

**HAITI STRATEGY:
CONTROL, LEGITIMACY, SOVEREIGNTY,
RULE OF LAW, HANDOFFS, AND EXIT**

Gabriel Marcella
Department of National Security and Strategy
U.S. Army War College

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FOREWORD

Now that the armed forces of the United States have entered Haiti, what is the exit strategy? As the United States, the government of Jean-Bertrand Aristide, and the United Nations coalition establish order, it is best to be mindful of the tasks ahead: building a new authority system based on the rule of law, instilling respect for human rights, and developing those values common to democratic communities around the world. The two keys to the success of this strategy will be how Haiti handles the amnesty question and what kind of judicial and police system is developed.

The United States should not allow its exit strategy to be determined by the success or failure of the above. In this paper, Professor Gabriel Marcella of the U.S. Army War College proposes an interlocking strategy that emphasizes the achievement of limited objectives by the United States. He contends that our strategy should emphasize the humanitarian dimensions of our assistance rather than pursue the open-ended goal of the restoration of democracy. Such an approach provides the United States greater hope for success and the probability of a dignified exit.

WILLIAM W. ALLEN
Colonel, U.S. Army
Acting Director, Strategic Studies Institute

BIOGRAPHICAL SKETCH OF THE AUTHOR

GABRIEL MARCELLA is Director of Third World Studies with the Department of National Security and Strategy, U.S. Army War College. He holds a Ph.D. degree in History from the University of Notre Dame. He has taught at Notre Dame, Temple, and St. Joseph's Universities, and served as International Affairs Advisor to the Commander-in-Chief, U.S. Southern Command, Panama, 1987-89. He has written extensively on strategy, low-intensity conflict, and Latin American policy. He is coauthor of *Reconciling the Irreconcilable: The Troubled Outlook for U.S. Policy Toward Haiti*. His writings have appeared in the *Journal of Inter-American Studies and World Affairs*, *Estudios Internacionales*, *Inter-American Economic Affairs*, *North-South*, *Analisis*, *Seguridad Estrategica Regional*, *Military Review*, *Parameters*, *Air University Review*, and in various edited volumes. His most recent effort, *Warriors in Peacetime: The Military and Democracy in Latin America*, will be published in 1994. In addition, he has served on policy study commissions dealing with Caribbean security, Central American recovery and development, international terrorism, and U.S. interests in Latin America.

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How to Exit Haiti.

Now that the United States is in Haiti how do we exit? Restoration of President Aristide to power is relatively easy, but bringing accountability and decency to an authoritarian and corrupt political culture is highly problematical. As the United States, along with President Aristide, and the U.N. coalition establish control over a complex security situation, we need to be mindful of the tasks ahead. In Haiti we face the challenge of establishing a new authority system based on the rule of law, human rights, and democratic community-values totally at variance with the political culture which has dominated for two centuries. Prudent and thorough planning now will allow us the flexibility to minimize wild card surprises in the upcoming months.

What follows is a sketch of a strategy that we must pursue to achieve a dignified exit. The strategy incorporates the concepts of control, legitimacy, sovereignty, the rule of law, handoffs, and exit. Briefly the concept is this: the manner in which we establish control and aid President Aristide in constructing a legitimate process as we hand off to him and the United Nations will determine how we can develop a successful exit strategy. I argue for a strategy of limited objectives, one that emphasizes humanitarian assistance, and recommend early exit if Aristide fails to uphold his part of the deal.

Control.

This initial phase continues as of this writing. Primarily we have entered Haiti with military forces, following a last minute agreement that fundamentally altered the original strategy of nonpermissive entry. Members of the old power structure are now part of the solution. The military and police have not been decapitated, defeated, disarmed, and disgraced as the result of a U.S. military invasion/intervention. We are working with these former "hostiles" to establish order, and have conducted the initial handoff to Aristide on October 15 and, prospectively, to the United Nations in March 1995. The challenge here is to also integrate the old power structure into the new political process rather than marginalize it. Our troops have demonstrated great professionalism under difficult circumstances of rapidly changing rules of engagement, in the context of a strategy in evolution to support an ambitious policy. We are still trying to define the limits of the U.S. commitment.

Establishing secure control and civic order will constitute an important achievement, but it begs the fundamental question: to what avail? What is the desired end state and how much time and resources will we and the U.N. coalition have to achieve it,

as we work with Aristide and the new government?

Legitimacy, Sovereignty.

As we establish order, we must understand that we have temporarily taken over Haiti's sovereignty and that our actions have long-term political consequences on a society which will shape such actions to meet its needs. Sovereignty will be restored as work proceeds on a desired end state of a new political order that respects human rights, individual liberty, the constrained use of force, the rule of law, and the right of people to freely express themselves and organize politically. This is an immense task in a society that has been dominated by violence, repression, and corruption since it was a French slave colony. But let's not kid ourselves: full sovereignty will not be restored until all foreign troops depart. We have generated enormous expectations among Haitians, the international community, and at home regarding the consequences of the suspension of sovereignty. The new political order must have another payoff: economic opportunity and satisfaction for a population subjected to massive unemployment, extreme poverty, and a declining ecological system.¹

Such payoffs will provide legitimacy to the new political order. But legitimacy will be short-lived if the payoffs are not sustained. Moreover, societies in deep internal conflict tend to prefer order over uncertainty and chaos. Haiti is a deeply fractured and insecure society. How our troops and commanders behave as role models (rules of engagement and professionalism) will help promote a distinct and humane approach to conflict resolution and establishing public security. So how will we deal with the mobs and the inevitable civic action and repair of the dilapidated physical infrastructure? Whether we like it or not, we are involved in nation building. Haitians almost universally appreciate our efforts, but we will eventually leave them to tend their own affairs.

The critical test of legitimacy will be the shape and effectiveness of the judicial system and the police. In this deeply dysfunctional society the law of the gun has prevailed. Power traditionally has been viewed as a zero-sum game. To eliminate this from the political culture will require generations-time that we will not have, and a resource that will be controlled by Haitians. Our timetables and measures of effectiveness for establishing security, economic growth, and accountable institutions may differ significantly from those of the new Haitian authorities. The best we can hope for is to establish a foundation for a new attitude among the class of leaders that will assume power in the coming weeks and months. At a minimum, Haiti will need an independent judiciary, a professional and fair criminal justice and investigative apparatus, and the separation of internal security (police function) from external security (military). A conscious decision

will have to be made about how to perform two functions normally considered military: border security and crowd and riot control. This is a society riven with deep insecurities, where the police have been subordinated to the military, which in turn has been subordinated to the interests of the tiny elite. (More recently, the military has become largely independent as its leaders have become economically independent in their own right.) The challenge here is enormous and we should not minimize it.

Rule of Law.

As we move into the next phase of the operation, the Aristide government will have to face the issue of how to deal with the outlaws, kidnappers, murderers, rapists, and torturers. Will they be all subjected to criminal prosecution? How so if there is no functioning judicial system? Will the criminals among Aristide's supporters also be held accountable? Will summary justice be applied? Will the rule of the mob prevail? Will the amnesty given to Cedras and Biamby provide justification for others to claim amnesty, and if so will the cause of peace and reconciliation be served by extending the amnesty? How far will the restored government go in vetting the police, the military, the judiciary, the ministries of government—separating the good from the bad? How about the irregulars, the attaches and paramilitaries? How far will the amnesty go and who will not be included? Will compromises be made in this process because of expediency or partisan politics? Will the criminals and human rights violators be subjected to due process, or will they be released to the tender mercies of those waiting to exact vengeance?

Amnesty is also related to the prospects for political stability and economic growth. Based on the Eastern European and South African experiences, Michael Mandelbaum of Johns Hopkins University recommends a broad amnesty:

For the sake of social peace, the democratic authorities in Eastern Europe and South Africa decided to forego settling accounts with their former oppressors. Father Aristide will have to do the same. That is why a broader grant of amnesty than most Haitians seem to favor is necessary, even at the expense of justice.

The returning President must conciliate his enemies for another reason. Political stability requires economic progress, which in turn requires capital and those who know how to use it. Both are to be found in the ranks of Haiti's economic elite. . . .²

To accomplish this ambitious agenda of policy questions requires Aristide and his successors to have a legitimate and respected coercive capability in the form of a functioning police

and judicial system. That does not exist now and is completely alien to Haitian political culture. Moreover, establishing a fair and functioning judicial system requires a national commitment and generational support. It also requires autonomy from the executive and legislative branches. Absent an effective judicial system, the tendency will be, as was the case of post-Just Cause Panama, to either throw a large number of suspects into filthy and crowded jails, leave them there for a long time because the court system does not work, or release some because of insufficient evidence. Such measures did not advance the cause of democracy in Panama and they promise to be even more disastrous in Haiti because the institutional capabilities there are weak to nonexistent. Making matters more uncertain is that even in the absence of a professional and ethical Haitian police force, the U.S. military and the U.N. coalition will be reluctant to conduct police arrests and superintend public security indefinitely.

Other societies that have experienced internal conflict in recent years, such as Argentina, Chile, Uruguay, South Africa, and El Salvador, have dealt with the question of legal impunity. All five decided to punish a symbolic few at the top. El Salvador's case may be most instructive for Haiti. The Salvadorans decided that enough blood had been spilled in 12 years of war. They recognized that a fragile criminal justice system that was very weak in police, investigative, and prosecutorial capabilities and political will could not possibly handle the enormous task of bringing so many offenders to justice. Thus, for the sake of peace and reconciliation, only a few of the principal offenders were identified and punished. The Salvadorans now allocate the large sum of 6 percent of the national budget to the judicial system. An important support element in their case was a unique combination of internal circumstances, where peace and reconciliation were preferred by all the warring sides, and external support—the role of the United States, the U.N., and even the Soviet Union—that helped persuade the contenders to work to end the war. These conditions do not exist in Haiti; part of the challenge of establishing a legitimate process will be to convince all sides that they have a constructive stake in the new political order.³

El Salvador has a long way to go before the rule of law is firmly rooted, but it is far ahead of Haiti. Critical to success in the latter will be changing the acceptance of legal impunity at the top of society.⁴ In other words: if the leaders of Haiti continue to behave illegally, continue to issue illegal orders to their subordinates in the new system of authority, and if these illegal orders are obeyed, then the culture of impunity will not change and Haiti will be back to its normal dysfunctional state. President Aristide bears an enormous responsibility to set a new model of executive behavior. He will have to exercise Solomonic wisdom to discourage illegal conduct among his supporters toward their former tormentors. Habits of conciliation and compromise rather than vengeance will have to be inculcated. Upon his return on October 15 he proclaimed: "No to violence, no to vengeance,

yes to reconciliation." These are welcome sentiments, but it remains to be seen whether they can be implemented.

One of the lessons learned in Panama is that you cannot take thugs and make them into law-abiding and respected police. The society will reject them and their morale will diminish. Thus, it is imperative that the new police be thoroughly vetted, trained, and imbued with a professional ethos that will command the respect of the community.⁵ Any quick fix short of this will be disastrous and invite chaos in the streets. Given this immense task and the public repudiation of the police, Haitian police *should not* return to patrol duty for a year. The U.S. forces and those of the coalition will have to do the possible and provide a limited policing role, supported by those Haitians who are competent and have a clean record. This will allow more time for professional training and for educating the population about the new police. It is precisely time which may be the scarcest resource, because of the requirements of American domestic politics and perhaps because of Aristide's policy choices. These constraints may prove insuperable and force the dreaded quick fix. We're into a Hobbesian dilemma over the police and judicial system.

Aristide and the Handoffs.

Aristide is a difficult man to deal with, and he will be more so as president. This is because he will want to assert his nationalist credentials in a deeply nationalistic society, because he will have serious policy differences with the United States and the coalition, because he is a product of the dysfunctional culture described earlier, and because he will exercise presidential authority over a dynamic situation characterized by insecurity and the need to control popular passions. We need to be careful not to be ensnared by his partisan political plans. Yet, we have a serious strategic dilemma: he is the best hope we have, and we have to work with him. He knows this and will exploit it. We should not be surprised if we are forced into adjudicating conflict for him and his followers. He can also command his followers into the streets and thereby challenge the authority of the coalition security forces. Restoring him to the presidency will be easy, but he can outmaneuver us with his superior skills within a political culture that knows little accountability.

We also need to be aware of the looming problems of command and control issuing from the handoffs to not only Aristide, but to the United Nations. As we hand off, we will dilute our control over the process. We need to steer carefully in order to avoid the semblance and substance of dominating the coalition. At the same time, there is the danger of exercising too much control and taking on responsibilities and making sacrifices that should be done principally by Haitians. Moreover, U.S. domestic politics will want it both ways—wanting us to be in charge, but wanting

the coalition to bear the burdens and Haitians to behave like Jeffersonian democrats. To minimize this set of problems, we should obtain an agreement from Aristide that if he undertakes major violations of a written agreement with the United Nations, one that specifies the measures of effectiveness for the new political process and the observance of timetables (including his own promise not to run for reelection next year), respect for human rights, consistency in dealing with impunity at the top, and ultimately controlling his supporters in the streets-the coalition will leave.

Exit Strategy.

The ideal exit strategy would have the United States leave with our dignity in place and a job well done. But U.S. military power cannot "restore" the habits and institutions of accountable government, notably in a society that has never known these attributes. If the foregoing analysis is correct, there are too many contingencies, risks, uncertainties, and perhaps contradictions in our emerging policy/strategy. We should therefore prepare ourselves psychologically for the achievement of limited objectives: establishment of security, restoration of Aristide, police and criminal justice training, humanitarian assistance, reconstruction of the infrastructure, and reactivation of the economy. To enhance the political legitimacy of our commitment and maintain our flexibility to leave when we desire, we should immediately begin emphasizing the humanitarian dimensions of our effort rather than the political and social engineering entailed in the open-ended commitment to "restore democracy." Humanitarian assistance should be the main theme of our diplomatic and public affairs campaign.

The stakes are high. Unless we pursue a course of limited objectives and prepare for an early departure for reasons of limited success (or failure), we not only face the prospect of an indefinite involvement but a serious defeat for multilateral diplomacy, peacekeeping and humanitarian intervention. In the process we will also nurture the neo-isolationism in our society, intensify the war powers acrimony between Congress and the President, and weaken the credibility of our diplomacy and the effectiveness of our power as we face other challenges around the globe.

ENDNOTES

1. For additional information on Haiti's ecological, political, social, and economic problems and U.S. policy, see: Donald E. Schulz and Gabriel Marcella, *Reconciling the Irreconcilable: The Troubled Outlook for U.S. Policy Toward Haiti*, Carlisle Barracks, PA: U.S. Army War College, Strategic Studies Institute, 1994; as well as Marcella and Schulz, "Pitfalls and Prospects for Haiti," *North-South Magazine*, July/August 1994, pp. 26-31.

2. Mandelbaum, "Can Aristide Be Haiti's Mandela?," *New York Times*, October 14, 1994, p. A35. A possible guide is the South African amnesty model whereby a Truth and Reconciliation Commission would investigate and report all gross violations of human rights. Amnesty would be provided to those violators who approached the Commission and fully disclosed their crimes. Disclosure would thus create greater transparency and accountability. See Aryeh Neier, "South Africa's Lesson For Haiti," *New York Times*, October 8, 1994, p. 23.

3. On the process in El Salvador, see Jack Spence and George Vickers, *Negotiated Revolution? A Two Year Progress Report on the Salvadoran Peace Accords*, Cambridge, MA: Hemisphere Initiatives, March 1994.

4. Our contemporary experience in helping to create fair and effective law enforcement in societies undergoing internal conflict is described in Philip Heymann, "Reinventing Haiti's Police," *Washington Post*, September 27, 1994, p. A21.

5. The lessons of reconstruction in post-Just Cause Panama are brilliantly drawn in John Fishel, *The Fog of Peace: Planning and Executing the Restoration of Panama*, Carlisle Barracks, PA: U.S. Army War College, Strategic Studies Institute, 1992.

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