ca/media_apr0406_e.html); Crisis Group interviews, domestic monitoring groups and UN and OAS elections teams, February 2006.

<sup>13</sup> Ibid.

serious and that compilation of the vote tallies (*procès-verbaux*) was mostly free and fair. The first suspicions about possible manipulation of the count with the aim of blocking a first round Préval victory were voiced on publication of partial results as they became available. Two days after the election, the first partial results were announced based on less than 15 per cent of the total vote, from five departments. Largely from Port-au-Prince, they showed Préval with 61 per cent. As results from more remote departments arrived at the tabulation centre in Port-au-Prince, his percentage was seen to be slipping. A feasible explanation was that, in contrast to previous elections when voter preferences were much the same across the country, there were significant regional variations. Specifically, the results indicated that while Préval enjoyed massive popularity in the Ouest Department, including Port-au-Prince and its suburbs, others were stronger in the provinces.<sup>14</sup>

Lespwa supporters were convinced, though, that the results were being manipulated to deprive Préval of the majority he needed for a first round victory. Suspicions focused on missing tallies from a small but crucial number of voting centres and the many invalid and blank ballots. These anomalies could perhaps partly be explained by the minimal voter education campaign and mistakes by poorly trained and exhausted poll workers, but in a climate of suspicion and mistrust that reflected five years of polarised politics, it was impossible to dispel allegations of fraud. Tensions increased when two of the nine CEP members alleged manipulation in the media. Thousands of Préval supporters went into the capital's streets in largely peaceful protest demonstrations.

One week after the election, after some 92 per cent of the tally sheets had been tabulated, including 4.3 per cent blank votes and 7.4 per cent invalid votes, Préval's share had dipped slightly below 49 per cent. While some candidates agreed that a second round would not be in the country's best interests, his nearest challenger, Leslie Manigat, who had polled just 11 per cent, insisted on it. In part because Lespwa's partial tallies seemed to show a first round win, Préval was just as intransigent, publicly denouncing “massive fraud or gross errors”.<sup>15</sup> The

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<sup>14</sup> In the Ouest Department, Préval polled 63 per cent, but in the Nord-Ouest polled only 23 per cent, trailing Luc Fleurinord (MIRN) who had 26 per cent. In the Centre Department, Préval had 37 per cent, ahead of Charles Henri Baker, the independent allied with the local peasant leader Chavannes Jean-Baptiste's KONBA party, who polled 18 per cent. In the Sud Department, Préval won 41 per cent, Chavannes Jeune (UNION), the Baptist leader, won 26 per cent. See [http://www.cep-ht.org/avis\\_resultats.pdf](http://www.cep-ht.org/avis_resultats.pdf).

<sup>15</sup> An OAS quick count and a “slow count” by the National Democratic Institute and its Haitian monitoring group that

discovery of ballot papers and vote tallies at the Truitier rubbish dump outside the capital further inflamed the situation.<sup>16</sup> After more pro-Préval street protests had paralysed the capital and under pressure from diplomats to resolve the crisis, the CEP chose to ignore the electoral law stipulation that blank votes should be considered valid, as protest votes, and apply the so-called "Belgian formula" of distributing the blank votes proportionally among all the candidates. This pushed Préval's total to 51 per cent, and made him president-elect without a second round.<sup>17</sup>

After subsequent reviews by MINUSTAH identifying the origins of most of the missing tally sheets, an argument could be made that Préval's vote – even without the CEP ruling – might have topped 50 per cent. Although the decision to use it was controversial because of when it was made, several international electoral experts concurred that the Belgian formula was viewed as appropriate for the case.<sup>18</sup>

Resolution of the crisis was welcomed in nearly all quarters, with the notable exception of Manigat, who denounced the CEP decision and called on his party, the RDNP, to withdraw from the legislative elections in protest. While most RDNP candidates ignored this, his wife, Mirlande, who had received strong support in her

bid for a Senate seat representing the Ouest Department and was well-placed to win a run-off, did withdraw. That was unfortunate: she is a competent and principled politician, representing a significant sector of the middle class, who would have enhanced the new legislature. Her withdrawal was all the more disappointing as she was one of the few women candidates who demonstrated voter appeal.<sup>19</sup>

Only four women were elected to the Senate and two to the Chamber of Deputies, although two others are leading after the 21 April Chamber races and will be in the second round run-off expected in June or July.<sup>20</sup> Including prominent women such as Manigat, Michele Pierre-Louis, Myriam Merlet, Maryse Pénette and many others in the Préval administration would signal a desire to improve the representation and role of women in the nation's politics.<sup>21</sup> Haiti has had women as prime minister, foreign minister and interim president in the recent past, and it is anticipated that additional women may be named to cabinet and other senior posts in the new government. The minister for women made special efforts during the registration period to get women on the voter rolls. They constituted 49.21 per cent of total registered voters and were in a slight majority in the Artibonite, Nord and Nord-Ouest departments.

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did not factor in blank votes also encouraged Préval to believe he had crossed the 50 per cent threshold.

<sup>16</sup> Joseph Guyler Delva, "Burned ballots inflame Haitian election tensions", Reuters, 15 February 2006.

<sup>17</sup> While only two deputy seats were won outright in the first round, it is hard to understand why the "Belgian formula" was applied in the presidential contest but not in the parliamentary ones.

<sup>18</sup> "The CEP adopted a specific procedure for compiling blank ballots for the presidential election. The Constitution provides that the president, senators and deputies are elected by an absolute majority of votes cast (ss. 90.1, 94.2, 134). Under the Electoral Decree, the president, senators and deputies are elected by an absolute majority of votes received in the first round, that is, 50 percent plus one of the valid votes cast (ss. 75, 81, 87). Under section 185 of the Electoral Decree, however, unmarked ballots are deemed valid and are compiled. In a two-round, absolute majority electoral system, compiling blank ballots creates the possibility of it being mathematically impossible for a candidate to obtain an absolute majority of votes in the second round, which runs counter to the Constitution. Within this legal framework, the CEP made the right decision by pro-rating the blank ballots based on the number of votes received by each presidential candidate. This approach, which nullifies the effect of the blank ballots on the percentage received by each candidate, ensured compliance with the Constitution, which is the fundamental law of the country. The IMMHE also notes that this approach is in keeping with general international practice, although there are a few exceptions, such as in Colombia, where blank votes must, nevertheless, be expressly marked by the voter". "Supplementary Report on the February 7, 2006 Elections", op. cit.

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<sup>19</sup> Of the 54 candidates contesting 27 Senate seats in the second round, seven were women: Mona Bernadeau (KONBA), Huguette Lamour (Fusion), Marie Ghislaine Mompremier (Fusion), Melanie Charles Simon (GFCD), Eveline Cheron (Fanmi Lavalas), Marie Denise Claude (Fusion), and Edmonde Supplice B. (Fusion). The latter three are members of the Kowalisyon Ayisyèn Fanm Lidè (COHFEL/KOFÈL), a USAID-supported organisation encouraging women's participation in politics. Another three women were standing for the three Senate seats on which four districts in the Nord-Est Department were voting for the first time because of disruptions in February. None made it to the run-off. In the Deputy races, thirteen women made it through the first round and were candidates for the 97 seats contested in the second round. See [http://www.cep-ht.org/avis\\_resultats.pdf](http://www.cep-ht.org/avis_resultats.pdf).

<sup>20</sup> Huguette Lamour (Nippes) and Edmonde Beauzile (Centre), both of FUSION, Eveline Cheron (Ouest), Fanmi Lavalas and Cemephise Gilles (Nord), Lespwa, were elected to the Senate; Me Clunie Dumay and Marie Josie Etienne were elected to the Chamber of Deputies and Gerandale Telusma and Oglie Pierre will be in the second round run-off for the Chamber, <http://207.234.224.237/eis2da/>

<sup>21</sup> Merlet is president of Enfofam (a women's association); Pierre-Louis is executive director of FOKAL (the Open Society Institute in Haiti); Pénette was secretary of state for tourism in Préval's first administration. During Aristide's first presidency, Claudette Werleigh served as foreign minister and later prime minister, and Marie-Michele Rey served as finance minister. The transition president in 1990 through the presidential election which resulted in Aristide's first election was Erta Pascale Trouillot, previously a judge.

Breakdown of turnout by gender has not yet been released.<sup>22</sup>

The third-placed candidate, with 8.2 per cent, Charles Henri Baker had expected to do better<sup>23</sup> but he was abandoned during the campaign by some of his natural business constituency, who backed Manigat or Prével.<sup>24</sup> For the other established party leaders, the results were devastating. The social democrat Fusion's Serge Gilles, the OPL's Paul Denis, and the Alyans' Evans Paul each polled around 2.5 per cent, while the GFCD's Hubert Deronceray and a host of other politicians who have enjoyed media and diplomatic attention over the last ten years or more won less than 1 per cent each. Deronceray has announced his retirement from active political life, and others may follow his lead. The rejection of the traditional politicians was highlighted by the success of Chavannes Jeune,<sup>25</sup> the Union Party leader who came fourth with nearly 6 per cent of the vote. His popularity is based on his coming from a background of poverty, his ability to communicate in small groups with peasant farmers, and perhaps most significantly on the public's appreciation of his position as a Baptist leader who ran one of the largest church-affiliated school programs rather than as a politician.<sup>26</sup>

While the CEP was generally praised for resolving the crisis over the first round presidential results, its overall performance was poor. From the start, it was plagued by internal rivalries, ineptitude and charges of corruption and partisanship. Many of the organisational problems with the elections can be attributed to CEP's inadequate leadership.<sup>27</sup> Its failings were exposed by increasingly

public disagreements between its nine members, and by the resistance to Director General Bernard's efforts at coordination.<sup>28</sup> The legislative second round and the small number of re-run first round contests<sup>29</sup> on 21 April were better organised and less problematic, not least because election workers were more experienced, voter turnout was lower, and ballot lists were smaller.

Once Prével takes office, the CEP may be dissolved, presenting an opportunity to form a more professional successor body free from the political rivalries that were so damaging. A few second round legislative run-offs are due on 18 June, although that date is likely to slip. Municipal elections hopefully will be held at the same time, although no final decision has been made, and local government assembly elections are clearly now going to be delayed substantially to a date yet to be determined. The need for a competent electoral administration is paramount. Under the constitution, a permanent CEP can not come into being until after local elections, since the bottom-up nomination process for it must start with the local councils. However, a new provisional CEP to oversee the municipal elections could be formed, using the best of the professionals now working under Bernard, while the parliament prepared a law to establish a permanent administrative electoral apparatus.

## B. THE SECOND ROUND:

The CEP reported that the second round parliamentary elections on 21 April had a 30.8 per cent turnout, far lower than the first round's 60 per cent but not an unusual decline in view of the lack of a presidential contest. Given the paucity of civic education, funds for parties and candidates, and general absence of campaigning, it was a decent effort by citizens to make their voices heard.

The second round had 194 candidates running for the remaining 97 deputy seats and 54 for the 27 Senate seats.<sup>30</sup>

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<sup>22</sup> "Interim Report No. 2 November 1, 2005 through February 28, 2006", IFES Long Term Election Observation Mission in Haiti, p. 2. Also see the CEP website for full breakdown of voter registration, <http://www.cep-ht.org/statistic.html>.

<sup>23</sup> "Let me be honest and say that Prével has as much chance as a snowball in hell of winning any elections here. That I am certain of", Charles Henri Baker, interview with the Caribbean Media Corporation news agency, 6 February 2006.

<sup>24</sup> Crisis Group interviews, Port-au-Prince, February 2006.

<sup>25</sup> Chavannes Jeune is a Baptist pastor and a leader of the Mission Evangelique Baptiste du Sud d'Haiti. He was elected as leader and presidential candidate of the political party, the National Christian Union for the Reconstruction of Haiti (Union Nationale Chrétienne Pour la Reconstruction d'Haïti, UNCRH), in January 2005. The UNCRH party is better known in Haiti as "Union".

<sup>26</sup> Crisis group interview, Port-au-Prince, 15 February 2006.

<sup>27</sup> An example of CEP confusion was its contradictory decisions on blank ballots. During the presidential first round, it made a late night decision to use the "Belgian" system for distributing blank votes among the candidates, thereby permitting a first round win since that method ended any doubt as to whether Prével had passed the 50 per cent threshold. In the parliamentary first round, CEP decided that blank votes were not to be distributed to each candidate but assumed to be valid votes,

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thereby making it more difficult for candidates to cross the 50 per cent threshold and avoid a run-off. In the parliamentary second round, it decided the blank votes were to be considered invalid, and a candidate merely had to achieve a plurality. Crisis Group telephone interview, Port-au-Prince, 4 May 2006.

<sup>28</sup> Bernard left Haiti for the U.S. on 19 February 2006, claiming his life had been threatened. He returned two weeks later demanding that two members of the CEP be dismissed. This was not done but he has resumed administrative management of the election process.

<sup>29</sup> Senate elections for three seats in the Nord-Est Department and fourteen deputy contests in various parts of the country were rerun because of ballot-paper errors, destruction of votes and *procès-verbaux* and other discrepancies on 7 February.

<sup>30</sup> Two seats in the Chamber of Deputies were decided in the first round, none in the Senate.

The four districts in the Nord-Est Department redoing the first round will need to do a second round later. The final ranking of the senators in the second round is important, since the leading vote-getter in each department will serve for six years, the next highest for four years and the lowest of the three successful candidates for two years. Senators will thereafter all be elected for six-year terms but this will allow a third of the seats to turn over every two years.

The unofficial Senate results show that eleven of the fifteen candidates Préval's Lespwa party ran were successful in seven departments. They were shut out in the Nord-Ouest, Sud and Nord-Est Departments. OPL won four seats, Fusion and Fanmi Lavalas three each and four other parties one or two each.<sup>31</sup>

The unofficial and incomplete results for the Chamber of Deputies show Préval far from a governing majority. While Lespwa begins in the Senate with eleven of the sixteen votes needed for a simple majority and can probably count on Fanmi Lavalas for another three, it has won only twenty seats in the lower Chamber, with Fanmi Lavalas adding another five. To obtain a majority (50), it will need to reach out to other parties. It appears Fusion has won sixteen seats, Alyans eleven, OPL/KONBA ten, and Union six. A range of parties holding four or fewer accounts for 21, with another ten seats still uncertain.<sup>32</sup>

To a degree, smaller number of voters made it easy to avoid problems that plagued the first round. The authorities also dealt with some of those problems, for example by hiring 1,000 additional guards for the "mega centres", changing 29 sites and adding 26 annexes. The tally sheets were checked at the eleven department-level electoral offices (BEDs)<sup>33</sup> to be sure that the tamper-proof bags with ballots and tally sheets from the voting centres were complete. MINUSTAH assigned 150 additional international staff to supervise that process. The training of the 36,888 poll workers hired for the second round went into the week of the balloting but it appears that less than a half percent of the tally sheets failed to turn up at the BEDs and the Vote Tabulation Centre.<sup>34</sup> The CEP is investigating seven official complaints of electoral law violations.

In the context of Haiti's political polarisation, Préval's need to negotiate alliances, especially in the lower Chamber, can be positive since he will need to obtain buy-in from a substantial portion of the opposition in order to move his

program forward. If the opposition uses its leverage to pursue policy goals rather than narrow partisanship, the entire process could benefit. It would be the kind of shift in political paradigm Haiti desperately needs.

## IV. THE CHALLENGES

### A. SECURITY

Since January 2006, Port-au-Prince has experienced a welcome reduction in violence and crime, including kidnapping. This reflects the support Préval enjoys from a number of gang and community leaders in the poorer areas, in particular Cité Soleil. Soon after the election, one alleged gang leader, Augudson Nicolas ("General Toutou"), announced that his followers would hand over their guns to the government. Another, Amaral Duclona, who is considered one of Cité Soleil's most powerful figures and is also often referred to as Haiti's "most wanted man", openly campaigned for Préval. He said he and his followers wanted peace but that their willingness to disarm would depend on implementation of a generalised disarmament program.<sup>35</sup> The new administration needs to take advantage of such support from gang leaders and their supporters in order to make the precarious peace a lasting one but the bottom line is that the illegal armed gangs cannot be allowed to continue to operate.

Préval has said that Cité Soleil's security problems cannot be resolved by military means, and he wants to prioritise improvements in the dire socio-economic conditions.<sup>36</sup> At the same time, Fanmi Lavalas grassroots leaders from Cité Soleil say there is a willingness to work with the authorities to implement programs benefiting the poor. Two – René Momplaisir and John Joel Joseph – are in continuing touch with the transition team, with the former accompanying Préval on some of his foreign travels, including to the U.S. This is a bold but risky move. It gives the new administration the line into the area it needs to implement education, health and job-creation programs. If the programs are not implemented quickly enough or fail to prevent a resumption of violence in Cité Soleil, however, the administration's association with these leaders will damage its reputation with those who still maintain a deep antipathy to the Fanmi Lavalas party.

While pursuing engagement directly with community leaders and indirectly with gang leaders willing to renounce

<sup>31</sup> See full breakdown of election results at <http://207.234.224.237/eis2da/>.

<sup>32</sup> Préval has shown more inclination to try for an alliance with OPL, Fusion and Alyans in parliament rather than with Fanmi Lavalas.

<sup>33</sup> Because of its size the Ouest Department has two BEDs.

<sup>34</sup> Crisis Group interview, Port-au-Prince, April 2006.

<sup>35</sup> Jim Loney, "Joy greets Préval victory in violent Haiti slum", Reuters, 16 February 2006.

<sup>36</sup> Radio Solidarité interview, 3 February, 2006; "Haiti's president-elect meets with Rice, Mbeki", Agence France-Presse, 13 March 2006.

violence and participate in community regeneration projects, the Prével government will simultaneously need to reassert the rule of law in Cité Soleil and other poor areas of the capital. A first step would be to re-establish a police (HNP) presence in Cité Soleil. The withdrawal of MINUSTAH's Jordanian regiment from its deployment on the outskirts of Cité Soleil and its replacement by a Latin American contingent would be another significant contribution to improved relations between the local population and the authorities. Differences of language, culture and approach have made it hard for the Jordanians to handle the urban complexities, particularly when they have been the target of sniper and other attacks. As a result, they have been criticised for using excessive firepower in densely populated areas, particularly following the killing of two of their members.

There has not yet been any real disarmament, demobilisation and reintegration (DDR) program. In part this is due to the difficulties of implementation in the absence of a peace accord, a reconciliation process, or a political agreement with the elements that support the armed groups.<sup>37</sup> However, the new administration's standing in areas like Cité Soleil suggest prospects are much improved. Prével and MINUSTAH need to act quickly on DDR. With regard to the ex-FAD'H, the transitional government focused on disbursing back-pay, and some minimal DDR has taken place. This never moved, however, from some partial payments more than a year ago to a completed process of registration, turn-in of weapons, identification and dismantlement of command structures and monitoring of reintegration. Some ex-FAD'H were introduced into the police after questionable vetting and training.<sup>38</sup>

The new government should link disbursement of any still owed payments to the handover of weapons and full dismantling of any organised structures. Similar tangible results and agreed deadlines should be imposed on the DDR process in urban slums. No one should be allowed on the streets with heavy weapons other than police and all small arms should be licensed.

As part of the effort to deprive illegal armed groups of revenue from drug-trafficking and other smuggling and interrupt illegal trafficking in small arms and light weapons, at least one port should be secured by MINUSTAH, criminal elements removed and, in concert with the Prével government, run jointly for a brief period while donors help the new government restructure the operation. After evaluation, the experience could be replicated in other ports. Spoilers involved in smuggling and customs

evasion and political entities linked with criminal networks are active at most ports, but Gonaïves, Saint-Marc, Fort Liberté and Miragoâne would be good candidates for an UN-run process of restructuring and reform, which would also assist the government by bringing in revenues otherwise lost to corruption and smuggling. Similar controls at key border crossings with the Dominican Republic would likewise be beneficial.

## B. POLICING

The threats posed by hard-core criminal elements, those with links to drug-trafficking and former rebels from the 2004 uprising<sup>39</sup> who fail to disarm require a concentrated enforcement strategy. The first step should be a determined and coherent program to reform, professionalise and enlarge the HNP.

HNP strength is estimated at 4,500, though the official figure, following graduation of three police academy classes, is more than 6,000. The imprecision is indicative of the problems confronting the Haitian authorities and MINUSTAH in attempts to reform the HNP. MINUSTAH's registration of HNP personnel should have been completed in March 2006 as precondition for serious vetting. Although the HNP chief, Mario Andrésol, said he believes 25 per cent of his officers are corrupt and should be dismissed, the transitional government showed little interest. The protest from Haitian nationalists in late February when Prime Minister Latortue signed an agreement giving MINUSTAH greater control over the HNP illustrated the issue's sensitivity.<sup>40</sup> Facing criticism for perceived surrender of sovereignty, the transitional government unfortunately announced it would delay implementation until Prével took office. The new government must take advantage of the major commitment the UN has made to have MINUSTAH quickly proceed with vetting, beginning with the HNP leadership and working through the ranks.

Andrésol showed leadership by volunteering to be the first vetted. The process must seek to identify not just those involved in criminal activity, corruption and human

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<sup>37</sup> Crisis Group interview, Desmond Molloy, MINUSTAH, March 2006.

<sup>38</sup> See Crisis Group Special Briefing, *Update on Haiti for the UN Security Council*, 8 April 2005, and Crisis Group Report, *Spoiling Security in Haiti*, op. cit.

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<sup>39</sup> In Gonaïves in late March and early April 2006, former members of the so-called Cannibal Army were involved in violent clashes with HNP and MINUSTAH forces and attacked a police station in an effort to free one of its leaders.

<sup>40</sup> Crisis Group telephone interview, New York, 22 February 2006. The agreement's title is "Arrangement on the monitoring, restructuring and reforming of the Haitian National Police (HNP) and the restoration and maintenance of the rule of law, public order and public safety in Haiti – Supplement to the Agreement between the United Nations and the Government of Haiti Concerning the Status of the United Nations Stabilisation Mission in Haiti (MINUSTAH)".



rights violations but also members of cells with political ties.<sup>41</sup> Two ex-FAD'H officers with political aspirations, former Fanmi Lavalas Senator Dany Toussaint and ex-rebel leader Guy Philippe, have close links with HNP elements that need to be broken if the force is reformed.

The HNP is demoralised, its infrastructure in need of repair. The entire institution needs reinforcing, and the process cannot start soon enough. The UN police (UNPOL) should extend monitoring and coaching of HNP officers in the field and locate in HNP stations, rather than just visit. MINUSTAH's mandate expires on 15 August. The new one should clearly detail an expanded UNPOL role and an increase in its numbers by a factor of two or three, as requested by Préval, particularly specialists and French-speakers.

Closer monitoring and accompaniment of HNP officers in the field is necessary both to instil new approaches, best practices and human rights values, and to help restore public confidence. Improved work conditions and salaries, as well as welfare benefits such as health and life insurance and perhaps housing assistance, should be an essential part of the reform package and organised with performance incentives.<sup>42</sup> Salaries – averaging around \$100 monthly – should be increased in order to reward competence and honesty, reduce corruption and attract new, better-quality recruits. If UNPOL officers are to share premises with the HNP, as they should, police stations need to be renovated.

The international community has a crucial role to play in helping the new government meet the policing challenge. Donors need to guarantee funding, including for a long-term program of recruitment and training to produce up to 15,000 new, non-politicised officers. Member states are reluctant to second police to UN missions but Haiti's case is urgent. Particularly those with French-speaking police and police of Haitian background, such as the U.S. and Canada, must act to fill UNPOL ranks. While Canada has sent several hundred to UNPOL, including a Royal Canadian Mounted Police officer who heads the division, the U.S. has sent only 49, far fewer than it could.

## C. POLITICAL

### 1. Préval reaching out

Préval's landslide victory gives him a mandate to implement his campaign pledges to eliminate corruption, establish security and reform the police and judiciary

in order to create a climate receptive to the private investment required for economic development.<sup>43</sup> It is a program on which nearly all Haitians can agree, and his election support, while predominantly among the poor, also included middle class and private sector components. One of his main political challenges is the weight of expectations across the spectrum of society.

Reflecting his broad appeal, the president-elect has assembled a heterogeneous team of advisers. These include members of his earlier administration, such as former Prime Minister Jacques-Edouard Alexis, former Foreign Minister Fritz Longchamp, and Robert Manuel, the former secretary of state for public security who resigned in 1999 following a concerted campaign by elements within the Fanmi Lavalas Party to take control of the HPN. Also present are Charles Suffrard, the KOZEPEP peasant leader, and members of the two small political parties in the Lespwa alliance, such as Joseph Jasmin, the former Eskanp deputy for the Nord Department in the 1995-1999 Parliament.<sup>44</sup> Préval also enjoys the close support of prominent private sector personalities such as Pierre Léger, the successful vétiver producer from Les Cayes. On three of his foreign trips since the election, Préval was accompanied by private sector delegations, members of which responded positively to his approach and ideas. However, the new president will only be able to satisfy his diverse supporters if he receives sustained international help.

Préval's relations with the party of the previous elected government, the Fanmi Lavalas, are ambivalent. Although much of its 2000 vote switched to Lespwa, the barring of the candidacy of the imprisoned Jean-Juste and the decision of one of its factions to ally with the unpopular Marc Bazin were significant contributing factors, and Préval cannot take further support for granted. He has stressed that he was never a member of the party and has criticised the corruption of its government. He has good links with some grassroots Fanmi Lavalas leaders but he also has other bases of support, particularly among the rural poor.

During the pro-Préval protests in Port-au-Prince in the days before his victory was announced, some demonstrators chanted that a vote for Préval brought the return of Jean-Bertrand Aristide closer. But while ties between parts of

<sup>41</sup> Crisis Group interview, Graham Muir, UNPOL, 23 February 2006.

<sup>42</sup> Crisis Group interview, Dennis Modeste, OAS Mission to Haiti, 17 February 2006.

<sup>43</sup> In an address to the OAS on 29 March 2006, President-elect Préval said: "We must reform the state to build the nation, restore national production, develop and value human resources, and re-establish a favourable climate for investment". <http://www.oas.org/main/main.asp?sLang=E&sLink=http://www.oas.org/documents/eng/speeches.asp>.

<sup>44</sup> The Eskanp party emerged from the splintering of the Lavalas Political Platform (PPL) in 1996-1997 and joined an anti-neo-liberal bloc in the Parliament.

the capital's poor and the ousted president have endured, they will fade as time passes, especially if the new government can deliver on some of the popular expectations. In an interview with the BBC from South Africa on 23 February 2006, Aristide interpreted the election as an indication of the electorate's wish for his return to Haiti. That appears an effort to re-write history since Aristide originally called for a boycott. His widely reported remarks had a destabilising effect. When pressed by reporters about Aristide, Préval repeated earlier remarks about the constitution both allowing all Haitians to leave and enter the country and giving them recourse to law – the latter a barely veiled reference to cases frequently rumoured as being prepared against Aristide for corruption and misappropriation of government funds.

At the end of February, South African representatives suggested Aristide would soon return. In response, diplomats representing some of the countries involved in the Haitian transition and peacekeeping suggested an early return would destabilise an already highly fragile country. At the inauguration of Chilean President Michelle Bachelet, President Thabo Mbeki was urged by other heads of states and foreign ministers to head off the polarising and potentially conflict-producing impact of an Aristide return. And, in early April, South African Foreign Minister Nkosazana Dlamini-Zuma said any decision would be put off until the new Haitian government was established and could consider the issue.

In attempting to forge alliances to assemble a working majority in the new parliament, Préval and Lespwa reportedly have received positive responses from Chavannes Jeune's UNCRH and the social democratic Fusion. However, it appears that formal coalition building will only be concluded once legislative election results are final. Diplomats should use their contacts to impress upon all candidates and party leaders that regardless of who wins, the results need to be accepted with good grace, since most observers now have described the elections to have been generally fair and free. The importance of giving the new government a chance and of a constructive opposition should be firmly underscored. A decision on holding the delayed municipal and local elections is unlikely until the new parliament is in place. Experts indicate that council elections in some 140 municipalities can be held relatively soon but it may be necessary to postpone village-level elections until new district lines are drawn.<sup>45</sup>

## 2. National dialogue

The traditional parties' poor results in the presidential election (except Manigat's RDNP) and the increasing attraction exercised by the Group of 184's platform for

civil society among the private sector highlight the need for a genuine national dialogue process. For decades, large sections of society have been left outside the decision-making process, without any stake in planning the country's future. If the new government is to develop the consensus and cooperation needed to address its challenges, national dialogue cannot be left to the parties and the better organised, Port-au-Prince-based, civil society organisations, although they are essential. Other parts of civil society, particularly peasant organisations and groups representing the rural and urban poor, must not only be encouraged to participate fully but also be given the means to do so. The World Bank's intention to help Haiti develop a Poverty Reduction Strategy Paper should serve as a driving force for that dialogue, which will need the people as a whole to help define development priorities for reducing rural poverty.

## D. ECONOMIC

In his address to the UN Security Council on 29 March 2006, Préval said Haiti is "a country waiting to be built" and called for additional funds to confront urgent problems of poverty, unemployment and infrastructure. His administration will need immediate financial support to address the effects of recent vehicle fuel price rises and to allow it to resolve the electricity supply crisis that has left most of the capital without light for weeks. Perhaps some way could be found to convince businesses to provide at cost the surplus electricity most can produce from their private generators. Increased transport costs have a knock-on effect on the prices of everyday commodities, and day-long blackouts seriously hamper economic activity. Both are eroding the fragile optimism present since the election. In early 2004, the new transitional government won valuable breathing space when a U.S. Agency for International Development grant allowed it to procure fuel for electricity generating stations and restore the capital's supply. Aid should be provided to allow the Préval government to do the same and to offer some reprieve to rural communities. Similarly, financial support is needed so it can find some way of subsidising the price of "tap-tap" public transport.<sup>46</sup>

More generally, the government's immediate challenge is to secure rapid disbursement of foreign aid to fund high-profile, rapid impact public works programs and create tens of thousands of new jobs in both urban and rural areas. Haiti needs to insure that more is done to spur off-farm income generation in rural areas and stem the migration to Port-au-Prince that makes urban governance ever more uncertain. Effective economic governance mechanisms

<sup>45</sup> Crisis Group interviews, Port-au-Prince, February 2006.

<sup>46</sup> Colourful privately-run buses called "tap-taps" are the major public transport.

will be key to enabling donor funds to flow more quickly. It is a measure of the urgency of the need to create new jobs as a way of preserving the fragile stability that Préval has repeatedly stressed the desirability of the U.S. Congress passing the HOPE Act to allow garments assembled in Haiti preferential access to the American market. The boost such legislation would give to the Haitian garment assembly industry is estimated at up to 80,000 new jobs.<sup>47</sup> Préval, when he met with President Bush, also cited improving opportunities for Haitian children and U.S. support for public works projects as high priorities.<sup>48</sup>

The World Bank-sponsored donors meeting in July needs to agree on the necessity of revamping the Interim Cooperation Framework, developed hastily in early 2004, with minimal civil society involvement, as a transitional measure. Although extended through 2007, it will be reviewed following a "stocktaking" that is being prepared for the Brasilia ministerial meeting this month. It will be further updated for the July donors pledging meeting in Port-au-Prince based on the new government's priorities. A new coordinating mechanism for a short and medium-term economic development strategy should be established to operate with maximum participation and in a fully transparent manner. In addition, the new government needs donor help to plan and, in particular, to use foreign aid in a fully transparent fashion. It should ask the World Bank for the same kind of economic governance assistance currently given to Liberia, where a government management assistance project (GMAP) both advances the president's goals of fighting corruption and building state institutions and coordinates donor funding through a more transparent budget process.<sup>49</sup>

Haiti's education system remains a disaster area. At least 40 per cent, and some estimates say 65 per cent, of school-age children are not in school; less than 40 per cent go past seventh grade; and barely half the 45,000 teachers are reported to have a ninth grade education.<sup>50</sup> Perhaps 85 per cent of students in school must attend private institutions because the public education system has been given little priority, has virtually no resources and is held in low regard. Standards are not comprehensively enforced, texts not universally available, and education is largely by rote. Reform is badly needed at every level. The immediate

crisis is that since the vast majority of schools require fees, and the economy is abysmal, many schools are expelling students for failure to pay. This must be high on the agenda for action.<sup>51</sup>

Préval has signalled his intention to move quickly to assist agricultural producers, in recognition that while this sector is still the main source of livelihoods for two-thirds of the population, 80 per cent of those live below the poverty line. During his campaign, he spoke of repeating the initiative of his first presidency to reduce the price of fertilizers as a means to relieve pressures on peasant farmers and boost the output of staple food crops.

On the eve of his trip to Brazil, Préval visited the sugar refinery at Darbonne, near the southern town of Léogane, that had been refitted and brought into operation with Cuban aid during his first presidency. He declared he would seek Brazilian technical expertise to help modernise the once thriving sugar sector. Further international assistance is needed to support production and commercialisation of traditional (coffee, cacao, essential oils) and non-traditional (vegetables, mangoes and other fruit) export crops and products. A determined approach to developing sustainable agriculture must also address the ecological disaster. An alternative to the use of charcoal – the cooking fuel for the bulk of the population – is urgently needed because deforestation and soil erosion have made Haiti one of the most environmentally degraded places in the world. Ethanol and bio-diesel fuel from local products as well as methanol gas have been discussed as options. Given the country's recent history with floods, environmental protection as part of a natural disaster prevention and response capability is critical.

The president-elect has emphasised rapid urban job-creation and stimulating agricultural production with an emphasis on South-South cooperation and technical assistance, while still acknowledging the importance of the garment assembly sector. This ambitious approach has something to offer a variety of sectors of society and with determined international effort could both secure popular support for the government and turn the economy around. Préval and his advisors also need an offer of additional staff and management assistance to help them take over the government apparatus in the first weeks. International aid needs to be disbursed even before the July donors conference to fund Préval's short-term economic initiatives; there is some indication that Canada, the U.S., the Inter-American Development Bank and the World Bank are taking steps to do that.<sup>52</sup>

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<sup>47</sup> "Less Poverty, More Hope – René Préval", Miami Herald, 29 March 2006.

<sup>48</sup> "CRS Report for Congress, Latin America and the Caribbean: Issues for the 109<sup>th</sup> Congress", updated 29 March 2006, Congressional Research Service, Library of Congress, p. 27.

<sup>49</sup> On GMAP, see Crisis Group Africa Report N°98, *Liberia's Elections: Necessary but Not Sufficient*, 7 September 2005.

<sup>50</sup> "The role of the private sector in rebuilding Haiti", sponsored by the Inter-American dialogue, Inter-American Development Bank (IADB) and Canada (CIDA), September 2005.

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<sup>51</sup> Crisis Group interviews, Washington, April 2006.

<sup>52</sup> Canada announced a new \$48 million grant to Haiti during Préval's visit, 1 May 2006. It is to be used for a local development program (\$20 million), a project to strengthen

## E. JUSTICE REFORM

The new government's first task is to remedy the harm done by the transitional government. The recent report by the Inter-American Commission on Human Rights (IACHR) noted that past international efforts to attack deficiencies in the justice system had failed to produce lasting change.<sup>53</sup> It also noted that 85 to 90 per cent of current prisoners, including children, are awaiting trials.<sup>54</sup> More than a few have been in jail longer than the maximum sentences of the crimes for which they were charged or for which they have been detained but not yet charged. The IACHR condemned these violations of due process.<sup>55</sup> For this reason – and to demonstrate its commitment to the rule of law – the incoming government should quickly address the cases of the leading imprisoned Fanmi Lavalas figures, including former Prime Minister Yvon Neptune, former Interior Minister Jocelerme Privert and party activists such as Annette Auguste and Jacques Mathelier. One solution to this delicate issue would be to appoint a commission (including international jurists) to review the cases and decide if these and other long-term, pre-trial detainees should be brought to court or released.

Politicisation of the justice sector also has a flip side – the highly questionable release of suspected or even convicted criminals under dubious circumstances. An investigation should be launched at once into all cases in which individuals have been freed without a full judicial process, with a view to attacking impunity. The IACHR specifically questioned the release of Louis-Jodel Chamblain and Jackson Joanis, who had been convicted

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the parliament (\$5 million), several organisations promoting democracy and human rights (\$5 million) and debt relief (\$18 million), <http://www.acdi-cida.gc.ca>. The World Bank announced a new \$16 million grant for rural roads on 11 April 2006. <http://web.worldbank.org/>. The IADB announced it has more than \$554 million still available in unexpended financing for Haiti and in a Washington meeting with him Bank President Luis Alberto Moreno pledged to “marshal all available resources to expedite project execution and to assist Haitian authorities in improving the government's capacity to manage foreign assistance”. <http://www.iadb.org>. The U.S. Congress, with bipartisan support, is close to adding \$40 million to an emergency spending bill, which should provide support to the Préval government within weeks of his inauguration for police and justice reform, jobs and health. Crisis Group interviews, Washington, April 2006.

<sup>53</sup> “Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community 2005”, Inter-American Commission on Human Rights (IAHCR), 26 October 2005.

<sup>54</sup> On 29 March 2006, the National Ombudsman's Office (*Office National Protecteur du Citoyen*) stated that 92 per cent of the prison population is being held in prolonged preventative detention.

<sup>55</sup> IACHR, *op.cit.* pp. vi, 65-71.

in absentia for the murder of Antoine Izmerly.<sup>56</sup> It also has been reported that police officers who were arrested in connection with the Martissant massacre in August 2005 have been released. But in the longer term, the conditions allowing the justice system to be manipulated should be addressed, including low pay scales, inadequate training and resources, lack of judicial independence, politicisation in tenure, inadequate security and no effective professional review.

The several international assistance programs over the past two decades have failed to strengthen a woefully weak underlying institutional structure, due in part to the short-term nature of some projects and associated funding, the absence of ongoing technical and other support and lack of coordination. A new judicial reform process needs to address all these failings, and the process must succeed because, as the head of a leading Haitian human rights organisation said, “if the judicial system does not work, there cannot be progress in any other sector”.<sup>57</sup>

Local human rights organisations must be consulted in the design of comprehensive judicial reform. At the same time, the judiciary must urgently be provided with the basic facilities and resources necessary to perform its functions, including training and oversight. Judges need re-training, and new judges need to be recruited and trained, so the Ecole de la Magistrature should be quickly re-opened. Another urgent priority is to end impunity for past human rights violations. One way would be to establish a special panel or chamber of the civilian courts at which well-trained, well-paid, and well-protected judges and prosecutors, with specialist international assistance, perhaps including the IACHR, would review the most notorious cases.<sup>58</sup>

## V. CONCLUSION

The unexpected success of the 7 February and 21 April elections and the victory of René Préval have given Haiti the chance to put years of instability, violence and

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<sup>56</sup> *Ibid*, pp. 75-76. Chamblain, then a member of a paramilitary force known as FRAPH, and Joanis, then a member of the FAd'H, were convicted in absentia in 1995 for the Izmerly murder. During the transitional government, both turned themselves in and were acquitted after the High Court rejected the initial order for a trial by jury and ordered a judicial trial at which the Appeals Court judge found insufficient evidence.

<sup>57</sup> Crisis Group interview, Pierre Esperance, National Human Rights Defense Network (RNDDH), Port-au-Prince, 18 February 2006.

<sup>58</sup> Crisis Group interviews, Thierry Fagart, MINUSTAH human rights section, Port-au-Prince, 21 February 2006, and Danielle Saada, MINUSTAH justice section, Port-au-Prince, 28 February 2006.

economic decline behind it. The new president's first 100 days are crucial for securing democratic government and beginning the long process of social and economic renewal. The incoming administration faces an array of challenges, and it is essential the international community provides the funding and other aid to help it attend quickly to the most urgent. Perhaps the greatest is that Haitians have enormous expectations that the government will rapidly change their miserable living conditions.

President Préval and donors should consider some immediate actions the week after the inauguration:

- ❑ announcing the start of an UNPOL vetting commission to review the HNP, starting from the top with Mario Andrésol and continuing through all ranks, regardless of when they joined the force;
- ❑ announcing appointment of a combined international/Haitian commission of jurists, with Inter-American Commission on Human Rights help, to review cases with serious due process implications, including those of former Prime Minister Neptune and of other individuals detained either without charge or without trial and those released under questionable circumstances;
- ❑ immediate steps to increase the numbers of hours of electricity in Port-au-Prince and other cities;
- ❑ as a first step toward education reform, strengthening public education and universal primary education announcing a commission, including both international experts and former Haitian education ministers, to review expulsions from schools due to the inability of families to pay fees;
- ❑ either reinvigorating or forming a new DDR Commission, including MINUSTAH and other international experts, to prepare plans to achieve within six months disarmament and demobilisation of illegal armed groups, whether ex-FAD'H or urban gangs, linked to appropriate social reinsertion; and
- ❑ requesting that the upcoming ministerial and donors meetings adopt a support strategy with at least a ten-year horizon and goals of security, justice and economic growth, prioritising rural development, decentralisation and poverty reduction.

The first orders of business for Préval need to be maintaining the improved security situation and implementing programs that address the underlying causes of urban violence and crime. Mending the political divisions that widened during the two years of transitional government is a crucial aspect of this. The Fanmi Lavalas party and its supporters and the virulently anti-Aristide middle and upper classes need to put aside their mutual antipathy and give the new government constructive

support. Préval has stated that he sees quick impact socio-economic programs to improve the daily living conditions of the poor majority as an essential contribution to social and political stability. He requires strong international support: rapidly disbursed funds and technical assistance.

An overhaul of the HNP and fast progress with DDR are two priority areas for MINUSTAH. Préval has implored the UN and states contributing personnel to MINUSTAH to remain in Haiti, and member states must resist the urge to reduce their participation. Disengagement at this stage would be extremely short-sighted and likely result in renewed instability and conflict requiring future intervention in even worse circumstances. The most cost-effective investment now for the UN, the OAS and their member states is to ensure stabilisation and security so that the Préval government can turn, with their help, to institution-building, rule of law, governance and poverty reduction via economic development.

Haiti's established political parties and the politically-engaged sectors of the Port-au-Prince elite must take stock following the rebuke delivered by the electorate on 7 February. Party leaders must realise that they will only get votes in future if they address the hopes and aspirations of large numbers of people in a realistic way. The poor are the majority, and sections of the elites need to recognise that those Haitians have full voting rights and now expect changes that will improve their lives. Otherwise, Haiti could become the hemisphere's first permanent failed state.

All involved in the political arena need to acknowledge that the incoming government offers a real opportunity for Haiti to break out of a downward spiral but it needs constructive and sustained support. If this government fails, state – and all its people – will fail with it.

**Port-au-Prince/Brussels, 11 May 2006**

## APPENDIX A

### MAP OF HAITI



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with nearly 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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