

# Noref Policy Brief

## Haiti: the challenge of ending the transition to democracy

Tone Faret and Eduardo Colindres

### Executive Summary

The political scene in Haiti will be dominated by elections in 2010. The challenge is significant for the international community, which plays a prominent role and has a notable presence in the country, and for national actors, especially the much disputed Provisional Election Council (CEP).

President Préval has officially launched the new movement – Inité (Unity)– which is largely built on his old electoral platform, Lespwa (Hope). He is in the process of consolidating support prior to the next elections, although he maintains that he will not be a candidate for the presidency, after having served two terms. Opposition forces have voiced frustration over what they see as increased political power in the hands of the president, especially after Aristide’s political party, Fanmi Lavalas, was excluded from the elections for the second time, together with 16 other political parties and movements.

Violence and electoral fraud has been a constant feature of politics in Haiti since a democratic system was introduced some twenty years ago. The danger exists that the upcoming legislative elections, while in theory respecting democratic formalities, will enable the power-holding elites to establish a non-democratic government under an apparent democracy. And this may happen in the presence, and with the active participation, of the international community.

The opposition political parties and their leaders are confronted by a major challenge because, this time around, they must prove that they have the capacity, beyond their personal interests, to reach agreements and build alliances that can present real alternatives to the Haitian people.

### Tone Faret and Eduardo Colindres

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### Democratic formalities

The coming year will be dominated by elections which are scheduled for the Chamber of Deputies and a third of the Senate on 28 February 2010, with a possible second round to be held on 3 March. Presidential elections will be held towards the end of the year. In addition, elections for the territorial collectivities should in theory also be held during 2010.

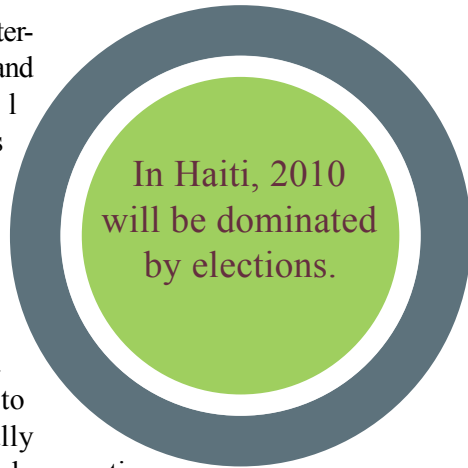
Both international and national stakeholders agree that Haiti has reached a crossroads. If elections are held according to internationally accepted democratic

norms, the end of the never-ending political transition, which has been ongoing since the fall of the Duvalier dictatorship in 1986, will have truly begun. The alternative is that the elections in theory respect democratic formalities, while in fact allowing the power-holding elites to achieve the result that suits them, which is to establish a non-democratic government under an apparent democracy.

For the international community, the elections will be a crucial challenge because the democratic success or failure of the elections will take place in its presence and with its participation, mainly through Haiti's UN peacekeeping mission, Minustah and, of course, with its money.

### Controversial elections

The current run-up to the elections will be overshadowed by certain key developments related to the elections in April and June 2009, in which one-third of the 30-member Senate was renewed.



**First**, President Préval obtained increased control over both Parliament and the government as a result of the senate elections in April and June in which the president's electoral platform, Lespwa, won a majority of seats. The fact that President Préval gained greater control over parliament after Lespwa (Hope) won seats in nine departments strengthened the allegations of misuse of power by opposition political forces and civil society actors. This made the impeachment of Prime Minister Michèle Duvivier Pierre-Louis possible, after only one year in power, in October 2009.<sup>1</sup> The impeachment was carried out despite objections by several senators who argued that the impeachment was illegal, and even unconstitutional. In the end, 18 Lespwa senators passed the no-confidence resolution behind closed doors.

President Préval chose Jean Max Bellerive, Minister for Planning and External Cooperation, as the interim prime minister. Several of the seven newly appointed ministers have roots in political parties other than Lespwa, but they have developed close ties to the president – having been invited to participate in presidential committees and commissions over the past few years.

**Second**, Fanmi Lavalas was marginalised after being excluded from the elections because two factions of the Fanmi Lavalas party presented different lists of candidates to the Provisional Election Council (CEP), none of them authorized by Jean-Bertrand Aristide (president for life of the party and its legal representative). The exclusion of Fanmi Lavalas in April 2009 led the American, French, and Canadian embassies, as well as Minustah, to issue statements favouring an inclusive solution. But it was to no avail, as they were accused of meddling in the country's internal affairs.

<sup>1</sup> See Tone Faret's article "Haiti – a step in the wrong direction", the Norwegian Peacebuilding Centre (Noref), <http://www.peacebuilding.no/eng/Publications/Articles/Haiti-a-step-in-the-wrong-direction>, accessed 15 December 2009.

While still assumed to be the country's largest party, although this is far from certain, Fanmi Lavalas failed to mobilize the grassroots masses. However, the movement issued messages denouncing the decision to exclude them as political manoeuvring by President Préval. The fact that no protest was organised in the poorer areas, which constituted the powerbase of Fanmi-Lavalas during the Aristide years, has for many confirmed that Fanmi Lavalas has lost its appeal among the poor masses.

A **third** striking development was the low turnout during the last senate elections. Usually, voter turnout is lower in the elections for a third of the senate or for parliament than in the presidential elections, but the turnout in April 2009 was even lower than usual at only 11.3%. The Provisional Election Council (CEP) decision to reject the candidate lists presented by the two groups of Fanmi Lavalas undoubtedly dissuaded many voters from participating in the senate elections. In addition, there were rumours about street violence and threats of sanctions against voters, although they never materialized.

However, other factors may also explain the low turnout during the last elections. Banning of private vehicles and public transport due to security concerns made it more difficult for voters to reach the polling stations. In addition, a number of organizational problems and last-minute actions created confusion. For example, thousands of national identity cards were not distributed, thus disenfranchising their holders.

### Constitutional reform – a contentious issue

The potential for confrontation between supporters and opponents of President Préval is considerable as Haiti enters a new and intense election period. President Préval remains the centre of controversy as he is accused by both opposition groups and civil society actors of seeking to concentrate power in the presidency. One of the most contentious issues in Haiti is the debate over constitutional reform. President Préval has used his strengthened position

### Proposed Constitutional Amendments

1. **Dual nationality:** Haitians may have other nationalities when holding political posts without losing their Haitian nationality.
2. **Gender equity:** The adoption of a minimum 30% quota for women in the public services and in political party structures.
3. **Elected office:** President of the Republic, senators, deputies, local government officials (Mayor, Casec, Asec)<sup>1</sup>: the two main proposals are that all terms of office will be standardized at five years, and that the president may remain in office for two consecutive terms. Under no circumstances shall a third mandate be sought.
4. **Constitutional court:** The constitutional court will have the highest jurisdiction in constitutional matters, ruling on the constitutionality of laws and regulations. Its decisions cannot be appealed and will be imposed on all public powers, and administrative and judicial authorities.
5. **The Superior Judicial Council:** Administration and control of the Judicial Council will be entrusted to a Superior Judicial Council.
6. **Parliament's role:** The impeachment of a member of government must be required by one quarter (25%) of the members of the relevant chamber, and cannot be demanded by five members of one of the Chambers of Parliament as is the case today.

<sup>1</sup> Casec – Administrative Council of the Communal Section; Asec – Communal Section Assembly.

after the last senate elections to promote this issue. His role is pivotal in this process, which has been his main political priority since taking power in 2006, on the grounds that the current Constitution represents a major obstacle to political stability in Haiti.

After having named a Presidential Commission for Constitutional Reform, a proposal to amend the constitution was submitted to the two chambers of the National Assembly earlier this autumn. In order to amend the constitution, the two chambers of the National Assembly, the Senate and the Chamber of Deputies, must approve the need to amend it, with two thirds of the votes in each of the two chambers. This happened at an extraordinary speed, shortly after President Préval submitted his proposal in September 2009. The 48th Legislature has been extended by four months, from January to May 2010, during which time the actual constitutional changes will be voted on, and the new National Assembly that results from elections in February 2010, will ratify them. The ratified amendments will not come into force until after the next elected president takes office (7 February 2011).

### Worrying run-up to elections

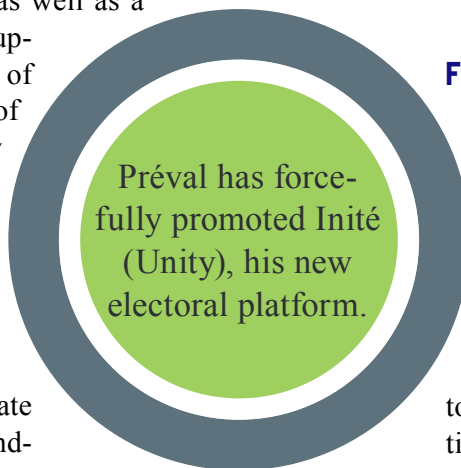
While the international community, as well as a broad spectrum of national actors, supports the president in the endeavour of moving towards a greater degree of political stability in Haiti, the hasty process leading to the constitutional amendment has raised questions among opposition parties and civil society actors about Préval's intentions:

- Is he angling for a third mandate even though the proposed amendment prohibits it?
- Does he want to ensure, at all costs, that he will control the new president?
- Does he want to follow the Putin model, and become prime minister when a new president takes office?
- Is he weakening the main opposition political parties to ensure his victory in the elections?
- Is he going to control the new CEP as he did the former CEP?
- Is he going to create a new sole party?

Recent developments have led several observers to raise these questions more urgently and some consider that President Préval is doing his utmost to manipulate the National Assembly and the results of the elections so that the constitutional amendments will be accepted.

Allegations of corruption have resurfaced concerning public finances being used for the president's current election campaign. Préval has been forceful about the promotion of *Unité*, created with the objective to unify all sectors of society and guarantee the country's political stability.

At a meeting with the coordinators of the Administration Councils of the 570 Communal Sections (Casec) on 20 October 2009, President Préval spoke of the creation of this new political platform quoting the Bible: "Go into all the world and preach the good news. Whoever believes will be saved, but whoever does not will be damned." The biblical reference was viewed by some as a veiled threat. The movement was then officially launched in November. Most or all of the organisations and political parties that were members of President Préval's old electoral platform, *Lespwa*, have joined the new movement together with new allies in the public and private sphere.



### Fanmi Lavalas excluded

The consolidation of the myriad Haitian movements and political parties into larger political platforms is in itself a very positive development. However, in November 2009, the new Election Council, which was appointed owing to strong criticism after the last elections, decided to exclude Fanmi Lavalas for a second time, alleging that a fax signed by the party's leader, Jean Bertrand Aristide, was not genuine. The decision also excluded 14 other parties on the grounds of incorrect documents in the registration process.

Among the excluded parties are Organisation du Peuple en Lutte (OPL)<sup>2</sup> which originated from the Lavalas political movement, with 10 representatives in the Chamber of Deputies after the last elections in 2006, and Union Nationale Chrétienne pour la Reconstruction d'Haiti (Union)<sup>3</sup>, with 12 seats in the Chamber of Deputies. The *Lespwa* movement was also excluded but, as noted above, most *Lespwa* members have already joined the president's *Inité (Unity)* movement. Jean-Bertrand Aristide called the decision "an electoral coup d'état" in one of the rare local radio interviews he has given since he left Haiti in 2004.

2 Organization of People in Struggle

3 National Christian Union for the Reconstruction of Haiti

UN Minustah responded to the exclusion of Lavalas and other parties by issuing a non-confrontational statement that did not mention any groups or politicians by name. It called for Haitian officials to avoid making decisions that might hint at unequal treatment, and also requested officials to review documents from all parties with openness and equality. Reactions from local human rights networks and civil society groups have been far more outraged and talk about violation of the fundamental principles of free and fair elections. But the election council has signaled that its decision is irreversible. The parties that are eligible to field candidates will present 700 candidates from very different walks of life, most with no prior political experience, for the 12 Senate seats and the 99 seats in the Chamber of Deputies, in February 2010.

Matters were further complicated when Inité (Unity) won a traditional lottery which decides the order of the political parties on the electoral list. The first party to appear has an advantage as many voters will choose the one on the top of the list. Protests intensified after this incident and some 15 political parties and election platforms have now announced that they will boycott the elections unless the CEP is dismantled. Prominent civil society actors have demanded a commission to guarantee free and fair elections, whose members would be drawn from the CEP, the government, political parties and the international community.

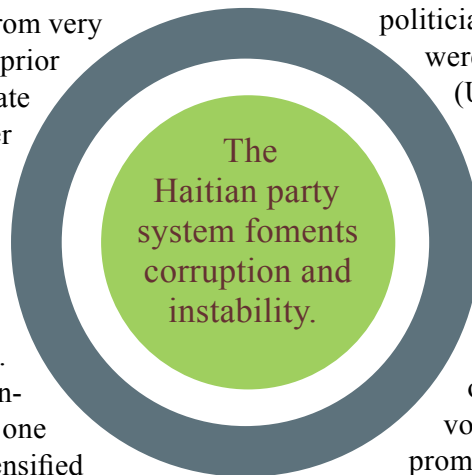
### Weak opposition

The international community has in general expressed firm support for President Préval. Kenneth Merten, the new US ambassador to Haiti, in a speech at the Haitian-American Chamber of Commerce 19 October 2009, said that President Préval was a devoted president and the stability of the past years was due “to a large extent to the astute leadership of President Préval”. Speaking of the political class, he stated that it “should leave aside personal agendas and party interests and work together for the Haitian people”. But as elections approach, international actors may find themselves standing shoulder to shoulder with an increasingly controversial president.

Although Haiti has a myriad of political parties, movements and groups, political pluralism does not really exist. The opposition remains weak and fragmented

and will, in all likelihood, lose as long as they cannot unite around a common candidate and overcome their differences to create alliances. Instead, the process in each party tends to be personalized, with little thought given to the representation of local interests and political programmes. It is illustrative that during the last senate elections, only two political parties ran candidates in all departments of the country.

The Haitian party system as it functions today actually foments corruption, instability and the buying of favours. It would therefore not be surprising if several politicians from the excluded political parties were tempted to cross over to the Inité (Unity) movement in the coming months, seeking better access to power and position. This may also be the choice of some politicians from the remaining parties that in theory are opposed to Préval’s Inité (Unity) platform. However, it should be noted that if parliament approves a proposed law on political parties, currently pending voting, the new law would contribute to promoting their institutionalisation.



### Is Préval the only option?

It is a fact that Haitian public and private institutions, political parties, and civil society are weak or nonexistent. Moreover, the will to strengthen these institutions is lacking which means that rule of law is the exception rather than the norm. President Préval’s new political movement, Inité (Unity), presents itself as a unifying force of all sectors – political parties, popular organisations, business and civil society – with a mission to provide the political stability needed to promote investment, job creation and economic development. For the international community, which regularly advocates for the need to strengthen Haitian national institutions and develop democratic practices, the president presents himself as the only option to achieve political stability at present.

Opposition political parties and critical voices within civil society organizations believe that, instead of promoting a political agenda, President Préval’s sole ambition is to create a political party which will become his personal power base. They believe his intention is to create a unifying movement that will annul opposition forces, win the elections at any price, and create

an apparent but temporary stability. However, as long as the opposition does not present any sustainable alternatives, it is difficult to assess the convening power of these critical voices.

### Conclusions

Opposition political parties must contribute to Haiti's democratic transition, but in order to do so their leaders must prove that they have the capacity, beyond their personal interests, to reach agreements, and to build alliances that can present real alternatives to the Haitian people. All political parties, but particularly those in opposition, should defend the right to vote and the democratic system. If they fail to assume their responsibilities to the citizens and the future of the country, political parties cannot ask the international community to defend what they have not had the will or responsibility to defend.

The recently appointed Provisional Election Council (CEP), whose members were replaced after massive protests in the wake of the senate elections in April and June 2009, is confronted with widespread distrust. Opposition political parties often claim that the CEP is too close to, or dependent on, the president of the republic. Despite lack of confidence in the CEP, the new CEP must prove its independence and impartiality, and that it has the capacity to hold credible elections that respect the law.

As elsewhere, elections are seen as the foremost measure of success for stability and political progress in Haiti. International actors have so far reiterated their firm commitment to support the election process in spite of current political developments. However, the international community will need to maintain a fine balance so that it in its eagerness to promote political stability and international investment, it does not undermine efforts to improve governance and emerging democratic practices in Haiti.

### Further reading

1. International Crisis Group (ICG), *Haiti: Saving the Environment, Preventing Instability and Conflict*, 28 April 2009; <http://www.crisisgroup.org/home/index.cfm?id=6078&l=1>, accessed 18 December 2009.
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5. Robert Perito, *Haiti: Is Economic Security Possible if Diplomats and Donors Do their part*, USIPeace briefing, May 2009, [http://www.ciaonet.org/pbei/usip/0016683/f\\_0016683\\_14424.pdf](http://www.ciaonet.org/pbei/usip/0016683/f_0016683_14424.pdf).

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**Editor:** Fionnuala Ní Éigeartaigh

**Design:** Ivar Windheim and pikelus.no

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