



# Haiti's National Elections: Issues and Concerns

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## Summary

In proximity to the United States, and with such a chronically unstable political environment and fragile economy, Haiti has been a constant policy issue for the United States. Congress views the stability of the nation with great concern and commitment to improving conditions there. Both Congress and the international community have invested significant resources in the political, economic, and social development of Haiti, and will be closely monitoring the conduct of the elections as a prelude to the next steps in Haiti's development.

For the past 25 years, Haiti has been making the transition from a legacy of authoritarian rule to a democratic government. Elections are a part of that process. In the short term, elections have usually been a source of increased political tensions and instability in Haiti. In the long term, elected governments in Haiti have contributed to the gradual strengthening of government capacity and transparency.

Haiti is currently approaching the end of its latest election cycle. Like many of the previous elections, the current process has been riddled with political tensions, allegations of irregularities, and violence. The first round of voting for president and the legislature was held on Sunday, November 28, 2010. That vote was marred by opposition charges of fraud, reports of irregularities, and low voter turnout. When the electoral council announced that out-going President Rene Prével's little-known protégé, and governing party candidate, Jude Celestin, had edged out a popular musician for a spot in the runoff elections by less than one percent, three days of violent protests ensued. Tensions rose as people waited to see which candidates would proceed to the second round, whether Prével would continue in office beyond the constitutional expiration of his term, or if some sort of provisional government would have to be established.

The Haitian government asked the Organization of American States (OAS) for help and delayed releasing final results, which were due out December 20, 2010, to give the OAS team of international elections experts enough time to investigate and verify the process. The team began its work on January 1, 2011, and gave President Prével a report with its recommendations on January 13. The Haitian Provisional Electoral Council (CEP) released the final results of the first round of voting on February 3, sending Mirlande Manigat, a constitutional lawyer and university administrator, and Michel "Sweet Micky" Martelly, a popular singer, to the run-off race. The governing party's candidate was eliminated from the race by a narrow margin. After months of dispute, the second round of elections is now scheduled to take place on March 20, 2011.

The United States is providing \$14 million in election support through the U.S. Agency for International Development (USAID).

This report provides an overview of the controversies surrounding the first round of voting in late 2010, and concerns related to the second and final round of the elections. In addition to ongoing issues regarding the legitimacy of the upcoming March 20 elections, other questions have raised concerns within the international community and Congress. These include the destabilizing presence of former dictator Jean-Claude "Baby Doc" Duvalier, the possible return of former President Jean-Bertrand Aristide, and the newly elected government's ability to handle the complex post-earthquake reconstruction process and its relationship with the donor community.

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## **Introduction**

Congress views the stability of Haiti with great concern and commitment to improving conditions there. Both Congress and the international community have invested significant resources in the political, economic, and social development of Haiti, and will be closely monitoring the conduct of the upcoming elections as a prelude to the next steps in Haiti's development.

Haiti has been struggling to build and strengthen democratic institutions for 25 years, ever since massive popular protests and international pressure forced dictator Jean-Claude Duvalier to abandon his rule and flee the country in 1986. Known as "Baby Doc," Duvalier came to power in 1971, succeeding his father, Francois "Papa Doc" Duvalier, who had ruled since 1957. Their 29-year dictatorship was marked by repression and corruption. Hoping to reverse almost 200 years of mostly violent and authoritarian rule, Haitians overwhelmingly approved a new constitution creating a democratic government in 1987. De facto military rule, coups and thwarted attempts at democratic elections continued until a provisional civilian government conducted what was widely heralded as Haiti's first free and fair elections in 1990, in which Jean-Bertrand Aristide, a former Catholic priest, was elected President. In the short term, elections have usually been a source of increased political tensions and instability in Haiti.

In the long term, elections in Haiti have contributed to the slow strengthening of government capacity and transparency. Elected governments have developed long term development plans resulting in international technical and financial assistance. They have developed national budgets and made them public. The number of employees in bloated state enterprises has been reduced. The government carried out the fiscal management and transparency reforms necessary to qualify for debt relief from multilateral and some bilateral creditors under the Enhanced Heavily Indebted Poor Countries Initiative in 2009. Human rights violations have been drastically reduced. Despite controversy over some aspects of the 2006 elections, Préval was accepted as the legitimate head of state by Haitians and the world community, and oversaw a period of economic growth and relative internal political stability before a devastating earthquake struck the nation in January 2010.

There is still much to be accomplished. Some parts of the government are not fully independent, the judicial system is weak, and corruption and political violence still threaten the nation's stability. Haitian governance capacities, already limited, were considerably diminished by the earthquake. Poverty is massive and deep, and there is extreme economic disparity between a small privileged class and the majority of the population.

The United States and other members of the international community continue to support efforts to hold free and fair elections in Haiti in the belief that in the long run they will contribute to improved governance and, eventually, improved services to Haitian citizens and greater stability which will allow for increased development. Congress has given bipartisan support to this policy approach.

## **Background to the Current Elections**

The road to democratic development has been bumpy, and the international community became increasingly involved in trying to keep Haiti on that road. Aristide was overthrown in a military

coup eight months after he was inaugurated. For three years, the coup leaders resisted international demands that Aristide be restored to office. Only when faced with a U.S. military intervention did the regime relent. Aristide returned in 1994 under the protection of some 20,000 U.S. troops, who transferred responsibility to a United Nations mission in 1995. With U.S. assistance, President Aristide disbanded the army and began to train a professional civilian police force. In 1996 Haitians saw their first transfer of power between two democratically elected presidents when Aristide was succeeded by Rene Préval.

Subsequent elections held under Presidents Aristide and Préval, both of whom served two non-consecutive terms<sup>1</sup>, were marred by alleged irregularities, low voter turnout, and opposition boycotts. Some election conflicts left Haiti without a fully functioning government, as when most of the legislators' terms expired in 1999 without elections being held to replace them. President Préval then ruled by decree for the remaining two years of his first term. The international community, including an OAS mission, tried in vain for several years to mediate negotiations between the Aristide government and the opposition over the elections in which Aristide was reelected in 2000. Tension and political violence continued throughout Aristide's second term, culminating in his flight into exile in 2004, after the refusal of the opposition to negotiate, an armed rebellion, and loss of international support. There were numerous allegations that Aristide was involved in drug trafficking and other corrupt activities. An interim civilian government was formed and oversaw elections in 2006 in which Préval, after a dispute over the vote calculation, was elected to a new term.

Since the earthquake that ravaged the Haitian capital of Port-au-Prince and surrounding areas on January 12, 2010, political stability has been especially uncertain, due to the loss of many political figures and government officials, massive damage to government infrastructure, and mounting frustrations at what is widely perceived as slow progress in reconstruction and distribution of over \$9 billion in pledged international assistance. An outbreak of cholera has further complicated the situation.

At stake in the current election process are the offices of President, the entire 99-member Chamber of Deputies, and 11 of 30 Senators. The newly elected officials will be responsible for directing reconstruction efforts. Many observers therefore believe that it is especially important that these elections be conducted fairly, so that the new government will be accepted as legitimate by both the Haitian public and international donors, including the United States, who are providing technical and financial support to the election process. The UN Stabilization Mission for Haiti (MINUSTAH) is providing security and technical support.

Parliamentary elections had originally been scheduled for February 28, 2010, but were postponed because of the earthquake. The terms of all of the Chamber of Deputies and of one-third of the Senate expired on May 10, 2010. Because elections were not held before then, the legislature ceased to function as a whole. Normally, the legislature must approve federal procurement contracts and authorize spending. Before it adjourned, however, the legislature passed a State of Emergency law in April 2010 giving the executive branch those and other broad powers for 18 months, to October 2011. The date mandated in the constitution for any president's inauguration is February 7 (the anniversary of Duvalier's flight into exile). Because of the delays caused by the

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<sup>1</sup> Jean Bertrand Aristide served as President in Haiti from February through September 1991; 1994 – 1996; and 2001 – 2004. Rene Préval has served as President from 1996 – 2001; and 2006 – 2011 (term extended until May 14).

earthquake, and the difficulty of organizing elections following such a disaster, the legislature also authorized the extension of Préval's term to May 14, if necessary.

The President, Senators, and Deputies are elected to serve five-year terms. The constitution limits presidents to two non-consecutive terms. There are no term limits for the legislature, although turnover for its members has been high. The first round of both the presidential and legislative elections took place on November 28, 2010. According to the Haitian constitution, if no candidate receives an absolute majority of the vote, a runoff vote between the top two candidates is held for presidential and Chamber of Deputy seats. For Senate seats, candidates who lack an absolute majority but have at least 20% more votes than the next candidate are declared the winner.

## **The Presidential Race**

President Préval is completing his second non-consecutive term, the maximum allowed by the Haitian constitution. Nineteen candidates vied to succeed him in the first round. Like most previous elections in Haiti, this one has centered around personalities more than parties or issues. A group of Haitian journalists, the Public Policy Intervention Group, with the support of the National Democratic Institute and the Commission on Presidential Debates, tried to encourage more substantive discussions among the presidential candidates by holding a series of debates that were broadcast nationwide. All 19 presidential candidates participated.

## **The First Round of Voting**

The top three candidates, according to polls before the first round, were Mirlande Manigat, Jude Celestin, and Michel "Sweet Micky" Martelly.<sup>2</sup>

Manigat is a Vice Rector and professor of constitutional law at the private Université Quisqueya in Port-au-Prince. She is a former Senator and First Lady—her husband Leslie Manigat was elected in 1988 in elections held under a military regime, and overthrown four months later. Mirlande Manigat describes herself and her Rassemblement des Démocrates Nationaux (RDNP, Assembly of Progressive National Democrats) party as center-left, or as "capitalist with a human face," in the tradition of Brazil's moderate leftist President Lula da Silva.<sup>3</sup> Some other analysts regard her as more of a conservative.

Jude Celestin, a technocrat, was little known before Préval chose him to run as his successor on the ticket of the Inite (Unity) party created by the President. As Director of the National Equipment Center, Celestin oversaw the construction of hundreds of miles of roads that made remote villages and farmlands accessible. He was reportedly described by many as an extremely focused workaholic. Questions had arisen about his background: he claimed an engineering degree from the Swiss Ecole Polytechnique de Lausanne, which reportedly has no records of his attendance or graduation, and he has four properties in Florida in foreclosure.

Polling at a distant third was Michel Martelly, a famous Haitian kompa dance musician, known for his bawdy performances, and popular with young voters. He acknowledges his political inexperience, but said he would seek expert international advice to guide him in developing

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<sup>2</sup> It is important to note that polls have been historically unreliable in Haiti.

<sup>3</sup> *Time*, "The Woman Who Would be Haiti's New President," November 15, 2010.

foreign investments and tourism to stimulate the economy. Martelly, also a businessman, has personal financial issues. He defaulted on over \$1 million in loans and had three properties in Florida go into foreclosure, raising questions about his financial management skills.<sup>4</sup>

Of the 16 remaining candidates, eight were former government officials. Most prominent among them were: Jacques-Edouard Alexis, prime minister under Préval who was dismissed in 2008 by the legislature following violent protests over high food and cost-of-living prices; Yvon Neptune, prime minister under former President Jean-Bertrand Aristide; and Leslie Voltaire, an urban planner who has served as Minister of Education, and of Haitians Living Abroad, as Chief of Staff to Aristide, advisor to Préval, and a coordinator for the government's reconstruction planning.

Both international and domestic election observers said that election day was "marred by disorganization, dysfunction, various types of irregularities, ballot stuffing and incidents of intimidation, vandalism of polling stations and violence."<sup>5</sup> These problems were reported throughout the country, but were most prevalent in the capital of Port-au-Prince. According to the OAS observation team,

More subversive of the process was the toxic atmosphere created by the allegations of "massive fraud". The JEOM [OAS /Caribbean Community Joint Election Observation Mission]observed instances where even before the voting started, any inconvenience or small problem led to the immediate cry of fraud. Such conduct continued during the day.<sup>6</sup>

The Joint Election Observation Mission concluded that the irregularities, "serious as they were," did not necessarily invalidate the electoral process. Several Haitian civil society groups and election observation groups presented their reports to the OAS mission; although they gave a "scathing indictment of the shortcomings, irregularities and fraud that tarnished" the elections, they did not call for the elections to be cancelled.<sup>7</sup> (See "Election Monitoring" below for further information on the observation process.)

Some critics, including some Members of Congress, called for the elections to be annulled and new elections to be held, and criticized the OAS electoral mission for having a pro-government bias.<sup>8</sup> Some critics continued to charge that former President Aristide's Lavalas party had been excluded from the current elections, although according to the Provisional Electoral Council (CEP), the Haitian government body responsible for organizing the elections, the OAS, and diplomatic sources, no faction of Lavalas had submitted any candidate for either the presidential or legislative elections. Many former Lavalas members ran under other parties' banners.

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<sup>4</sup> Frances Robles, "Haiti candidate Martelly lost three S. Florida properties to foreclosure," *Miami Herald*, March 7, 2011.

<sup>5</sup> Organization of American States, *Report of the OAS-Caricom Joint Electoral Observation Mission on the First Round of the Presidential and Legislative Elections of 28 November 2010 in Haiti*, February 2011, p. 4.

<sup>6</sup> Organization of American States, *OAS-CARICOM Joint Electoral Observation Mission on Haiti's Presidential and Legislative Elections of 28 November 2010*, press release E-461-10, November 29, 2010, [http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-461/10](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-461/10).

<sup>7</sup> Organization of American States, *Report of ...*February 2011, op. cit, p. 7.

<sup>8</sup> See, for example, Congressional Black Caucus Task Force on Foreign Policy and International Affairs, "Statement on Haiti Elections and OAS Report," press release, February 1, 2011, as reprinted by Center for Economic and Policy Research, <http://www.cepr.net/index.php/blogs/relief-and-reconstruction-watch/congressional-black-caucus-statement-on-elections>. See also James Morrell, "Haiti-Elections: Send this mission packing," *AlterPresse*, January 5, 2011; some of the "facts" in this article are, by the author's own account, "incomplete" and "unconfirmed."

## **Contested results and an impasse**

On December 7, 2010, the CEP announced preliminary results. The reported tally for President was 31.37% for Mirlande Manigat, 22.48% for Jude Celestin, and 21.84% for Michel Martelly. Although it appeared that all but one legislative race would need to proceed to a second round as well, the most controversy surrounded the presidential results. The U.S. Embassy stated that it was “concerned” by official preliminary results that were “inconsistent with the published results” of various domestic and international observers.<sup>9</sup> The CEP’s announcement was followed by three days of violent protests, with Martelly supporters charging that fraud had put Celestin ahead, and that their candidate should have placed second. Tensions continued, as various actors called for action across a range of options, including but not limited to, accepting the preliminary results, sending the top three candidates to a run-off (although the constitution calls for only the top two candidates to proceed), holding new elections, or re-counting the ballots.

## **Investigations and revised results**

Negotiations between the OAS and the Haitian government ensued, resulting in the OAS sending a team of election experts to Haiti on December 30, 2010 to verify the results of the presidential election. The team conducted a statistical analysis of a national random sample of the vote count, finding that as voter participation rates rose above the national average of about 23 percent, so also rose the probability of serious irregularities.<sup>10</sup> The expert mission then reviewed the result sheets from all polling places where participation rate was 50 percent or higher and a single candidate garnered 150 votes or more, and from all polling places where the participation rate was greater than 100 percent. Using criteria established in Haitian electoral law, the expert mission recommended that votes from some of these polling places be excluded from the final tally. Some votes for all the candidates were excluded because of irregularities; the top three candidates had by far the most votes excluded. The revised tally reversed the second and third place candidates, giving Martelly 22.2 percent, and Celestin 21.9 percent of the vote, still less than one percent difference between the two. Manigat remained in first place with 31.6 percent of the vote.

Although the expert mission said that, “By any measure, these were problematic elections,” it ruled out the option of conducting a new national election. Because the irregularities most affected the top three candidates, the mission concluded that “a new election would involve more contests and candidacies than the evidence warranted.” The mission made recommendations for improving the process in the second round, including improving poll worker training, creating a more transparent and consistent verification process at the central vote tabulation center, and replacing poll workers at locations where irregularities occurred.

The expert verification mission submitted its report to President Préval on January 13, 2011. Préval was reported to be displeased with some of the team’s methodology, what was seen as its usurping of the CEP’s role, and that the report had been leaked. Some advocacy groups and other

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<sup>9</sup> Embassy of the United States, Dept. of State, “Statement by the Embassy of the United States Following the Publication of Results of the November 28 National Elections by the CEP,” press release, December 7, 2010, <http://haiti.usembassy.gov/press-releases-2012/untitled6.html>.

<sup>10</sup> Information and quotes in this section on the expert mission’s findings are from: Organization of American States, *Expert Verification Mission of the Vote Tabulation of the November 28, 2010 Presidential Election in the Republic of Haiti*, Final Report, Port-au-Prince, Haiti, January 13, 2011.

critics also objected to their methodology.<sup>11</sup> Other long-time Haiti observers said that there was “no reason to question its impartiality and seriousness of purpose.”<sup>12</sup>

Worried that Préval would insist on his candidate advancing to the second round, the United States and other major donors applied pressure on the Préval Administration to accept the OAS recommendations. The State Department revoked some Haitian officials’ visas, and warned it might review U.S. aid to Haiti if the recommendations were ignored. Secretary of State Hillary Clinton traveled to Haiti January 30, saying that the U.S. was not about to cut off aid, but she pressed President Préval to accept the OAS recommendations. Préval sent the report to the CEP on January 18 for implementation. The CEP said that it would implement the technical recommendations for improving the second round, and take the recommendation regarding the second and third place candidates into consideration as it resumed the dispute resolution phase of the electoral process that had been suspended during the verification process. Tension continued as observers wondered whether the CEP would accept or reject the OAS recommendations.

A second OAS team of legal experts accompanied the CEP’s disputes and challenges phase and the adjudication of complaints. Concluding that phase, the CEP released the final presidential and legislative election results on February 3, accepting that Mirlande Manigat and Michel Martelly would proceed to the second round of presidential elections. The public response was calm. The candidates resumed campaigning on February 17.

## **The Legislative Race<sup>13</sup>**

The legislative offices up for election included the entire 99-member Chamber of Deputies, and 11 of 30 Senate seats.

While some critics charged that fraud had been used to advance Inite legislative candidates, the OAS election expert mission’s mandate was only to examine the presidential results, not the legislative ones. The CEP handled legislative disputes and challenges and the adjudication of complaints, and was accompanied during this phase by the second OAS team of legal experts. The legal expert mission “observed with satisfaction” that legislative candidates submitted a large number of complaints, “demonstrating that grievances can be effectively addressed by rule of the law procedures.”<sup>14</sup>

In the Senate, four races were determined by the first round, seating three Inite and one Alternativ candidate. Seven contests will proceed to a second round, with seven Inite candidates facing candidates from three other parties. In the Chamber of Deputies, Préval’s party won or proceeded to runoffs in 68 of the 99 races.

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<sup>11</sup> See, for example, Mark Weisbrot and Jake Johnston, *Analysis of the OAS Mission’s Draft Report on Haiti’s Election*, Center for Economic and Policy Research, Issue Brief, January 2011, <http://www.cepr.net/documents/publications/haiti-oas-analysis-2011-01.pdf>.

<sup>12</sup> Editorial, “Haiti’s decision,” *Miami Herald*, February 3, 2011.

<sup>13</sup> Official results from Conseil Electoral Provisoire, at <http://cephaiti2010.org/>. Translated by author.

<sup>14</sup> Organization of American States, Report of ...February 2011, op. cit, p. 8.

## **The Second Round Of Voting**

The final round of voting for president and the legislature is scheduled to be held on March 20, 2011. Final results are not expected before April 16.

Mirlande Manigat was still the frontrunner in early March, although a poll by Haiti's private sector showed Michel Martelly pulling ahead by March 9.<sup>15</sup> Haitian-born hip-hop musician Wyclef Jean, who was ruled ineligible to run for president himself because he did not meet Haitian residency requirements, has thrown his support behind Martelly.

Political tensions had initially decreased following the announcement of the second-round presidential candidates. On March 8, however, three men putting up posters in support of Manigat were found dead, showing signs of mutilation, suggesting that political tensions could still erupt at any moment.

Local elections for municipal councils, town delegates, and other posts are due to be held as well. USAID's post-disaster election assessment suggested they be held in mid-2011. So far there is no date scheduled to hold them.

## **Issues and Concerns regarding Elections and Post-Election Governance**

The concerns over this particular election cycle in Haiti are shared by the international donor community, Congress, and the Obama Administration. Each group is deeply concerned about the political stability of the government, its ability to move forward with a clearly defined plan for the reconstruction and development of post-earthquake Haitian society, and the effectiveness of the foreign aid each provides. In the long term, elections in Haiti have led to the slow strengthening of government capacity and transparency. In the short term, elections have usually been a source of increased political tensions and instability.

### **Short-term Issues**

#### **Election monitoring**

The Organization of American States (OAS) /Caribbean Community (CARICOM) Joint Election Observation Mission is the only major international monitor of the current election process. The mission has had long-term observers on the ground since August 3, 2010. By November 19, 2010 it had 68 observers dispersed across Haiti's 10 departments (political subdivisions).<sup>16</sup> It deployed more observers the week leading up to and on the November 28 election day, when there were

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<sup>15</sup> Mateos, March 4, 2011, op.cit.; and Jacqueline Charles, "Manigat, Martelly kept to script in rare debate for Haiti presidency; Haiti presidential candidates offered little clarity on policies Wednesday in a televised presidential debate," *Miami Herald*, March 9, 2011.

<sup>16</sup> Organization of American States, *The Joint Mission OAS/CARICOM in Haiti provides an update after more than three months of activity*, November 19, 2010, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/VDUX-8BCRQE?OpenDocument>.

118 observers. The joint mission has been observing the various phases of the electoral process, and will continue to do so until the official results of the second round elections are published. The mission has met regularly with the Provisional Electoral Council, making suggestions based on its observations. It has also met with political parties, passing on their concerns to the CEP as well. Some people believed there should have been more long-term international observers, but donors thought that given the difficulty in logistics posed by post-earthquake conditions, and Haiti's relatively small size, the single, smaller mission would suffice.

The OAS plans to have about 200 observers for the March 20 elections, and to conduct a quick parallel vote count. Part of the reason it was unable to conduct a quick count during the first round was that observers were called back early from the field due to security concerns.

Some observers criticized the mission for not questioning the validity of the elections earlier in the process. Others criticized the mission for being both part of the process, through its technical assistance to the office providing identity cards, and judge of that same process.

Other smaller organizations and diplomatic missions, including the U.S. and Canadian embassies, and about 6,000 nonpartisan domestic election observers monitored voting on election day across the country during the first round. These groups plan to observe the March 20th round as well.

### **Concerns about the Electoral Process**

The OAS/CARICOM observation mission has expressed ongoing concerns about security. Some opposition candidates alleged during the first round of voting that candidates and supporters of the ruling Inite party distributed weapons. The OAS mission asked those making accusations to present evidence so that investigations could be carried out.<sup>17</sup> In November the OAS/CARICOM election monitoring team expressed concern about election-related violence, and asked candidates to "carry out their campaigning in a calm atmosphere and to display tolerance, friendliness and mutual respect."<sup>18</sup> Even at this late date, observers worry that the eruption of violence or political unrest -- such as could be caused by the return of Aristide, for example -- could be a possible cause for postponement. If either candidate contests the outcome of the election, violence could erupt after the elections.

Angered by rumors that UN troops may have introduced cholera to Haiti, Haitians attacked UN soldiers in late 2010. Any further attacks against UN troops could be particularly problematic, as MINUSTAH is responsible for providing security for the election process, as well as transportation of ballots and other election material. There are 9,000 MINUSTAH security personnel, and 3,500 Haitian National Police (PNH) providing security. As of March 7, UN officials said a review of and changes in security were still underway in preparation for the second round.<sup>19</sup> An early assessment of the elections issued a reminder that MINUSTAH's mandate is mostly to observe and support the PNH, not to handle situations directly.<sup>20</sup>

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<sup>17</sup> [Ambassador Colin Granderson], "Presentation made to the Extraordinary Meeting of the Group of Friends of Haiti: Update on Elections and Perspectives on Reconstruction Efforts," OAS General Services Building, Washington, DC, Oct. 27, 2010.

<sup>18</sup> "The OAS/CARICOM Joint Election Observation Mission in Haiti calls on Political Actors to Conduct Campaigning in Atmosphere of Tolerance and Friendliness," *States News Service*, November 11, 2010.

<sup>19</sup> Jacqueline Charles, "In Haiti, officials promise fixes ahead of March runoff election," *Miami Herald*, March 7, 2011.

<sup>20</sup> Sophie Lagueny and Rudolf Derose, *Post-Disaster Assessment on the Feasibility of Organizing Free and Fair* (continued...)

After the first-round elections, the U.S. State Department issued a new travel warning strongly urging U.S. citizens to avoid non-essential travel to Haiti in part because of “continued high crime, the cholera outbreak, frequent disturbances in Port-au-Prince and in provincial cities, and limited police protection ...” and because “travel within Haiti is hazardous.”<sup>21</sup> Since the first-round elections, there have been violent protests resulting in deaths. Once the final results were announced, the atmosphere was calmer. Nonetheless, the situation remains volatile.

Observers of the electoral process also voice concern about the level of voter participation because it will affect the legitimacy of the election’s results. In April and June 2009, voter turnout for partial Senate elections was a meager 11 percent of the electorate. Turnout is usually much higher for presidential elections, however, and the observation mission viewed active campaigning and large numbers of voters going to verification centers as signs that turnout would be healthy. Although turnout was higher than in 2009, it was only about 22 percent in the first round of the current election process. Some observers wonder if fear of cholera and of violent protests might have suppressed voter turnout, and worry that they could do so again in the second round.

In the joint observation mission’s November 11 statement, it repeated its concern over the use of state resources during the current campaign season. The mission appealed “to the political parties to adhere to the provisions aimed at guaranteeing the fairness of the election race,” and said that the “state authorities must...ensure that agents of the state are not involved in activities related to campaigning.”<sup>22</sup>

The OAS/CARICOM mission’s October report expressed concern about several technical aspects of the electoral process. The distribution of voter identification cards seemed to be the greatest issue. About 400,000 new cards were printed but distribution was slow. About 4.7 million people have registered to vote, an estimated 95% of the adult population. The report estimated that about 6% of those listed in the voter registry are deceased. This was attributed mostly to the listing of people who died during the earthquake, for most of whom there are no death certificates, which are needed to remove someone’s name from the registry. The report noted that safeguards such as photos on the electoral list, the need for a voter identification card, and indelible ink indicating votes had been cast, had been put in place to prevent multiple voting. Registering the internally displaced appears not to have been as big a problem as some thought it would be, as not that many internally displaced requested replacement identity cards. The majority of displaced people in temporary camps appear to live near their former residences and polling stations, so that few additional polling places for them were needed, according to U.S. officials familiar with election preparations.

## **The Provisional Electoral Council**

Negative perceptions regarding the Provisional Electoral Council are widespread and contributed to questions regarding the elections’ credibility both before and after the December vote. In late 2009, President Préval cut ties to the Lespwa movement that elected him in 2006, and formed a

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(...continued)

*Elections in Haiti*, USAID, produced by the International Foundation for Electoral Systems, April 2010, p.iv.

<sup>21</sup> U.S. Dept. of State, “Travel Warning, Haiti” issued Dec. 9, 2010, [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_4632.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_4632.html).

<sup>22</sup> *States News Service*, op.cit.

new movement, Inite. Opposition groups accused the presidentially appointed electoral council of bias in favor of the President's new movement. The electoral council disqualified without explanation about 15 rival political groups, which included members of Lespwa who did not join Préval's new party.

An assessment of the feasibility of organizing elections after the earthquake stated that the operational branch of the CEP was technically capable of organizing elections, but warned that the lack of credibility of the Council as a whole posed a major problem. The report recommended replacing the commission, but the Preval Administration chose not to do so.<sup>23</sup> The OAS/CARICOM mission's October report acknowledged that "the widespread mistrust of the CEP is perhaps by far the major obstacle to the credibility and legitimacy of the elections."

But the mission suggests that the CEP may be being blamed for some of the shortcomings of previous CEPs and of the Préval administration as well. For example, the previous CEP caused controversy by barring former President Jean-Bertrand Aristide's Fanmi Lavalas party from participating in legislative elections in April 2009 for mostly technical reasons. Part of the problem was that two rival factions within Lavalas submitted separate lists of candidates. The council rejected both lists because neither faction had documents signed by the party's head, Aristide. Aristide lives in exile in South Africa. Although technically correct, some observers felt the decision had a politically motivated element, to prevent the once powerful Lavalas from gaining more seats in the National Assembly. Neither faction ever produced the required document, however, and Fanmi Lavalas did not try to register presidential or legislative candidates with the current CEP for the 2010 elections.

The observation mission report notes that the current CEP has been responsive to criticism, improving the transparency of its actions, and communicating more openly with the public, political parties, and civil society organizations. The CEP began to implement some of the improvements recommended by the OAS and other observer missions as soon as they were received following the first round. About 500 poll workers and supervisors at voting centers where fraud and irregularities were high have been fired; education requirements for poll workers have been raised to a 12<sup>th</sup> grade equivalent; and officials are still trying to clean up the voter lists.<sup>24</sup>

## **Legitimacy**

An immediate concern for all involved is that the upcoming elections, carried out with \$14 million in U.S. assistance, do not exhibit the same level of irregularities, fraud and violence as the last round, and are sufficiently free and fair to produce a government considered legitimate in the eyes of the Haitian public and the international community. The ability of the Haitian authorities to carry out these elections in an acceptable manner will be a key test that could determine the political tone in Haiti for the next several years.

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<sup>23</sup> Sophie Lagueny and Rudolf Derose, *op.cit.*, pp. 12-13.

<sup>24</sup> Jacqueline Charles, March 7, 2011, *op. cit.*

## Long-term Issues

### Reconstruction and the Management of Foreign Assistance

In the longer term, the United States and the international community are concerned about the ability of whichever government is elected to manage the billions of dollars of international aid. Both candidates have expressed nationalistic views, leading to concerns about whether they will continue to work within the current framework of the Interim Haitian Recovery Commission (IHRC). The IHRC, formed in late 2010, was designed to last 18 months, at which time the Commission would become the Haitian-run Haitian Development Authority. While there has been criticism that the IHRC is not approving and distributing aid effectively, there is also widespread concern that the Haitian government is not ready to assume full control of the process either. The government's nascent institutions, which had limited capacity before the earthquake, were set back severely by the earthquake's destruction. Gross mismanagement of funds by the next Haitian administration could prompt donors to impose conditions, reconsider further funding of programs, or return to directing aid solely through non-governmental organizations. Both candidates have pledged to make Haiti less dependent on foreign assistance, but are not clear on how they would do so.

There are also concerns about the effect either candidate will have on relations with the United States and with other major donors and international organizations. Donors worry about whether either candidate will try to change dramatically current development and recovery plans. Both candidates have been vague on specific policy plans. If they want to be assured of continued donor assistance, they will face difficulty straying far from the current strategy, which was agreed upon by the Haitian government and international donors at the April 2010 donors conference, and upon which foreign assistance programs are based.

Asked what her priorities were, Mirlande Manigat echoed a common feeling that "everything is a priority."<sup>25</sup> She went on to say that her immediate priorities would be solving the cholera problem, and addressing the situation of displaced Haitians living in camps. In terms of long-term development, she said that education is key as a tool for development and for reducing frustration among Haiti's youth. She also said that Haiti's "very unacceptable" social inequalities required profound changes to reduce social volatility. Opponents disparage her age (she is 70), criticize her for being more comfortable speaking in French than Creole, and for being removed from Haiti's impoverished masses. In her recent campaign stops, she has addressed Haitian crowds and press in Creole, and has appeared in a Port-au-Prince slum.<sup>26</sup>

Michel Martelly, age 49, also emphasizes education, along with agricultural production and the importance of family. He said his campaign is "to bring joy, to bring music, to bring love, to bring peace, prosperity, development and change in every corner of the country of Haiti."<sup>27</sup> Critics raise concern about his lack of political or institutional management experience, and his personal financial problems. Martelly, who often performs in outlandish costumes, is trying to shift his image, and is wearing three-piece suits. He also hired a Spanish public relations firm to handle his campaign.

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<sup>25</sup> Trenton Daniel, "Professor, first lady and ( maybe) president," *Miami Herald*, February 13, 2011.

<sup>26</sup> Jacqueline Charles, "Campaign opens for Haiti's presidential runoff," *Miami Herald*, February 21, 2011.

<sup>27</sup> Jacqueline Charles, Feb. 21, 2011, op.cit.

## **Security and Human Rights**

In terms of security, Manigat has proposed strengthening the Haitian National Police and Martelly has proposed recreating the Haitian army,<sup>28</sup> which overthrew Aristide shortly after he became Haiti's first elected president, and was disbanded by Aristide after he was restored to office by the international community. At a recent debate, both candidates supported establishing a national security force as a way of creating jobs. Martelly said the military should replace MINUSTAH, while Manigat said that MINUSTAH could be phased out eventually, but that it would not be a priority.<sup>29</sup> The proposal to reconstitute the Haitian army raises alarm not only about diverting funds from current development and reconstruction programs, but also about respect for human rights. The army was an instrument of state repression under the Duvalier regime, along with the Duvaliers' secret police, the Tontons Macoutes, and under the de facto military regimes that followed Duvalier's and Aristide's ousters. Both security forces committed gross violations of human rights over decades.

Both candidates have some association with de facto military regimes. As noted earlier, Manigat's husband, Leslie Manigat was elected President in 1988 in elections run by the military. His term lasted less than six months, however: when Manigat tried to introduce reform and reduce corruption, the military overthrew him.

Martelly was "once a favorite of the thugs who worked on behalf of the hated Duvalier family dictatorship," according to the *Washington Post*, and was "closely identified with sympathizers of the 1991 military coup that ousted Pres[ident] Jean-Bertrand Aristide," according to the *Miami Herald*.<sup>30</sup> One of his advisors, Gervais Charles, is currently Jean-Claude Duvalier's lawyer.

## **Stability and the Return of Former Leaders**

In addition to electoral political tensions, another destabilizing factor is the reappearance on the scene of two of Haiti's most divisive leaders. Jean-Claude "Baby Doc" Duvalier returned unexpectedly from 25 years in exile on January 16, 2011. Two days later, the Haitian government formally charged him with corruption and embezzlement. Private citizens have filed charges of human rights violations against Duvalier for abuses they allege they suffered under his regime. Former President Jean-Bertrand Aristide, in exile since his government collapsed in the face of political conflict in 2001, says that he would also like to return soon, and the Haitian government issued him a new passport. Préval has long said Aristide was free to return, but that he should be prepared to face corruption and other charges as well. Both are seen as highly polarizing figures able to stir up unrest. The Obama Administration has cautioned that Aristide's return before the elections would be an "unfortunate distraction."<sup>31</sup>

It is a significant accomplishment that Haiti, long characterized by impunity for its leaders, has brought charges against its former dictator. Duvalier is currently not allowed to leave the country, while a judge determines whether there is sufficient evidence to proceed with a trial. Trying Duvalier and/or Aristide, however, would be a severe strain on Haiti's weak judicial system.

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<sup>28</sup> "Michel Martelly," *New York Times*, March 7, 2011.

<sup>29</sup> LatinNews Daily, "Martelly and Manigat square off in Haiti," *Latin American Newsletters*, March 10, 2011.

<sup>30</sup> Scott Wilson, "Political Notes Fill Carnival in Haiti; Music Underscores Nation's Discontent," *Washington Post*, February 13, 2002; and "Haiti," *Miami Herald*, September 3, 1996.

<sup>31</sup> "Aristide return not helpful before Haiti vote says U.S.," *Reuters*, February 9, 2011.

Because the judicial system is not fully independent, the attitudes of the new president could also have a large impact on any judicial process.

Presidential candidate Mirlande Manigat says that Duvalier's case is for the judiciary to handle. She also says that Aristide's return could create more "agitation" and she hopes he will postpone his return until after the elections.<sup>32</sup> Fellow candidate Michel Martelly has called for clemency for former leaders, saying that, "If I come to power, I would like all the former presidents to become my advisors in order to profit from their experience."<sup>33</sup> He also said he was "ready" to work with officials who had served under the Duvalier regimes.<sup>34</sup>

## Outlook

In proximity to the United States, and with such a chronically unstable political environment and fragile economy, Haiti has been a constant policy issue for the United States. Congress views the stability of the nation with great concern and commitment to improving conditions there.

The main priorities for U.S. policy regarding Haiti are to strengthen fragile democratic processes, continue to improve security, and promote economic development. Other concerns include the cost and effectiveness of U.S. aid; protecting human rights; combating narcotics, arms, and human trafficking; addressing Haitian migration; and alleviating poverty.

Congress has monitored Haiti closely, and has established a number of conditions on assistance over the years. Congressional priorities for assistance to Haiti have included "aggressive action to support the Haitian National Police;"<sup>35</sup> ensuring that elections are free and fair; developing indigenous human rights monitoring capacity; facilitating more privatization of state-owned enterprises; promoting a sustainable agricultural development program; and establishing an economic development fund to encourage U.S. investment in Haiti.

Haiti's March 20 national elections are being closely watched by the international community as well as by Congress. Over the past decade, the United States and other international donors have been politically, economically, and militarily involved in Haiti, investing significant resources both in the attempt to build and strengthen Haiti's democracy and political stability and in providing significant amounts of development, humanitarian and other assistance. Congress and other bilateral donors have again provided another financial stake in Haiti's long-term development by providing funds for this election cycle and will be closely monitoring the conduct of the elections as a prelude to the next steps in Haiti's development.

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<sup>32</sup> Irene Renuncio Mateos, "Election 2011: Haitian Presidential Candidate Expresses Concern About Potential Return of Ousted Leader Before Vote," *IHS Global Insight Daily Analysis*, March 4, 2011.

<sup>33</sup> Clarens Renois, "Haiti politicians hope for reconciliation," *Agence France-Presse*, January 21, 2011, <http://www.abs-cbnnews.com/global-filipino/world/01/21/11/haiti-politicians-hope-reconciliation>

<sup>34</sup> "Haitian candidate open to including Duvalier officials," *Agence France Presse*, March 2, 2011.

<sup>35</sup> P.L. 106-113.

## **Appendix. U.S. Elections Assistance**

The United Nations and other international donors are providing technical and financial support of the current elections process. The United States is providing \$14 million in election support through the U.S. Agency for International Development (USAID). This aid, which encompasses support for both the first and second round voting process, includes:<sup>36</sup>

- An assessment of the feasibility of organizing free and fair elections;
- Support to the Provisional Electoral Council (CEP) for election organization and administration. This includes training for voting center staff; technical assistance for nationwide civic and voter education campaigns; technical assistance to improve the CEP's ability to communicate with the public and the press; and the establishment of a call-in information center through which voters can find out where to vote;
- Support to a national network of nonpartisan community action groups to organize election-related civic education and get-out-the-vote activities;
- Technical assistance to political parties to help them compete more effectively in the 2010-2011 elections, increase the chance that they will accept election results, and reduce the potential for political conflict. Activities include training in poll watching; participation in candidate debates, and election dispute resolution.
- Support of domestic and international electoral observation to monitor the entire election period, to increase the confidence and participation of voters and political parties.
- Support for the organization of presidential debates to provide the electorate with greater access to information about candidates and issues.
- Support for procurement of elections material, such as ballots and ballot boxes, through a contribution to the elections trust fund managed by the United Nations Development Program.
- After the elections, programs to build broad national support for electoral reform, including the establishment of an independent, permanent electoral council.

According to USAID, there may be relatively minor additional costs involved in making improvements for the second round based on recommendations from domestic, OAS, and other observers of the first round. These could include additional staff and training for voting centers, increasing the hours and capabilities of the voter information center, and adding enough international observers to conduct a parallel vote count. The USAID mission in Haiti has \$0.5 million in FY2010 Economic Support Funds available for these purposes. The UNDP and OAS will be seeking additional funding from other donors as well.

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<sup>36</sup> U.S. Agency for International Development, USAID Elections Support; <http://www.usaid.gov/help/haiti/elections.html>.

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