

Governing Haiti: Time for National Consensus

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Executive Summary

Haiti is in a race against time to convince its own people, donors and potential investors that progress and stability are achievable. Continued delay in holding free and fair elections may well pose the greatest immediate challenge, but President Michel Martelly, already struggling to govern the broken and divided nation for one and a half years, lacks the stable political base (also denied to his predecessors) to obtain buy-in to his proposed Five-E development strategy: employment, *état de droit* (rule of law), education, environment and energy. To finally start the long-promised transformation, he should build on the tenuous Christmas Eve 2012 agreement for a credible electoral body to hold much delayed Senate, municipal and local polls quickly. He also should bring key actors into a national dialogue on selecting the Constitutional Council and resolving credibility questions about the appointment of the president of the Supreme Court and the Superior Judicial Council, as well as on pursuing other critical short- and longer-term public policies.

Ending the elections imbroglio is essential but insufficient. Follow-on reforms are required to avoid political paralysis during Martelly's term. The long and difficult path to the recently concluded constitutional amendment process and still inconclusive debate over formation of the Permanent Electoral Council (CEP) are testament to the deficit of confidence and absence of political consensus. Haiti needs a national accord to manage reconstruction and development, particularly as it enters a difficult electoral period, whose calendar is still unknown. Many sectors espouse national dialogue rhetorically but do not pursue it seriously. The intensifying debate around organisation of Senate, municipal and local elections in 2013, however, may offer an opportunity to pursue a governance accord that could finally mobilise domestic forces and better secure donor support for the transformation that has been touted ever since the 2010 earthquake. After several failed efforts to reach domestic agreement on basic issues, even strong donor supporters are becoming frustrated by the lack of leadership, governance and accountability.

Decades of government inaction, growing frustration and decreasing citizen tolerance leave little margin for error. The Haitian brand of politics in effect virtually excludes the majority of citizens, and it is becoming increasingly difficult for any administration to govern effectively. The electoral calendar laid down in the constitution is never respected, so the terms of elected officials expire without replacement, giving rise to institutional instability. Elections are largely a contest between political and economic elites, as a myriad of parties give voice to few, fail to mobilise the electorate and fragment parliament. Voter participation has been falling since 2006, along with public confidence.

Zero-sum politics is not the answer to the country's fragile security and stability. Rather, consensus is required on priorities and the strategy for achieving them. It is increasingly evident that functional governance is unlikely until and unless the business community, religious, professional and political leaderships can reach an accord. Otherwise Haiti faces increasing internal unrest. The Latin American region offers useful experience about how to build sustainable, effective agreements that can progressively be translated into concrete and sustainable policies. The National "Concertación por la Democracia" in Chile, the Agreement for Justice and Security in Guatemala, the "Acuerdo Nacional" in Peru and, most recently, the "Pact for Mexico" are examples of how to identify shared priorities and extract commitments from po-

litical parties and civil society. They demonstrate that the initial dialogue must be inclusive, if there is to be effective decision-making and efficient implementation.

The challenges facing Haiti are not difficult to divine. In essence they focus on a need for good governance, consensus-building among the elites, poverty reduction strategies effectively implemented and strengthened rule of law. Sadly, these challenges have never been confronted effectively. Haiti today presents little cause for optimism. For every instance of progress on any of these fronts, there are multiple instances of regression or, at best, stasis. What has changed, though, are the recent signs of a genuine demand for an end to that stalemate from donors who are also showing strong signs of fatigue. If Haiti is to pull through, the better angels in the natures of its leaders are going to have to prevail for once and prevail soon. This is a thin reed on which to float the country's future; but it might be all it has. Without a national pact, President Martelly unfortunately faces the spectre of a failed presidency, and Haiti risks international abandonment.

Recommendations

To achieve and implement a national pact that can transform Haiti's political culture

To national political, social and economic elites:

1. Pursue public dialogue and consensus building and renounce confrontational tactics as the means for resolving conflicts, including by adopting the necessary compromises so that institutions can function effectively and by rejecting spoilers.
2. Use the elections as a starting point by agreeing on the terms for a free, fair, transparent and therefore credible electoral process in a pact accepted by all parties, the president, prime minister, legislature and supervising electoral body.
3. Identify a trusted national institution or mechanism, like the ecumenical Religions for Peace group, to provide, with international partnering, guidelines on the rules for a comprehensive dialogue process and for building up efficient mechanisms to implement its conclusions; and to monitor and encourage compliance with commitments.
4. Build an agenda for the national dialogue that focuses also on significant longer-term policies, including the government's Five-E development strategy (employment, *état de droit* (rule of law), education, environment and energy), along with adequate auditing for transparency in execution.

To lower political tensions between the executive and legislative branches

To President Martelly:

5. Demonstrate respect for the constitution by refraining from acts such as direct appointments to public posts that it requires be elected; and reverse any appointments that conflict with that requirement.

To political parties:

6. Adopt initiatives to firm up parliamentary groups into stable blocs built around policies rather than narrow individual interests.

To the international community:

7. Commit to support Haitian-led implementation of a national accord to address development and governance challenges on condition that it is based on and implemented via political dialogue, compromise and consensus.

Port-au-Prince/Bogotá/Brussels, 4 February 2013

Governing Haiti: Time for National Consensus

I. Introduction

Since 1986, when the Duvalier dictatorship ended and the new constitution opened an era of democratic governance, Haiti has been undergoing four simultaneous transitions; from armed violence to reconciliation and peace; from a non-democratic culture to a democratic society; from a failed to a modern nation-state; and from chronic, pervasive poverty and social injustice to a more thriving, equitable economy. The 2010 earthquake added a fifth transition: from a physically devastated country to one not only rebuilt but also transformed.¹ No government has succeeded in producing and implementing a clear strategy to overcome the political, social and economic challenges. Instead, the country has gone from crisis to crisis, each further deepening political division. Various loose agreements have sought to stave off more serious violence or end an impasse, but none have reached far enough to construct a national dialogue on the roots of the crisis and identify solutions.²

Much of the perennial political polarisation has its origins in the 1987 constitution's effort to prevent the return of a strong-man system by establishing a balance between the executive, legislative and judicial branches and authorising additional, independent oversight mechanisms. The latter have yet to be formed or to become fully functional. A constitutional council, separate from the Supreme Court, was conceived to review constitutionality of laws and address disputes between branches of government but is not yet in place.³ Similarly, though a Permanent Electoral Council, with representation from all three branches, was to organise and administer elections, the smaller body President Martelly has sought to form by decree is controversial;⁴ a consensus is urgently required on managing the current electoral impasse without prejudicing the eventual establishment of a widely accepted institution. The Superior Judiciary Council (Conseil supérieur du pouvoir judiciaire, CSPJ), for setting and monitoring judicial standards and safeguarding judicial independence, began operations only in July 2012.⁵

This report, the final one from the Crisis Group Haiti Project, explores the failure to make fundamental systemic and institutional progress and offers suggestions for at last overcoming it.⁶

¹ See Crisis Group Latin America/Caribbean Report N°44, *Towards a Post-MINUSTAH Haiti: Making an Effective Transition*, 2 August 2012.

² Crisis Group interview, senior women's group official, Port-au-Prince, 11 September 2012.

³ Constitution, Article 190 bis; amendment published in June 2012.

⁴ Constitution, Article 191.

⁵ The CSPJ was created by law in 2007 but existed only on paper until 2012. See: "Haïti: le Conseil supérieur du pouvoir judiciaire est enfin né", RFI, 4 July 2012.

⁶ All Haiti Project reporting is available at www.crisisgroup.org. Crisis Group will henceforth maintain a watching brief over events in the country.

II. Unfinished Business

Trapped in a vicious circle of mistrust, the nation's social and political elites rest their laurels on one successful joint enterprise: the war of independence that created the country more than 200 years ago.⁷ More recent history shows a propensity for loose agreements and massive mobilisations to remove what is not desired but rarely an inclination to agree on a broadly supported strategy to reverse political, social and economic deterioration.⁸ Insufficient will, zero-sum politics, unending distrust among Haitians, including between those on the island and expatriates, and international meddling all contribute to the lack of success.⁹ A senior diplomat central to the internationally-facilitated 2002-2004 negotiations between then President Aristide and the opposition summed up how those factors combined to foil attempts to avoid the bloodshed of that period:

One thing that stands out indisputably is that no one ever trusted anyone else. Aristide was an extraordinarily polarising figure [in the U.S.] and among Haitians. Whenever some members of the opposition were willing to reach agreement, others would always undermine them. And when push came to shove, key [U.S.] Republican [Party] Congressional and administration figures preferred to be anti-Aristide than to risk supporting compromise.¹⁰

The broad social movement that culminated on 7 February 1986 in revolt against the “president for life”, Jean-Claude Duvalier, ended Haiti's authoritarian regime, but stability, rule of law and national reconciliation remain distant goals. The highly diverse pro-democracy movement that brought together leaders from different political tendencies, social orientations and religious creeds was strong enough to push a dictator into exile, but it failed to produce a broadly agreed vision for the future.¹¹ In March 1987, voters overwhelmingly approved a constitution that included a ten-year ban on political participation by Duvalierists.¹² Though there have been some subsequent improvements in democratic policies, there has not been a substantial effort to foster national reconciliation, and the government system has largely kept the old Duvalierist structure.¹³

⁷ Chetan Kumar, “Sustaining Peace in War-Torn Societies: Lessons from the Haitian Experience”, Center for International and Security Studies, University of Maryland, undated, <http://cissm.umd.edu/papers/files/kumar.pdf>.

⁸ Crisis Group interview, senior international organisation official, Pétion-Ville, 30 August 2012.

⁹ Crisis Group interview, senior Haitian alternative development platform official, Port-au-Prince, 9 October 2012.

¹⁰ Crisis Group interview, Luigi Einaudi, ex-deputy secretary general, Organisation of American States (OAS), 15 October 2012.

¹¹ Crisis Group interviews, political party leader, former parliamentarian, Delmas, 18 September 2012; diplomat, Port-au-Prince, 24 September 2012.

¹² Constitution, Article 291.

¹³ In Haiti's semi-presidential system, the popularly-elected president is head of state but rather than having full executive power must agree with parliament on such matters as appointment of a prime minister who runs day-to-day government. The president is also required to make that nomination in consultation with the majority party in parliament. This frequently leads to disputes over interests and priorities between the two leaders, as well as between the branches of government. Crisis Group interviews, senior officials, political parties, Pétion-Ville, March, August 2012, senior government official, Port-au-Prince, March 2012, Haitian analyst, Pétion-Ville, 21 November 2012. See also “Business comes first”, *The Economist*, 10 March 2012 (online). “In a complex winner-take-

Following the 1990 election of the mass movement's symbolic leader, Father Jean Bertrand Aristide, and his quick removal by a military coup, international efforts to restore the constitution and Aristide to the presidency dominated the next three years. In July 1993, with U.S. support, the wider international community brokered a political truce between Aristide and General Raoul Cedras (the Governors Island Accord).¹⁴ It set a date for the president's return; outlined provisions for restoring constitutional government and replacing the army high command; and called for a social pact to guarantee a peaceful transition.¹⁵ It also envisaged the amnesty of military figures responsible for widespread human rights abuses but lacked broad consensus in the country. While it was endorsed by the UN Security Council and authorised military action to restore constitutional government that forced the former coup leaders out, it left an unjust social structure intact, thus prolonging the disconnect between politics and most of society.¹⁶

Political mobilisation and the 2004 rebellion that forced Aristide out for the second time produced one of the bloodiest moments in Haiti's recent history. The opposition refused to accept any compromise that would permit him to remain in office until his term ended in 2006.¹⁷ This time there was no element of restoring the constitution; international actors accepted the argument the president had to go to prevent more widespread violence. Those who pressed for his departure showed no real interest in formulating an effective, nationally-backed alternative.

The Political Transition Consensus (Consensus de transition politique) signed in April 2004 by the interim government headed by Prime Minister Gérard Latortue, political parties and civil society representatives, defined measures for the transition, including initiatives for a national conference and a new social contract.¹⁸ Be-

all political environment, such as Haiti's, parliament uses blockages to force the hand of the executive; the executive makes demands rather than works with the parliament. Rather than focus on the big picture, each individual focuses on where he/she stands in the picture. It is a structure that motivates actions based on friendship or face-saving". Crisis Group interview, Haitian businessman, Port-au-Prince, 12 October 2012.

¹⁴ Aristide was ousted by a coup and forced into exile only months after his election had ended four years of unstable military rule. The OAS and UN appointed a special envoy, former Argentine Foreign Minister Dante Caputo, but the U.S. special envoy, Ambassador Lawrence Pezzullo, was also heavily involved. Subsequently, other special envoys, including former U.S. Congressman William Gray, tried to arrange Aristide's return. Crisis Group Latin America/Caribbean Report N°10, *A New Chance for Haiti?*, 18 November 2004; also James Morrell, "The Governors Island Accord on Haiti", Haiti Policy, September 1993. The accord collapsed as human rights abuses continued by the military. "Terror Prevails in Haiti: Human Rights Violations and Failed Diplomacy", Human Rights Watch/Americas and National Coalition for Haitian Refugees, April 1994.

¹⁵ The international community also sought adoption of the "New York Pact" by parliamentary representatives from both sides of the political spectrum to facilitate the accord's implementation. "Haiti Background", undated, www.un.org/en/peacekeeping/missions/past/unmihbackgr2.html.

¹⁶ Security Council Resolution 940 (1994) authorised formation of a multinational force "to use all necessary means" to facilitate the military leadership's departure, prompt return of Aristide and restoration of the legitimate government. Ibid; James Morrell, "US Policy toward Haiti: A Review", Haiti Policy, undated (online).

¹⁷ Crisis Group interview, former senior diplomat, 15 October 2012. Michael Ottey and Jacqueline Charles, "Opposition rejects talks with Aristide", *The Miami Herald*, 6 February 2004; "Crisis in Haiti", Public Broadcasting Service, 25 February 2004.

¹⁸ See "Consensus de transition politique", democratie.francophonie.org/IMG/doc/Haiti. The consensus pact was fashioned on the Initial Accord of 2002 proposed by the OAS and the 2004 Preliminary Action Plan of the Caribbean Community (CARICOM). Fanmi Lavalas, Aristide's party, refused to sign. Some 184 institutions and organisations, known as the Groupe 184 and led by busi-

tween April 2004 and May 2006 an ad hoc group (Groupe de réflexion et de promotion du dialogue national) led discussions focused on inclusiveness and structure and timing of planned local, municipal, parliamentary and presidential elections. The signatories reached a general agreement on the transition based on elections and installation of a new president. Political parties signed an electoral code of conduct, but there was no broader dialogue on structural problems.¹⁹

René Prével defeated 34 rivals to win the presidency. In the three months preceding his May 2006 inauguration, he sought to reduce international leadership of the dialogue process by consulting with party and civil society leaders on a promising 25-year governance and development pact.²⁰ This led to agreement on a multi-party government. During his trips abroad, the new president also met with former opposition party leaders, and he formed multi-sectoral commissions to debate key issues, such as justice and public security, as well as constitutional amendments to reduce the frequency and cost of elections and boost the participation of women and the diaspora in politics.²¹

The commissions produced some recommendations that led to legislation on justice reform, a national police development plan and draft constitutional amendments. Initially most political sectors expressed willingness to follow through on these, but their support weakened and largely disappeared after riots over high living costs in April 2008 forced out Prime Minister Jacques Edouard Alexis, and political leaders began positioning themselves for legislative elections in 2009 and presidential elections the following year. Even the devastation and suffering generated by the 2010 earthquake did not stimulate a national consensus on reconstruction.²²

nessman Andy Apaid, proposed a social contract to address three issues: Haitian unity, development blockages and political, social and economic decline. Some Haitians felt the proposed social contract sought to perpetuate domination by power elites, not to break with the authoritarian political system. Crisis Group interview, political party leader, Delmas, 18 September 2012; "Pourquoi de nouvelles relations sociales? Le vivre ensemble comme pratique de citoyenneté pleine", 1 December 2003, www.papda.org/article.php3?id_article=58.

¹⁹ Crisis Group interview, political party leader, Delmas, 18 September 2012. A Committee on Assistance for Victims of Violence was tasked in November 2004 to help those who were wounded, lost relatives or had been displaced due to political beliefs. The process was hampered by the tense relations between the interim government and Fanmi Lavalas, stemming in part from actions the former took against the latter in parallel to dialogue efforts. These included arrest and imprisonment of some Lavalas members and an investigation of the finances of its government from 2001 to 2004. "Report of the Secretary-General (SG) to the Security Council", S/2005/124, 25 February 2005.

²⁰ It seemed to offer a chance to move beyond political polarisation, promote national dialogue and consensus and win international support for development. Crisis Group Briefing N°10, *Haiti after the Elections: Challenges for Prével's First 100 Days*, 11 May 2006; "IDB supports new Haitian government's social peace plan", Inter-American Development Bank news release, 6 June 2006. The eighteen-member cabinet included representatives from seven political formations: Fusion des socio-démocrates (Fusion), Alyans, Mouvement pour l'instauration de la démocratie en Haiti (MIDH), Fanmi Lavalas, Lespwa, Organisation du peuple en lutte (OPL) and Union.

²¹ Prével also called on armed gangs in urban slums to lay down their weapons before requesting, when they refused, MINUSTAH's assistance in neutralising them. Crisis Group telephone interview, senior MINUSTAH official, 2 October 2012.

²² See Crisis Group Latin America and Caribbean Reports N°28, *Reforming Haiti's Security Sector*, 18 September 2008, and N°32, *Haiti: Stabilisation and Reconstruction after the Earthquake*, 31 March 2010.

III. The Doctor, the Priest and the Musician

The persistence over time of personalised politics and an inability to compromise have contributed decisively to the continuing instability. Politics in Haiti has been centred around strong personalities in turbulent times: François Duvalier (“Papa Doc”, 1957-1971, followed by his lawyer son, Jean-Claude, 1971-1986); Jean-Bertrand Aristide (a priest, 1991, 1995-1996, and 2001-2004); and Michel Martelly (the singer “Sweet Mickey”, since 2011). Each period of turmoil makes the political landscape more complex, heightening longstanding conflicts across numerous divides. Political parties have been unable to mitigate instability. The private sector has hardly believed in them; the intellectual and academic community questions their utility; and the people show their preference for individuals and personalities rather than institutions. Lack of dialogue is leading to a fragmented and polarised society, seemingly incapable of building consensus.²³ But Haiti cannot escape its current dilemma without a real national debate that leads to agreement on the future of the country.

Over 100 parties and groups have produced the 5,000 signatures required for registration, but the little power they enjoy rests in the hands of only a few persons.²⁴ The failure to generate institutionalised politics or effective civil outreach results in a political sphere in which Darwinian survival of the fittest prevails. The effect on governance is devastating, essentially stalling project implementation, policy formulation and legislative action. Few elected presidents in the past 55 years have been members of an organised party; instead, they have been handpicked by loose alliances created for electoral and temporary goals.²⁵ This way of doing politics has meant citizens are unable to choose between clearly defined platforms they can expect to be carried out if their party wins a parliamentary majority or the presidency. This removes them in effect from decision-making and renders almost any proposed public policy suspect.

Historical experience shows successful democracy requires a power balance between the elites and the large majority of poorly paid or unemployed Haitians. The former includes two groups: those who own most of the wealth and those who govern, controlling the treasury and security while paying lip-service to the poor.²⁶ The rich co-opt the politicians to protect their private interests. Tensions and squabbles for wealth and power emerge between the two groups, but they unite to protect their duopoly when threatened. They have sufficient cohesion to dominate but not to carry out a program that supports effective political, social and economic development.

²³ Crisis Group interviews, senior MINUSTAH official (telephone), 2 October 2012; senior Haitian think-tank officials, Port-au-Prince, 19 September 2012. The election of Martelly, a novice politician, was widely viewed as rejection of traditional parties. “Haiti’s new ‘bad boy’ president”, www.globalpost.com, 8 April 2011. Crisis Group interview, political party leader and former parliamentarian, Delmas, 18 September 2012.

²⁴ Crisis Group interview, senior Haitian think-tank officials, Port-au-Prince, 19 September 2012.

²⁵ For example, Aristide (1990), Préval (1995 and 2006) and Martelly (2011); since 1990, only Aristide in 2000 was elected under his party’s banner; even then, much of his support was personal.

²⁶ Crisis Group interviews, Haitian analyst and writer (telephone), 12 September 2012; political party leader, Delmas, 18 September 2012. Crisis Group Latin America/Caribbean Report N°35, *Haiti: The Stakes of the Post-Quake Elections*, 27 October 2010, p. 2; see also Robert Fatton Jr., *Haiti’s Predatory Republic: The Unending Transition to Democracy* (Boulder, 2002); and “Social Resilience and State Fragility in Haiti: A Country Analysis”, World Bank, 27 April 2006.

The absence of strong parties has led to a power vacuum and weak democratic institutions. The vacuum has been filled by personalised politics too shallow and incoherent to address the country's weaknesses.²⁷ Rather, the emphasis is on protecting the power and interests of a few key players. National life is characterised by widespread misery—more than four times the regional average of women dying in childbirth; more than twice the regional rate of infant mortality; more than five times the regional rate of malnutrition; and more than half of all families living in extreme poverty – and the strife that results as elites finance street demonstrations on a near continual basis.²⁸ Repeated crises undermine efforts to give state institutions their constitutional independence and authority and make building rule of law a daunting task.²⁹ The result is a political culture that “excludes options of exploring, incorporating, generating, mediating, planning and finding common ground”, preferring instead “solutions that involve eliminating, avoiding, preventing, blocking and destroying all forces that are perceived to be adversarial”.³⁰

When François Duvalier (“Papa Doc”) became president in 1957, he faced a choice whether to serve as the instrument of those who held power or to fight to consolidate it on his own terms. He gained mastery by creating his own paramilitary force, the Tonton Macoute, that kept him in power by violence but also became a counterweight to the army's traditional capacity for coups d'état and reflected some mass support for his regime.³¹ Under his brutal dictatorship, all political parties except his National Unity Party (Parti d'unité nationale, PUN) were forced to operate in exile. His successor son, Jean-Claude, professed a policy of gradual democratisation of institutions, allowing some judicial and public administration reforms, easing press censorship and releasing some political prisoners, but genuine opposition remained prohibited.³²

As a Canadian senior researcher explained following the 2010 earthquake, “Duvalier left behind Duvalierism, a system of government too profoundly entrenched to truly eradicate”.³³ His strategy of ruthless violence has been recurrent in politics.³⁴

²⁷ Comments of Bob Corbett, on Robert Fatton Jr., *Haiti's Predatory Republic*, op. cit., October 2002, www2.webster.edu/~corbette/personal/reading/fatton-predatory.html; Crisis Group interview, Haitian political party trainer, Port-au-Prince, 6 September 2012.

²⁸ www.cepal.org/publicaciones/xml/4/48864/AnuarioEstadistico2012_ing.pdf, see charts 1.4.1 and 1.4.2; www.imf.org/external/pubs/ft/scr/2012/cr1275.pdf, p. 22.

²⁹ See Ricardo Seitenfus, “The Nature of Haitian Politics and International Challenges”, *Journal of Peacebuilding and Development*, vol. 6, no. 3 (2011), p. 85; also “D'un premier ministre à un autre”, *Haiti Liberté*, 4-10 November 2009, p. 2.

³⁰ Seitenfus, op. cit., p. 85. See also Robert Fatton Jr., “Post-MINUSTAH Haiti: Between the Scylla of a Power Vacuum and the Charybdis of a New Haitian Military Force”, presentation, 23rd Annual Conference, Haitian Studies Association, University of the West Indies, Mona Kingston, Jamaica, 10-12 November 2011.

³¹ Robert Fatton Jr., “Post-MINUSTAH Haiti”, op. cit., pp. 3-4; Mark Danner, “Haiti on the Verge”, *The New York Review of Books*, 4 November 1993.

³² Claude Moïse, *Constitutions et luttes de pouvoir en Haïti*, II, 1915-1987 (Editions Centre international de documentation et d'information haïtienne, caraïbéenne et afro-canadienne, 1990); “Jean-Claude Duvalier (Baby Doc) Prosecution”, Institute for Justice and Democracy in Haiti, Bureau des avocats internationaux, <http://ijdh.org/projects/jean-claude-duvalier>.

³³ Elizabeth Abbott, “The Ghosts of Duvalier”, *Foreign Policy*, 19 January 2011 (online). A prominent Haitian businessman commented: “We are trying to build a democracy inside a Duvalierist dictatorship. We have the Papa Doc system without Papa Doc; the system does not work and will not work until we find a way to ‘de-duvalierise’ it”, Crisis Group interview, Port-au-Prince, 12 October 2012.

Aristide refused to build a broad coalition and seek common ground with his opponents. In his first term, he overrode his prime ministers, and, during the first Préval term (1996-2001), he was unwilling to yield political power even to a president aligned with his own party. When that party, Lavalas, returned to power in 1994 and disbanded the army, it supported a new civilian national police but also kept the more sinister *chimères* (armed thugs), who intimidated, harassed and, in some instances, brutalised opponents. Though he was elected by a mass movement hoping for justice and democratic change and never approached the extreme repression of the Duvaliers, Aristide, in the view of many in and outside Haiti, “came to resemble the opportunist politician who has defined much of the country’s history”.³⁵

The presidential victories of Préval in 2006 and Martelly in 2010 both benefited from the influence of what a former prime minister called the *force de frappe*: mob intimidation generated by a political base of poor unemployed urban dwellers manipulated by politicians to force demands during elections and at moments of crisis and unrest. However, most observers do not consider Préval a violent populist or personally corrupt, and he adopted policies aimed directly at rural poverty reduction, although with little effect. The U.S. embassy portrayed him as wanting to change the presidential tradition of making promises that were impossible to keep.³⁶ Nevertheless, in his last two years in office, he was accused of manipulating the electoral process, first, to fill twelve Senate seats in 2009, then, in 2010, to engineer (unsuccessfully) succession by Jude Célestin, the candidate of his platform, Inité.

Michel Martelly’s presidency has been punctuated by conflicts with parliament and other sectors that have blocked the consensus needed to facilitate governance and pave the way for reconstruction and development. Some have sprung from a rare split in the governing class, the result of the fact that his administration and the legislature emerged from different sides of the political spectrum.³⁷ Martelly’s election ended the 26-year virtual exclusion of the Duvalierists from a share of executive power.³⁸ Lavalas, which had mostly dominated government since 1990, lost executive power through elections for the first time in a generation but kept a parliamentary

³⁴ Robert Fatton Jr., “Post-MINUSTAH Haiti”, op. cit., pp. 3-4.

³⁵ Crisis Group Report, *A New Chance for Haiti?*, op. cit., pp. 5, 7.

³⁶ Crisis Group Latin America/Caribbean Briefing N°19, *Haiti 2009: Stability at Risk*, 3 March 2009, p. 3. Crisis Group interviews, political party leader, Delmas, 18 September 2012; senior foreign diplomat, Port-au-Prince, 24 September 2012. U.S. embassy Port-au-Prince cable, “Personal Details on René Préval”, 1 March 2007, as made public by WikiLeaks.

³⁷ Crisis Group interview, senior foreign aid officials, Port-au-Prince, 7 September 2012. The parliament has representatives from nineteen parties and groups and one independent. Ten parties are in the 30-member Senate, including seventeen senators from Lavalas and Lavalas off-shoots, such as Inité, Lespwa, and L’Avni. Ansamn Nou Fo and Veye Yo are also Lavalas-associated parties with lower house representation. Martelly’s Repons Peyizan, has three lower house deputies, no Senators.

³⁸ Martelly’s close circle and government team include several members of the Duvalier dictatorship or their descendants. Some actions – the arrest of a member of parliament despite legislative immunity, the arbitrary dismissal and replacement of elected mayoral councils whose terms had expired and appointments to local elected positions – were seen by some as throwbacks to the Duvalier era. Crisis Group interviews, senior party official and Haitian analysts, Pétion-Ville, 21 November 2012. “Qu’en est-il du principe d’un élu remplaçant un élu?”, *Le Nouvelliste*, 7 November 2012; “Le pouvoir dérive, la société civile sonne l’alarme”, *ibid*, 28 February 2012. Juan Gabriel Valdés, “Post-Earthquake Politics in Haiti: Between Authoritarianism and Méfiance”, *Journal of Peacebuilding and Development*, vol. 6, no. 3 (2011), p. 79.

majority sufficiently strong to deny Martelly a prime minister for months and to block formation of an electoral council.³⁹

Amid a multiplicity of parties, two basic tendencies have prevailed since 1991: Lavalas and opposition to Lavalas. Since Martelly's ascent, a third can be distinguished. The Duvalierist tinge to his presidency has led to emergence of a middle ground of parties that for twenty years opposed Lavalas governments but had fought Duvalierism in the 1980s.⁴⁰ Martelly is seen as failing to reach out to political groups in and outside of parliament.⁴¹ While he has shown exceptional ability to connect with Haitians, both rich and poor, in Haiti and abroad, he has not sufficiently used that capacity to address factors that could reduce political tensions and build national consensus. He reached a compromise with parliament on a prime minister and cabinet only five months into his term. Four months later, Prime Minister Garry Conille resigned amid tensions with the president over relations with parliament.⁴²

Other conflicts that have plagued his presidency have been self-inflicted, as he has wavered between confrontation and dialogue. In October 2011, he held reconciliation talks with four of the six ex-presidents living in Haiti.⁴³ That same month, the arrest, despite parliamentary immunity, of Arnel Bélizaire, with whom he had an altercation, challenged his promise to strengthen rule of law.⁴⁴ Despite calling in January 2012 at the opening of parliament for executive-legislative-judicial consensus to ensure coherent government, controversy with parliament grew over allegations that he and other senior officials held foreign citizenship (prohibited by the constitution).⁴⁵ These two issues set in motion executive-legislative confrontations,

³⁹ Current head of government Laurent Lamothe is Martelly's fourth prime minister candidate. Parliament rejected Daniel Rouzier and Bernard Gousse; Garry Conille, resigned after four months. Crisis Group Report, *Towards a Post-MINUSTAH Haiti*, op. cit.

⁴⁰ These include among others Evans Paul's KID (Konvansyon Inite Demokratik); Fusion (Fusion des socio-démocrates), headed by former Senator Edmonde Supplice Beauzile; OPL (Organisation du peuple en lutte), directed by Sauveur Pierre Etienne; and the RDNP of Martelly's second round opponent, Mirlande Manigat. Crisis Group interviews, senior presidential adviser, Port au-Prince, 26 September 2012; Haitian businessman, Pétion-Ville, 11 September 2012; party leaders, Pétion-Ville, Delmas, 5, 18 September 2012.

⁴¹ "Haiti's Michel Martelly: The singer-turned-leader, one year later", *The Miami Herald*, 13 May 2012.

⁴² Jacqueline Charles, "Haiti prime minister Garry Conille resigns after months in office", *The Miami Herald*, 24 February 2012; "Démission du premier ministre Garry Conille", Radio Metropole, 24 February 2012; "Report of the Secretary-General on the United Nations Stabilization Mission in Haiti", S/2012/128, 29 February 2012, pp.1-2.

⁴³ Martelly visited former Presidents Jean-Claude Duvalier, Aristide, Boniface Alexandre and Prosper Avril in October, then Préval in November. "Michel Martelly rencontre Aristide, Duvalier et Avril", Radio Kiskeya, 12 October 2011; "Heureuses retrouvailles entre Michel Martelly et René Préval", *ibid*, 15 November 2011.

⁴⁴ "Report of the Secretary-General", 29 February 2012, op. cit., p. 1. According to the report, the arrest led to the resignation in November 2011, under intense parliamentary pressure, of the justice minister, Josué Pierre-Louis. On 9 February 2012, the parliamentary commission investigating the circumstances of Bélizaire's arrest submitted its report, finding it arbitrary and concluding that former chief prosecutor Félix Léger ordered it. "Deputy Arnel Belizaire Letter on Altercation with Martelly", *Defend Haiti*, 25 October 2011; "Arnel Belizaire, pris aux furies du Président Martelly", *Le Matin*, 7 November 2011; Thomas Péralté, "After two weeks away: President Martelly returns to Haiti", *Haiti Liberté*, 2-8 May 2012.

⁴⁵ "Dual nationality in the Martelly government: Tensions grow as senate investigation proceeds", *Haiti Liberté*, 7 February 2012. Constitution, Article 135.a.

halting progress on development of an agreed legislative agenda, adoption of the budget and publication of a calendar for partial Senate, municipal and local elections.⁴⁶

At the start of his second year, in collaboration with the legislature and the judiciary, Martelly focused on strengthening rule of law through establishment of key state institutions. In June 2012, accompanied by the speakers of both houses of parliament and a newly appointed chief justice of the Supreme Court (Cour de Cassation), he announced publication of a corrected version of constitutional amendments voted by parliament in May 2011.⁴⁷ In July, he appointed the members of the Superior Judiciary Council (CSPJ), formally establishing the judicial body that, with the president and parliament, is responsible for selecting members of the Permanent Electoral Council (CEP). This renewed hope for concerted progress on rule of law, but even that action gave rise to problems, since Anel Alexis Joseph, the president of the Supreme Court he had appointed despite apparently being well past the constitutional age limit for judges, automatically became president of the CSPJ.⁴⁸

Opponents also challenged Martelly's authority to publish the corrected amendments.⁴⁹ Some critics blamed the impasse over formation of the CEP in part on his one-year delay in doing so, during which time the terms of ten senators ended who have yet to be replaced. That put at risk obtaining three members for the CEP from the legislative branch, since their approvals require two-thirds majorities in each chamber. The undersized Senate has failed to reach the quorum needed to designate its three representatives.

The vote by the CSPJ to designate its three representatives led to the resignation of two CEP members, who alleged undue influence on the selection by the executive and questioned the vote's validity.⁵⁰ Expressing lack of trust in the selection process, a number of parliamentarians and political and civil society leaders called for creation of a provisional CEP, but in August 2012 Martelly established by decree what he said was to be a six-member permanent body, including the three representatives of the executive and of the judiciary. Selection of Josué Pierre-Louis (also chosen as in-

⁴⁶ See "Report of the Secretary-General", 29 February 2012, op. cit., pp. 1-2.

⁴⁷ Procedural irregularities marred the publication process a year earlier, but the amendments were welcomed in several quarters because they provided for establishment of the Permanent Electoral Council (Conseil électoral permanent, CEP), the Constitutional Council (Conseil constitutionnel, CC), and a 30 per cent quota for women's participation in government and permitted citizens to have more than one nationality. Crisis Group Report, *Towards a Post-MINUSTAH Haiti*, op. cit.; also, "Report of the Secretary-General on the United Nations Stabilization Mission in Haiti", S/2012/678, 21 August 2012, pp. 1-2.

⁴⁸ Crisis Group interviews, senior diplomats and international community officials, Haitian officials and political leaders, Port-au-Prince, 3-5 December 2012. For more on the chief justice's appointment, see Section V.A.1 below.

⁴⁹ George Michel, for instance, a Martelly collaborator who worked on the 1987 constitution, discouraged publication of the amendments because the text did not include the Creole version required by the constitution. "Serious consequences in case of publication of the constitution", *Haiti Liberté*, 28 May 2012. Martelly's second round opponent in the 2011 election, Mirlande Manigat, also opposed publication. See "Manigat se prononce contre la publication de la constitution amendée", Radio Metropole, 10 January 2012. The constitution requires amendments to be introduced by a president and approved by parliament, then approved again by the next parliament and published by the president who introduced them so they can take effect under his successor. See Crisis Group Report, *Towards a Post-MINUSTAH Haiti*, op. cit.

⁵⁰ "Me Dilia Lemaire démissionne du CSPJ", HaitiLibre.com, 11 August 2012, online; "Le CSPJ sur le point de revenir sur le choix de ses représentants au CEP", Radio Television Caraïbes, 20 September 2012, online.

terim CEP president) as an executive branch representative further antagonised parliament. He was justice minister when Bélizaire was arrested and allegedly resigned to forestall impeachment.⁵¹ Pierre-Louis launched a dialogue with representatives of political parties and civil society, both houses of parliament, the business sector and the media, but like other participating political leaders, he demonstrated little willingness for compromise.⁵²

Following the decree establishing the six-member CEP, Martelly was suspected, almost as a matter of course, of intending the same travesty as his predecessors in the partial Senate, municipal and local elections he announced for the end of 2012, but the impasse over the council made it impossible to organise these.⁵³ His campaign promises of free education, jobs and housing are popular, but difficulties fulfilling them combined with a year of drought, two tropical storms and price increases have significantly reduced the access of poorer households to basic food staples and added socio-economic pressure to an already strained political climate.⁵⁴ Between August and October 2012, Martelly faced 128 public protests related to such issues throughout the country.⁵⁵

⁵¹ Pierre-Louis also has apparently not received the formal discharge papers from the legislature required of public administration officials before they can be named to a new government position. Crisis Group interviews, political leaders and international community officials, Port-au-Prince, 3-4 December 2012.

⁵² “Martelly: CEP permanent et dialogue permanent”, *Le Nouvelliste*, 28 August 2012.

⁵³ Media release, Fusion, August 2012. “Énième manifestation anti-gouvernementale au Cap Haïtien”, *Le Nouvelliste*, 18 October 2012. Several political leaders of the middle joined a “symposium of the opposition” organised by political and civil society organisations, 15-17 October 2012 in Cap Haïtien. At its end, over 30 organisations signed the “Manifesto of Cap Haïtien”, depicting the political, social and economic situation as undemocratic; demanding action from the executive, including more transparency in management of public funds and a halt to “unconstitutional acts”; and committing to oppose “arbitrary practices” of the government. “L’opposition en diaspora soutient la rencontre du Cap Haïtien”, Haiti Presse Network (HPN), 15 October 2012; “La situation fragilise encore plus les conditions de vie de la majorité de la population haïtienne”, Radio Kiskeya, 17 October 2012; “Le manifeste de Cap Haïtien, l’opposition se structure”, *Le Nouvelliste*, 16 October 2012; “Fanmi Lavalas pour le respect du mandat du président Michel Martelly”, *Le Matin*, 20 October 2012.

⁵⁴ Crisis Group interviews, senior UN official, Pétion-Ville, 18 September 2012; senior official, Alternative development platform, Port-au-Prince, 9 October 2012. In September 2012, Gary Mathieu, coordinator of the National Coordination for Food Security (Coordination nationale de la sécurité alimentaire, CNSA), declared that about 4.5 million Haiti’s estimated 10 million population faced food insecurity. “Alerte à l’insécurité alimentaire”, CNSA, 18 October 2012; “4.5 million in situation of food insecurity”, HaïtiLibre.com, 26 September 2012. Hurricane Sandy in late October destroyed crops and livestock, further reducing food availability. Jacqueline Charles, “Sandy fuels growing fears of food security crisis in Haiti”, *The Miami Herald*, 5 November 2012.

⁵⁵ Crisis Group interview, senior MINUSTAH official, Tabarre, 21 November 2012. Between September and October 2012, protests began across the country against high living costs and slowly transformed into a broader demonstration of opposition to President Martelly, who it was said was not fulfilling his campaign promises, so should resign. The protests have mostly been led in Cap Haïtien (North) by Martelly’s most vocal opponent, Senator Moïse Jean Charles (Inité, north). On 30 September, a demonstration was held in Port-au-Prince to mark the 21st anniversary of the military coup against Aristide. See “Quatorze partis et plateformes politiques rejoignent la mobilisation antigouvernementale”, Radio Kiskeya, 28 September 2012; also “Haïti-manifestations: un vent d’instabilité souffle sur Port-au-Prince”, *Métro Montréal*, 1 October 2012; and “Les lavalassiens réalisent la première manifestation anti gouvernementale dans la capitale”, Radio Metropole, 1 October 2012. Because Martelly foes led the various demonstrations, some Haiti observers they were manipulated. “Le gouvernement veut satisfaire les revendications des manifestants du Cap”, Radio Metropole, 18 September 2012.

The UN Office for the Coordination of Humanitarian Aid (OCHA) has indicated that 15 per cent of the population is at heightened risk of malnutrition following a year of natural disasters. After a November 2012 Rome meeting between Martelly and Director General José Graziano da Silva, the Food and Agriculture Organisation (FAO) reportedly stated that Haiti risked social tensions due to rising food insecurity.⁵⁶

Delays in parliamentary approval of his prime minister, changes within the government, weak administration, and the magnitude of the task explain in part Martelly's slow start. The rest can be traced to the absence of constructive dialogue with political, social and economic sectors. As head of state, Martelly must build public confidence and seek to reduce social and political tensions by pursuing more open dialogue on the divisive issues of price increases for basic commodities (*lavi chè*) and the electoral council.⁵⁷ As analysed below, dialogue must also build a credible agenda of urgent institutional reforms.

The publication of a list of businessmen owing taxes and imposition of a travel ban on some of them added further strain. The government has the right to collect taxes, but some in business perceived the method as score settling – particularly because some on the list are allegedly in disagreement with the president.⁵⁸ Likewise, Martelly's 1 October 2012 march from the airport to the palace accompanied by many supporters, only a day after an anti-government protest in the capital, contrasted sharply with his earlier attempts to open dialogue.⁵⁹ Some analysts worry he "goes too far and then comes back" and wonder how far he will go as divisions deepen and opposition rises. Matters could turn against him if the government response to price increases is perceived to be unsatisfactory, food access is reduced, and elections are interminably delayed or ultimately considered not credible.⁶⁰

Calls for Martelly's resignation less than two years into office are unlikely to succeed, but the protests are a clear sign that his honeymoon is over. His initial attempts at dialogue have been insufficient, and political conflicts will persist unless some form of consensus is reached with key national sectors. However, the opposition bears its own responsibility, and if the country is to move forward, all sectors of society must move beyond the bitter partisanship that has characterised politics and come together on national challenges.⁶¹

⁵⁶ "Hundreds of thousands of people affected by hurricane Sandy", OCHA, 2 November 2012. "Haiti's rising food insecurity risks social tensions, says FAO", Reuters, 22 November 2012.

⁵⁷ *Lavi chè* is the Creole term. "Quand la crédibilité du gouvernement est minée", *Le Nouvelliste*, 1 October 2012.

⁵⁸ Crisis Group interviews, political analyst, Port-au-Prince, 7 September 2012; Haitian businessman, Pétion-Ville, 11 September 2011. See also "Interdiction de départ visant 69 contribuables récalcitrants", *Haiti Liberté*, 5-11 September 2012; "La DGI et le premier ministre s'expliquent", *HaitiLibre.com*, 4 September 2012.

⁵⁹ "Martelly: Manifestation contre manifestation", *Le Nouvelliste*, 1 October 2012.

⁶⁰ Crisis Group telephone interview, Haitian analyst and writer, 12 September 2012. A former ally, George Michel, accused the president of wanting to control the electoral machine like his predecessors. "Crece el disgusto contra Martelly", *Hoy Digital*, 18 October 2012.

⁶¹ Crisis Group interviews, senior women's group official, Port-au-Prince, 11 September 2012. Seitenfus, op. cit., p. 86.

IV. International Contributions

A. Regional Experiences

The promotion of broad national agreements is not new in the Latin American region, and Haiti can learn from the experiences. Emerging from moments of political or institutional crisis or focused on specific policies, such pacts have been signed by political forces, civil society organisations, churches and others seeking to create a common platform for both short- and longer-term action. They usually come into effect after a complicated process of consensus building, with clear leaders and, not infrequently, international support and even supervision. Among others, Chile, Guatemala, Peru and, more recently, Mexico provide examples.⁶²

In the later years of the Pinochet military dictatorship in Chile, a diverse array of opposition political parties coalesced into the “Concertación de Partidos por la Democracia” (Concert of Parties for Democracy). It successfully organised in 1988 a “no” vote on the referendum to continue the military regime and reached agreement on specific macro-economic and social policies, as well as a transitional agenda that included a truth commission and constitutional reforms to overcome an authoritarian legal legacy. Notwithstanding ideological differences and past grievances, the Concertación stuck to the agreement and governed for twenty years.⁶³

In Guatemala, the threat posed especially by increasing crime (including organised crime and drug trafficking) motivated a national dialogue centred on security and justice. In 2009, under strong civil society and international pressure, the president, parties and the judiciary signed a pact specifying short- and longer-term policies to improve access to justice and protection of vulnerable populations. It included a strategy to fight impunity as the most serious threat to rule of law.⁶⁴ Implementation was entrusted to four institutions, including the ombudsman and national university, but inadequate political will among the state authorities hampers follow-through.⁶⁵

The Peru case is one of the most ambitious and longstanding. In 2000, and in the context of a stalemate between President Alberto Fujimori and the political opposition, parties and civil society organisations called for a broad national agreement. Initially promoted by the Organisation of American States (OAS) and Canada as a roundtable for talks between the fractured regime and a reinvigorated opposition to end the crisis, it became a permanent forum after Fujimori’s resignation. The transi-

⁶² Other countries that have attempted national consensus building on general or specific good governance pacts are: Bolivia, Brazil, Colombia and El Salvador. For background analysis on democracy and consensus-building in Latin America, see “Democracy in Latin America, Towards a Citizen Democracy”, UN Development Programme (UNDP), April 2004.

⁶³ The main parties (Christian Democracy, Socialist) alternated in the presidency for twenty years; the Christian Democrats won the first two post-referendum terms, the Socialists the next two. David Vásquez, “Algunas notas sobre el origen de la Concertación de Partidos por la Democracia”, Biblioteca del Congreso Nacional de Chile, 2005.

⁶⁴ The National Pact for Justice and Security included 101 commitments in ten thematic areas, such as police and prison reforms, protection for judges and prosecutors, ammunition and weapons controls and participation in the justice system. Only six were fully implemented before President Pérez Molina terminated the pact in March 2012. “Acuerdo Nacional para el Avance de la Seguridad y la Justicia”, Presidencia de la República de Guatemala, Secretaría Nacional de Planificación, 2009.

⁶⁵ See Crisis Group Latin America/Caribbean Report N°33, *Guatemala: Squeezed between Crime and Impunity*, 22 June 2010, and Crisis Group Latin America/Caribbean Report N°39, *Guatemala: Drug Trafficking and Violence*, 11 October 2011.

tional government, led by Valentín Paniagua (2000-2001), institutionalised the roundtable and called for a national dialogue on key political areas. The resulting “Acuerdo Nacional” was born as a platform for political parties, business organisations, trade unions, churches, civil society organisations and public institutions that over eighteen months in 2001-2002 agreed on 31 policies, including benchmarks for measuring progress every five years until 2021.⁶⁶

Despite occasional quarrels over interpretation, subsequent governments have respected the policies, and the agreement has become the basic roadmap for major decisions. One reason for its endurance is the implementation mechanism. Instead of relying on ordinary state procedures, a powerful executive secretariat was established inside the presidency of the council of ministers, and a ministerial committee was mandated to report periodically. Subsequent regional and local agreements have added new layers to the basic concept.⁶⁷

New President Peña Nieto and the three main political parties signed the “Pacto por México” on 1 December 2012, establishing core agreements on five areas and 95 commitments to good governance that are basically to guide the legislative agenda through 2018. One is for strengthening and stabilising the political system by improving its transparency, including by a party statute meant to produce, inter alia, more accountability for elections.⁶⁸

Haiti can learn from these regional experiences with respect to three key questions: how to ensure an effective and legitimate call for a national dialogue; what agenda elements can realistically be articulated in a consensus-building process; and what implementation and monitoring mechanisms can be most effective. While there is no perfect model that can simply be copied, the following lessons seem particularly relevant:

- ❑ Stalemate and other political crises can engender sufficient motivation for a national dialogue on how to get things agreed and done;
- ❑ the dialogue’s agenda should aim at an agreement balanced between short- and longer-term policies, so that it is neither too narrow nor too ambitious but vague;
- ❑ the process should be as inclusive as possible, bringing in civil society, churches, business associations and unions, as well as the more traditional political actors; and
- ❑ implementation and monitoring mechanisms are the keys for success, as well as incentives both to promote compliance and to punish spoilers.

B. Donor Help

Aristide’s departure in 2004 was preceded by criticism in and outside the country against the role played by the international community, particularly the OAS, the U.S., Canada, and France. Timothy Carney, the U.S. chargé affaires, acknowledged

⁶⁶ Policies were grouped as Democracy and Rule of Law; Social Justice, National Competitiveness, and Transparency; and Social Participation. The final agreement was signed in July 2002

⁶⁷ www.acuerdonacional.gob.pe; Fernando Chávez Albavera (eds.), “Constitución Política, Acuerdo Nacional y planeamiento estratégico en el Perú”, Serie Gestión Pública, Comisión Económica para América Latina, 2003. Pursuant to a 2003 constitutional reform, each bill submitted to congress must assess its impact with regard to one of 31 agreed policies.

⁶⁸ For more, see www.presidencia.gob.mx/ha-llegado-el-momento-del-encuentro-y-el-acuerdo.

that “the key to fixing Haiti is that Haitians have to do it”.⁶⁹ In 2006 and 2010, however, the traditional donors were again the objects of criticism for heavy-handed involvement in the presidential elections,⁷⁰ and on the eve of the third anniversary of the 2010 earthquake, President Martelly urged them to let Haiti lead reconstruction.⁷¹ Donors, who too often have cooperated only with their own preferred partners, have to be prepared to support a broad, inclusive dialogue led by Haitians.

Haiti has benefited from significant aid for years. The Interim Cooperation Framework (Cadre de coopération intérimaire, CCI) was agreed at a July 2004 donors conference in Washington to address short-term needs (February 2004–February 2006), by when an elected government was expected to be in place.⁷² Of \$1.3 billion pledged, \$40 million was envisaged for the electoral process and national dialogue.⁷³

Security Council Resolution 1543 (2004) mandated the UN Stabilisation Mission in Haiti (MINUSTAH) to assist the interim government in bringing about national dialogue and reconciliation. Juan Gabriel Valdés, the first head of MINUSTAH and who as foreign minister had played a vital role in Chile’s “Concertación por la Democracia”, was very supportive of national dialogue. MINUSTAH, in close coordination with the UN Development Programme (UNDP), helped national stakeholders formulate objectives, structure and format for the process, as well as the specific roles of the transitional government, parties, civil society and the international community.⁷⁴

The transitional government, MINUSTAH and UNDP signed an agreement for a \$1.7 million grant to support the dialogue in February 2005. The UN consulted with various sectors throughout the country on approaches and proposals. It submitted a working paper to the transitional government, provided technical advice on methodology and organised focus groups that presented case studies from other countries. Though the CCI dialogue was officially convened in April 2005, Haitian politicians felt the process was internationally led, and the political context – dominated by electoral preparations – was not favourable.⁷⁵ As preparations for the elections progressed, the dialogue ended inconclusively. Once in the presidency, Préval endorsed a different approach, involving formation of a multi-party government; multi-sector commissions to examine how to address key issues such as justice and economic development; and a proposed solution to the slum violence perpetrated by armed gangs.

In March 2012, the UN secretary-general’s special representative (SRSG), Mariano Fernández, also a founder of the Chilean Concertación, called the main problem “the severe difficulty encountered by the political class in achieving collective agreements

⁶⁹ “Haiti’s Jean Bertrand Aristide”, Canadian Broadcasting Corporation (CBC), 20 January 2011. Jim Michaels, “Haiti faces long odds of escaping ‘sad story’”, *USA Today*, 2 March 2004.

⁷⁰ Crisis Group interviews, senior official, CSPJ, Pétion-Ville, 5 December 2012; senior political party officials, Pétion-Ville, 3 December 2012. See also Crisis Group Latin America/Caribbean Briefing N°10, *Haiti after the Elections: Challenges for Préval’s First Hundred Days*, 11 May 2006, p. 5.

⁷¹ Clarence Renois, “Haiti is recovering, leader tells quake ceremony”, Agence France-Presse, 12 January 2013.

⁷² See Maureen Taft-Morales, “Haiti: International Assistance Strategy for the Interim Government and Congressional Concerns”, (U.S.) Congressional Research Services, 17 November 2005.

⁷³ “Interim Cooperation Framework 2004–2006: Summary Report”, July 2004, p. 43. The election budget ultimately was higher.

⁷⁴ Crisis Group interviews, political party leaders, Delmas, 18 September 2012; Pétion-Ville, 5 September 2012. “Interim Report of the SG to the Security Council”, S/2004/698, 30 August 2004; *ibid*, S/2004/908, 18 November 2004.

⁷⁵ Crisis Group interview, political party leader, Delmas, 18 September 2012.

that would allow consensus to strengthen institutions and public action". He stressed need for a pact on democratic governance to facilitate consensus and provide solutions for the chief political problems.⁷⁶ Though principal donors are said to be lukewarm, more and more Haitians are calling for some kind of national reflection on the country's future. Since a dialogue process takes time, the difference may be related to donors' preference for quick results.⁷⁷

⁷⁶ Statement before the Security Council, 8 March 2012.

⁷⁷ Crisis Group interviews, political party leaders, Pétiion-Ville, 5 September 2012, Delmas, 18 September 2012; international community, including diplomats, Port-au-Prince, December 2012.

V. Inside a National Accord

Martelly's promises of fast economic growth and security sector reform resonated with voters. His government seeks to initiate a new phase leading toward reconstruction, economic growth and strengthened rule of law.⁷⁸ This requires, however, replacing "the seemingly infinite capacity of the Haitian political elite to choose confrontation over negotiation"⁷⁹ by frank discussion on how to construct a dialogue that can reach genuine consensus. The president, elected on a promise to break with the instability and corruption that have retarded development for over 50 years, should be urged to continue and extend the process he has timidly and contradictorily begun.

A. Key elements

The Security Council on 3 October 2012 urged Martelly to ensure political stability by working for an agreement on a CEP to hold long overdue elections.⁸⁰ The executive and legislative branches have been unable to agree on how to form this key body for organising partial Senate, municipal and local elections that had to be postponed from the end of 2012.⁸¹ Talks focus on a simple agreement regarding the CEP and do not address the roots of the conflict that has emerged between political parties, the parliament and the presidency (including Martelly's predecessors). Even the tentative agreement reached on Christmas Eve remains to be implemented. That does not bode well for political stability during at least the remainder of the president's term.

While there is growing support for the notion that a broader accord is needed, there is little agreement on how to move toward one, much less on its possible contents. After the 2010 earthquake, Prime Minister Jean-Max Bellerive spoke of a national re-foundation: a complete overhaul of the state.⁸² Some speculated that the 2011 return to Haiti of Jean-Claude Duvalier and Jean-Bertrand Aristide, opposite poles in the political landscape, was an opportunity for a reconciliation process.⁸³ The more realistic hope of most observers, however, is that they avoid negative comments or actions that could further inflame an already polarised nation. A judge dismissed initial broad charges against Duvalier of human rights abuses, but corruption charges, denied by his attorneys, remain before the court. No formal charges have yet been filed against Aristide.⁸⁴

⁷⁸ "UN Haiti Chief: 'Rifts Have Taken Over Reconciliation Efforts'", *Caribbean Journal*, 25 February 2012.

⁷⁹ Juan Gabriel Valdés, "Post-Earthquake Politics", *op. cit.*, p. 80.

⁸⁰ "Haiti's 'Steady Progress' Justifies Recommendation to Extend Peacekeeping Mandate, Secretary-General's Special Representative Tells Security Council", SC/10728, 3 October 2012.

⁸¹ A joint committee was formed to find a solution, with mediation by Religions for Peace (Religions pour la Paix). The CSPJ also redid its selection of representatives for CEP. See "Conseil électoral: Deuxième rencontre annoncée entre l'exécutif et le législatif", *AlterPresse*, 29 November; "Conseil Electoral: Désaccords à bâbord et à tribord!", *Haiti Progrès*, 22 November 2012. "Martelly promet de reprendre les négociations avec les parlementaires", *Radio Metropole*, 3 October 2012.

⁸² Jacob Goldstein, "In Haiti, a prime minister's lament", *National Public Radio (NPR)*, 16 March 2010.

⁸³ Nicolas Rossier, "Former President Aristide back in Haiti – A risk of instability or an opportunity for healing?", *www.huffingtonpost.com*, 2 February 2011.

⁸⁴ "Le chef du Parquet annonce que le dossier d'Aristide suit son cours", *Radio Metropole*, 10 January 2013; "Haiti: Duvalier Prosecution a 'Rendezvous With History'", *Human Rights Watch press*

Turneb Delpé, ex-Senate speaker, said he has urged for twenty years a conference to examine all national issues and culminate in a fully representative national assembly.⁸⁵ A more concrete proposal for a good governance pact as a transitional arrangement has come from the Fusion platform of former Senator Edmonde Supplice Beauzile. Fusion discussed this with Martelly in April 2012 and conditioned its support for Laurent Lamothe as prime minister on the president's promise to pursue discussion of the idea.⁸⁶

The first step should be to set the objectives of an accord and determine the appropriate mechanism by which to pursue them. Instead of tackling all aspects of an ambitious but vague agenda, the discussants should aim to deliver immediate, even if modest, improvements on jobs and the fight against poverty. Beyond that, they should work toward a shared vision of a farther future, thereby opening up the fundamental issues that are polarising the country for further reflection on an eventual consensus action plan.⁸⁷

1. Short-term goals

The road to elections is again strewn with political obstacles that cannot be effectively surmounted without a broad consensus. The three branches of government, each of which has a role in populating the electoral council, must find a more workable *modus vivendi*. The discussions over the Permanent Electoral Council (CEP) that the president initiated in August 2012 and that were resumed in November apparently reached agreement on Christmas Eve on the creation of a Transitory Electoral College (TEC), to temporarily exercise the functions foreseen for the CEP. That tentative agreement needs to be transparently advanced, however, in order to ensure free, fair and peaceful Senate, municipal and local elections as soon as possible.

It would be a milestone in the democratic transition if the government were to take concrete steps toward the establishment of a permanent electoral body as foreseen by the constitution.⁸⁸ Nevertheless, many in politics and the wider society perceive the process for deciding its membership as tainted and raising questions about its independence. Moreover, the Senate, because it is ten-members short, has been unable to produce a quorum to agree on a process to select parliament's representatives. The first step to overcome that problem should be immediate designation of its representatives on the TEC.

The talks between the three branches to resolve the CEP issue and the mediation by Religions for Peace are important steps that should ideally lead to a signed pact

statement, 14 April 2011; "Haiti: Dropping Jean-Claude Duvalier case 'a disgrace'", Amnesty International, 31 January 2012.

⁸⁵ Crisis Group interview, Port-au-Prince, 18 September 2012.

⁸⁶ "Audience nationale pour discuter du contenu et de la signature d'un pacte de gouvernabilité pour la stabilité et la croissance", Fusion proposal submitted to President Martelly and Prime Minister Laurent Lamothe, undated. Crisis Group interviews, senior officials, Fusion, Pétion-Ville, 5 September, 21 November 2012. Martelly reportedly asked Fusion to speak with Lamothe, who requested that it talk with Michel Brunache of his staff, but no concrete action has been taken.

⁸⁷ Crisis Group interviews, senior MINUSTAH officials, Delmas, 7 September 2012; civil society, Delmas, 3 October 2012.

⁸⁸ Constitution, Title VI, Chapter 1; "Compilation de documents de support a la formation des BCEC", Conseil électoral provisoire (CEP), Port-au-Prince, September 2006.

on conduct of the elections.⁸⁹ That pact should include acceptance of the constitutional amendments and agreement on the revision and publication of the Law on the Organisation and Financing of Parties, already voted by both legislative chambers.⁹⁰ Also essential is participation of women on both the TEC and the future CEP and in the elections, the latter ideally consistent with the 30 per cent quota envisaged in the constitutional amendments. It should likewise provide for amendment of the 2008 electoral law to authorise the TEC to conduct the delayed elections, as well as for implementation of the agreement on filling out the permanent CEP once there is again a full Senate.⁹¹

Important as they are, credible elections are far from the answer to many of Haiti's problems. Indeed, their frequency can distort or even preclude consideration of some controversial policies.⁹² The negotiations over the CEP and TEC have been held against the backdrop of serious social and economic grievances that need to be addressed promptly in order to defuse tensions, but the political system has not created the mechanisms with which to stimulate greater citizen participation in national decision-making.

Another key issue to consider in a short-term agenda is the threat to public security, highlighted by three consecutive days of spontaneous peaceful protest against the rape of at least one woman, the murder of a man and the kidnapping of a three-year-old child of the same family in Jacmel (south east), a usually quiet tourist haven, in November 2012. In a September 2012 letter to Godson Orélus, its new director general, the National Human Rights Defence Network (Réseau national de défense des droits humains, RNDDH) called on the Haitian National Police (HNP), the country's only security force, to improve public confidence.⁹³ A requirement for this is also to begin the overhaul of the justice system, including making the CSPJ fully operational.

The HNP, in concert with the chief prosecutor for the district court of Port-au-Prince, Lucman Delile, made several major arrests in and around the capital in October and November 2012, as part of an investigation into an alleged national criminal

⁸⁹ The committee for implementation of an electoral council (Comité chargé de faire le suivi sur les discussions relatives à la mise en place d'un Conseil électoral) met first on 15 November, with the participation of President Martelly, Defence Minister Jean-Rodolphe Joazile and four presidential advisers, as well as two senators and two deputies. Religions for Peace mediation in March 2012 defused tensions over the Senate's request for Martelly to hand over his travel documents for scrutiny. Crisis Group interview, senior Religions for Peace official, Port-au-Prince, 3 October 2012. "Haïti-Nationalité: Religion pour la paix à nouveau en mission auprès de Martelly", *AlterPresse*, 13 March 2012.

⁹⁰ The law should regulate state financial support for parties; set rules and limits on private funding; and give that body the mandate, resources and capacity to enforce regulations and ensure party and candidate accountability.

⁹¹ On 2 December 2012 the discussions mediated by Religions for Peace led to a tentative agreement on a transitional electoral council and a permanent one after the elections. Crisis Group interviews, political party, Senate, international community officials, Port-au-Prince, 3-5 December 2012.

⁹² If the calendar foreseen by the constitution had been kept, there would have been at least one election annually between 2011 and 2015. Crisis Group interviews, senior officials, UNDP, Port-au-Prince, April, July 2012; constitution, Articles 63 (communal sections), 68 (municipal councils), 78 (departmental councils), 92 (House of Deputies), 95 (Senate) and 134.1 (president).

⁹³ Martelly appointed and parliament confirmed Orélus in August 2012 to replace Mario Andrésol as head of the HNP. "Le sénat valide le dossier de Godson Orélus comme nouveau chef de la Pnh", *AlterPresse*, 31 August 2012. "Lettre DG-PNH 2ème édition", copy made available to Crisis Group.

network involved in kidnapping, gun-running and other crimes.⁹⁴ Further measures to strengthen rule of law need to be pursued in cooperation with the justice system and in closer dialogue with the population. As an immediate step, efforts should be focused on strengthening and completing the vetting of police officers, a number of whom have reportedly been linked to the criminal network allegedly involving those arrested in October-November.

Any short-term pact reached by those negotiating over the CEP should also open the way for the executive and legislature to correct the situation regarding the nomination of three Supreme Court judges, including the chief justice (who also heads the CSPJ). In October 2012 the Senate requested the president to annul his appointment of Chief Justice Anel Alexis Joseph and two other justices, Kesner Michel Thermézy and Frantzi Philémon. The Senate argues that the chief justice is past retirement age, and the other two were not on the list it submitted.⁹⁵ This situation needs to be clarified in order to keep the judiciary out of political debate. The UN Independent Expert on the Situation of Human Rights for Haiti, Michel Forst, and the RNDDH have recently expressed concerns about continued arbitrary judicial nominations.⁹⁶ If indeed the chief justice does not meet the age standard, he should retire, but if he and the other two do satisfy all requirements, Martelly should ask the Senate to confirm them.⁹⁷

2. The longer-term agenda

Key issues for the longer-term agenda of a national dialogue must include the strengthening of institutions to improve policymaking and relations between state and citizen, as well as, ultimately, to spur development. The amended 1987 constitution provides for formation of three independent bodies indispensable to the country's democracy. These are the Constitutional Council for overseeing the constitutionality of laws and addressing disputes between public institutions,⁹⁸ the CEP, for organising and administering elections; and the CSPJ, for setting and monitoring judicial standards and safeguarding judicial independence. In particular, the Constitutional Council must be made operational to provide for a more rational balance of power and to prevent further executive-legislative deadlocks. For any of these to be effective, however, it is essential to build public trust in the rule of law, which in turn requires extensive and time-consuming dialogue and consensus building.

⁹⁴ "Le parquet fait la chasse aux bandits", Haiti Press Network (HPN), 12 November 2012; Jacqueline Charles, "Haiti Kidnapping: Shrouded in Secrecy", *The Miami Herald*, 19 November 2012; "Affaire Clifford Brandt: déjà 15 personnes en prison", *HaïtiLibre.com*, 5 November 2012.

⁹⁵ The constitution requires the Senate to send the president three names for an open Supreme Court seat. The Senate says Thermézy and Philémon were not on its final list. "Concilier pouvoir et devoir de l'état", *Le Nouvelliste*, 1 November 2012.

⁹⁶ See Forst's comments in "Brandt et les accommodements des prisons haïtiens", *Le Nouvelliste*, 29 November 2012; and "Notes du point de presse avec l'Expert indépendant des Nations Unies sur la situation des droits de l'homme en Haïti, Michel Forst", MINUSTAH weekly press conference, 30 November 2012. In a 19 November 2012 letter to the CSPJ, the RNDDH called attention to the nomination of at least one judge allegedly for political reasons.

⁹⁷ "Arrêtons la propagande d'avilissement à l'encontre des juges professionnels et du pouvoir judiciaire!", *Le Nouvelliste*, 19 September 2012. Lack of a CSPJ to ensure compliance with judicial regulations has led in the past to justices sitting beyond retirement age. Enforcing the age requirement would be virtually a new practice and against the president of the body to regulate the judiciary trickier yet. Crisis Group interview, senior CSPJ official, Pétion-Ville, 5 December 2012.

⁹⁸ "Conseil constitutionnel: pour façonner le régime démocratique", *Le Matin*, 29 June 2012.

Many recurrent political impasses stem mainly from varying interpretations of the 1987 constitution, as well as of its 2011 amendments. This is a formidable obstacle to stability. Advocating for back-to-back presidential terms, Martelly virtually called for a new constitution during his campaign.⁹⁹ His second-round opponent, constitutional law expert and former Senator Mirlande Manigat, has openly supported drafting a new constitution.¹⁰⁰ Préval called the constitution a “source of instability”,¹⁰¹ and his prime minister, Jean-Max Bellerive, said it could only function with structured political parties.¹⁰² Other actors believe it is generally sound but reflects a society lacking in national consciousness, since it was written by a small group without much debate and citizen participation.¹⁰³

In addition to formation of the Constitutional Council to mediate disputes over the document, there is need for a faithful Creole translation of the amended text published in June 2012. An expert group with representatives of all three branches should be responsible for leading a national consultation on the constitution, ideally culminating with recommendations on whether further amendment or an entirely new document is needed.¹⁰⁴

The CEP and CSPJ need to reclaim their independence from the executive and legislature and remain accountable to the citizenry. Beyond the current debate on the electoral body to organise the delayed elections and its membership, the division of labour between that membership and the operational staff led by the director general must be clearly defined. Controversy over the appointments has distracted efforts to build a solid electoral registry and a corps of well-trained, professional civil servants to keep it up to date, educate the electorate and train non-partisan poll workers. No electoral council to date has kept to the constitutional elections schedule; all have been challenged on credibility and fairness grounds.¹⁰⁵ Formation of a new permanent body is an opportunity for agreement on national and international assistance to strengthen technical capacity, so that future elections can be organised in a timely manner, with greater citizen participation.

However, an effective CEP alone would not guarantee good elections and improve governance and stability. Well-organised political parties are also required. Mechanisms to encourage transparent party financing and internal democratic methods for selecting candidates should be part of any national agreement, perhaps taking the

⁹⁹ Under the constitution (Article 134.1), presidents may serve two terms, but not consecutively.

¹⁰⁰ “Mirlande Manigat sort de son silence sur l’amendement de la constitution”, *HaitiLibre.com*, 5 August 2011.

¹⁰¹ To guarantee a stable government under Haiti’s semi-presidential system, the president needs a parliamentary majority. This is often not the case, not least because of political party weaknesses. Negotiations between executive and legislature are frequently problematic, causing the system to seize up and preventing the president from advancing his policies or even forming a government. See Seitenfus, *op. cit.*, p. 86.

¹⁰² “Elections présidentielle, législatives et sénatoriales du 28 novembre 2010 et du 20 mars 2011 en Haïti: Rapport de la Mission d’information et de contacts de la Francophonie”, International Organisation of French-Speaking States, undated, pp. 13, 22.

¹⁰³ Crisis Group interview, political party leader and former senator, Delmas, 18 September 2012.

¹⁰⁴ See “Concilier pouvoir et devoir de l’état”, *Le Nouvelliste*, 1 November 2012.

¹⁰⁵ The CEP normally faces logistical, technical and financial difficulties. Logistics rely heavily on MINUSTAH. Absence of middle management for training, mentoring and supervision is a serious handicap to preparations and election day operations. Crisis Group Latin America/Caribbean Report N°35, *Haiti: The Stakes of the Post-Quake Elections*, 27 October 2010.

recent agreement in Mexico as an example.¹⁰⁶ For truly inclusive and competitive elections, there is a need to develop and promote more genuinely representative, better-structured parties capable of formulating and sustaining substantive platforms and playing a more effective role in the country's development. This might in turn enable them to offer candidates capable of narrowing the gap between expectations and political response. Improved parties would translate into an improved parliament, more inclined to negotiation and compromise. Assistance from Haitian and international experts is available to support both parties and parliament.¹⁰⁷

Other long-term issues to be considered might be linked to Martelly's Five-E development strategy: employment, *état de droit* (rule of law), education, environment and energy. They are the key elements underlying structural blockages to development; they form the backbone of Martelly's government program, endorsed by parliament in May 2012; and there is implicit agreement among political leaders that they are national priorities.

In late 2011, the government adopted a roadmap on rule of law, drafted with international support, that outlined short-, middle- and long-term actions. Its implementation is aligned with fiscal years and is expected to put justice reform, which has made little progress since 2007, back on track. However, movement beyond the blueprint will require concerted efforts and strong political will; it has already been hampered by delays in formation of Martelly's government.¹⁰⁸

There has been disagreement among justice institutions, the bar and legal scholars on the role of the CSPJ since the law establishing it was adopted in 2007. It needs to become a new locus of power, sufficient to fulfil its mandate to strengthen civil and criminal justice and to ensure equal access for all Haitians, not least by depoliticising the justice system by vetting sitting judges against required qualifications, monitoring their performance and taking appropriate action in cases of corruption, incompetence or malfeasance.¹⁰⁹ Additionally, national auditing capacity needs rapid strengthening, as its absence would affect the flow of promised donor funds. Martelly could take a major step forward by including this in a national accord.¹¹⁰

Efforts to improve public security and justice must be complemented by actions to enhance growth and create jobs. GDP reached its 2004 level only in 2012, after

¹⁰⁶ Crisis Group interview, senior officials, Haitian think tank, Port-au-Prince, 19 September 2012. "Pacto por México", op. cit.

¹⁰⁷ Development Alternatives, Inc. (DAI), a global consulting firm that helps governments, communities and others in developing and transitioning countries, is, with U.S. Agency for International Development (USAID) support, leading a program to improve parliament's processes, build its law-making capacity and strengthen its interactions with the public. Crisis Group interview, senior DAI officials, Pétion-Ville, 24 September 2012. "Support for a stronger parliament", USAID, June 2012. The International Institute for Democracy and Electoral Assistance (International IDEA) has begun a program for promotion and strengthening of democracy that includes support to parties. In 2013, it will lead a five-month study of their inner workings, highlight best democratic practices among them and analyse candidate recruitment and selection. "L'IDEA dévoile son agenda pour l'année à venir", *Le Nouvelliste*, 29 November 2012. See also below.

¹⁰⁸ See Crisis Group Latin America/Caribbean Briefing N°27, *Keeping Haiti Safe: Justice Reform*, 27 October 2011; Maureen Taft Morales, "Haiti Under President Martelly: Current Conditions and Congressional Concerns", (U.S.) Congressional Research Services, 1 August 2012, p. 2.

¹⁰⁹ "Mapping Justice and Rule of Law in Haiti: A Summary Report", Inter-university Institute for Research and Development (INURED), 19-21 July 2012, p. 6.

¹¹⁰ Crisis Group interview, senior international official, Washington DC, 10 January 2013.

several years of virtual recession.¹¹¹ The government's economic plan relies on direct foreign investment. To attract this, it seeks to improve the business climate, which requires a strong executive-legislative partnership. Another casualty of the CEP impasse, however, is that parliament has not followed through on an extraordinary session the president convened to study a number of relevant draft laws.¹¹²

Improving energy infrastructure is also of utmost importance. Only 35 per cent of the population has access to as much as fifteen hours of electricity daily, which is clearly insufficient to support development. Barely 5 per cent of the rural population has any access to electricity.¹¹³ René Jean-Jumeau, the energy policy adviser since Préval's second presidency, has drafted a reform strategy for the sector, but little has been implemented.¹¹⁴ One of its core elements is to revamp *Électricité d'Haïti* (Ed'H), which reportedly holds close to \$50 million in unpaid customer bills.¹¹⁵ World Bank President Jim Yong King, who visited in November 2012 and signed a \$125 million financing agreement with the government for the energy sector, discussed with Martelly a possible compact among providers, consumers, policymakers and implementers to improve service by encouraging mutual responsibility and accountability. In January 2013, the World Bank established the baseline for the energy project, highlighting the lack of a regulatory framework and the significant weakness of the oversight capacities in the sector.¹¹⁶

Where government is seen to be responding to public needs by delivering services, greater social cohesion results, but the converse is true as well. Haitian public services have historically been abysmal, in part because the state has rarely had resources due to the very low level of taxation.¹¹⁷ Free education was a major Martelly campaign promise, and he has launched efforts to get more children into primary school. At present only 60 per cent attend, and 85 per cent of those are in poorly-regulated private schools. Adult literacy is around 50 per cent.¹¹⁸ Consensus is needed to both improve public education and regulate private schools.

Martelly's free education initiative, to be funded through taxes on international phone calls and money transfers, has been criticised for lack of transparency and clear policies. The legal framework to collect the taxes is lacking, as parliament has

¹¹¹ Comisión Económica para América Latina y el Caribe, Bases de datos y publicaciones estadísticas (online), January 2013.

¹¹² The ordinary session ended in September when lower house terms expired. The bills involved relate to money laundering and financing of terrorism; the National Fund for Education (FNE); and electronic exchanges and signatures, among others. "L'ouverture de la session législative extraordinaire avortée, faute de quorum", Signal FM, 16 October 2012.

¹¹³ Dr Jim Yong Kim, president, World Bank, "Haiti in Transition: From Emergency Reconstruction to Long-term Development", keynote address, national conference on extreme poverty, Port-au-Prince, 6 November 2012. The director general of the state institution *Électricité d'Haïti* (Ed'H) explained to parliament that month that \$160 million and eighteen months of restructuring and renovation were needed to provide Port-au-Prince full service.

¹¹⁴ "Haiti: Plan de Développement du Secteur de l'Énergie 2007-2017", public works, transportation and communications ministry, November 2006.

¹¹⁵ "Haïti – Énergie: L'EDH installera 40,000 compteurs à distance", *HaïtiLibre.com*, 6 September 2012.

¹¹⁶ "La banque mondiale renouvelle son engagement envers Haïti", Haiti Press Network (HPN), 6 November 2012; "Implementation Status & Results, Haiti, Rebuilding Energy Infrastructure and Access (P127203)", World Bank, 15 January 2013.

¹¹⁷ Tax revenues are barely over 10 per cent of GDP, according to the IMF, www.imf.org/external/pubs/ft/scr/2012/cr1275.pdf.

¹¹⁸ www.unicef.org/infobycountry/haiti_statistics.html.

not passed the National Education Fund law, so tuition is reportedly being financed for over a million children from the national budget. A pilot program paying \$20 monthly to mothers to keep their children in school is also underway. First to benefit are to be 100,000 mothers in the most vulnerable Port-au-Prince communities, but the government wants to extend it nationwide.¹¹⁹

Haiti is highly vulnerable to natural disasters, with their accompanying heavy human and development toll. A strategy to reverse the decades-long trend of environmental destruction remains essential to its development, social and economic stability and, ultimately, security. Crisis Group wrote in 2009, following four back-to-back storms in 2008 and a year before the earthquake, that concerted national effort and international support are required to stop deforestation and land erosion; reduce energy shortages and charcoal dependence; address rural and urban pollution, including the absence of a solid-waste collection and recycling system; and strengthen capacity to cope with emergencies.¹²⁰ The authorities have not yet shown sufficient commitment and strength to tackle the situation comprehensively.¹²¹ Factoring the social and economic consequences of recurring natural disasters into national policy must be an integral part of the government's security and development strategies.

According to the human rights and poverty reduction minister, Rosanne Auguste, "the fight against extreme poverty is not only a task of the public administration. It is a dynamic that integrates the entire society in its different components. The poverty phenomenon is a challenge to the cohesion of the Haitian society. Its elimination supposes political action and civic engagement". The four-day colloquium she organised in November 2012 initiated a dialogue that many participants agreed should be continued.¹²²

B. Reaching Agreement

In a climate of deep mistrust, the leadership has not exhibited the democratic culture needed for institutional agreements among political actors, and the political system has been unable to mitigate repeated crises. Although many Haitian voices continuously call for the kind of national dialogue discussed in this report, the missing element is identification of an effective way to create momentum for it.

The next electoral round needs to be taken as an opportunity to open a political dialogue –with the active participation of civil society and community-based organisations – aimed at assisting the parties in formulating a pact for conduct of the polls.

¹¹⁹ Jacqueline Charles, "Martelly marks 100 days in Haiti with little progress", *The Miami Herald*, 22 August 2011. The Central Bank is holding some \$22 million the fund has reportedly collected until the legal framework is in place. Crisis Group interview, senior presidential adviser, Port-au-Prince, 26 September 2012; Morales, "Haiti under President Martelly", *op. cit.*

¹²⁰ Crisis Group Latin America/Caribbean Briefing N°20, *Haiti: Saving the Environment, Preventing Instability and Conflict*, 28 April 2009.

¹²¹ In June 2012, the environment ministry attempted to demolish some houses built anarchically on Morne l'Hôpital, where they are at risk each rainy and hurricane season. Residents held protests, and the government has not taken further action. "Le processus est lancé; les perturbations aussi", *Le Nouvelliste*, 21 June 2012. The program aimed to demolish 200 of 450 houses initially and to pay some \$2,400 compensation to each household. Some 246,000 persons live in 50,000 houses on the morne.

¹²² Statement at the colloquium "Penser et lutter contre la pauvreté extrême en Haïti", Port-au-Prince, 6-9 November 2012. Crisis Group interview, Rosanne Auguste, 4 December 2012.

A respected Haitian figure or a group like Religions for Peace, supported by an international agency, could facilitate this. As described above, Religions for Peace already has aided a preliminary agreement between the president and key opposition party leaders. However, that agreement remains only on paper until a consensus is achieved on the members of the transitional body to organise the elections, a calendar, revision of the electoral law, party campaign financing and monitoring. Other short-term goals, such as prompt decisions on security and justice reform, need to be added to the agreement once the elections have been conducted.

Further technical assistance may be required from within or outside Haiti to help draft policies and transition from the short- to the long-term agenda. A technical secretariat would be needed to document all aspects related to the dialogue and promote compliance. In 2012, Religions for Peace twice helped political leaders end an impasse. Away from the media's eyes, it is mediating the executive-legislative talks on the CEP. It enjoys a measure of credibility and is broadly representative of society, but it is relatively small and would need technical help, perhaps from an international agency, if it were to continue as mediator for a more extensive dialogue.

The three branches of government and the parties represented in parliament should agree on the specific agenda for this wider dialogue. Some Latin American experiences might be taken as reference, and the long-term policy framework should include consideration of Martelly's Five-E development strategy, discussed above. Once the agenda is defined, the exercise could proceed in parallel with election preparations and become a subject of the electoral debate. Its initial stages should then probably be conducted at departmental level, so as to identify concrete goals that could make a difference locally. Once this is done, a national conference should be organised to consider and dispose of its conclusions, including by referring them for action to the appropriate institutions.

C. *Implementing the Accord*

Regional experience suggests implementation may be left to a primarily technical mechanism provided it is equipped with sufficient political leverage. Alternatively, an entity might be created for the specific task of monitoring achievements and identifying obstacles. A hybrid might be most appropriate for Haiti, with President Martelly providing overall leadership of the dialogue process. Thematic forums might be set up to discuss common issues, for example a political party forum to foster consensus around party legislation and other measures for strengthening the party system, and an economic development and job creation forum, including civil society and grassroots participation, to engage the private sector.¹²³

Similar to Peru, a national forum comprising representatives of the government, political parties and civil society could serve as the mechanism responsible for following up and promoting implementation of the agreed policies.¹²⁴ A technical secretariat, perhaps with international support, would be necessary to assist all the forums, and an independent entity, such as Religions for Peace, could continue to act as mediator, capable of prodding both the executive and parliament to final action. Confidence in

¹²³ "Peruvian National Accord Forum Reviews Political Parties Law", International IDEA, 23 January 2007.

¹²⁴ Max Hernández, "Acuerdo nacional: pasado, presente y futuro", International IDEA, 2004.

the process would ideally grow over time as results were produced, first locally then at the national level, and as reports were made to parliament.

As in Mexico, an agenda previously agreed by political forces might pave the way for establishment of a permanent public forum, to which civil society groups, the private sector, churches and others could be progressively added. Each agreed policy would need to be turned into concrete legislation and budget items, along with measuring benchmarks. Donors would be expected to participate in the process in order to align their projects to its priorities.

Regional experience shows a clear need to separate the debate phase from implementation and follow-up.¹²⁵ Once agreed, policies must be fully respected by all concerned. To this end, a monitoring element should be part of any technical secretariat, so that periodic reports could be made to parliament as well as the plenary of the dialogue. Once concluded, debates should only be reopened in exceptional circumstances. The technical secretariat should have sufficient authority, competence and resources to promote compliance and to highlight setbacks and delays.

D. *The International Role*

Polarised politics have produced a complex political and socio-economic context for international cooperation. “When Haitian leadership falters; the international community meanders”, an analyst said.¹²⁶ Either the conflicting interests of Haitian elites, donor frustration and lack of coordination or natural disasters have consistently extinguished the occasional promising signs in the generation since democracy was restored. The Martelly administration is now trying to rekindle hope. At the inauguration of an industrial park in Caracol (north east) in October 2012, U.S. Secretary of State Hillary Clinton said the project, meant to create 65,000 jobs, resulted from the determination of one of Haiti’s biggest donors, to re-direct its efforts “to work with Haiti, not just in Haiti”.¹²⁷

Haitian leaders have been calling on donors to tailor cooperation to the country’s priorities. In November 2012, in a new attempt to rally aid around a single development agenda, the government established the Coordination Framework for Foreign Development Aid (Cadre de Coordination de l’Aide Externe au Développement d’Haïti, CAED). However, as with its predecessor, substantial questions have been raised about its ability to cut through red tape and advance projects transparently.¹²⁸ After a recent trip, the development minister of Canada (a major donor government), said that Ottawa had put new funding “on ice” pending an internal review.¹²⁹

¹²⁵ In Guatemala, for example, the lack of an implementation agency to develop the 2009 Agreement on Justice and Security left it to the ordinary public institutions to create the policies needed. As a result, the consensus was never translated into effective laws and regulations. The guarantors of the agreement finally withdrew their support, and, in May 2012, President Perez Molina replaced the agreement with a Pact for Peace, Justice and Security. See: “Avances en temas de seguridad y justicia en Guatemala”, UNDP paper on line, September 2012.

¹²⁶ Crisis Group email correspondence, international human rights expert, July 2012.

¹²⁷ Jacqueline Charles, “U. S. Secretary Clinton hails ‘new day’ in Haiti, champions U.S. foreign policy”, *The Miami Herald*, 22 October 2012.

¹²⁸ “Rebuilding in Haiti Lags after Billions in Post-Quake Aide”, *The New York Times*, 23 December 2012.

¹²⁹ “Le trésor public n’a pas une gourde du Canada, MCJM dixit”, *Le Nouvelliste*, 4 January 2013; “Haiti finance minister slams Canada”, *Cnews*, 6 January 2013.

CAED is based on three principles: government leadership and responsibility for development policy; attachment of technical and financial partners to Haiti's strategic development goals; and strengthening of institutional capacities to manage development and share responsibility for results.¹³⁰ All aid is to hinge on the government's plan. More effective coordination is essential, not least due to Haiti's institutional weaknesses and the selfish nature of much of its political class.¹³¹ But ultimately success will depend as much or more on the level of consensus the government and the different sectors of society can reach.

Without a firm national accord – leadership for which must come from Haitians – sustained progress is unlikely, but the international community, given its visible and still strong presence, has a significant even if secondary role to play. It should encourage the president and his colleagues to reach out to a diverse, suspicious and weak opposition, as well as to business, professional, grassroots, civil society and local political leaders. It should also provide incentives by directing already pledged funds toward the common goals agreed in the accord, both the short-term ones such as elections, the CSPJ, and police reforms, and the longer-term, more structural challenges.

The international role is by no means an automatic positive. Historically, donors have often looked to their own interests more than to Haiti's. The internationalisation of Haitian issues also has compounded the difficulties of achieving domestic political compromise.¹³² All too frequently political forces seek to draw in international actors to either support them in a struggle for dominance or to urge them to destroy a process controlled by their foes. The negative experience cited by former deputy OAS Secretary General Einaudi is all too familiar.¹³³ The common problem among Haitian leaders is failure to agree on a nation-building project. However, internationals have a responsibility not to undermine their efforts. Donors should ideally provide key resources to support the process and pledge to help carry out the decisions incorporated within an accord, provided it is based on and implemented via political dialogue, compromise and consensus.

Organisations with needed experience are already aiding the democratic process. The Club of Madrid has led missions since 2010 to help the government form political dialogue. In December 2011, it convened with the president a dialogue that for the first time since the earthquake brought the main political, economic and social stakeholders around a Haitian-only table.¹³⁴ With Norway's financial aid, the International Institute for Democracy and Electoral Assistance (International IDEA) – known for helping Peru's national accord process, a recent post-conflict consensus building success – opened an office in 2012 to assist consolidation of the democratic transition and recently signed an agreement with the government.¹³⁵ Continued will-

¹³⁰ "Déclaration du gouvernement de la République d'Haïti", 26 November 2012.

¹³¹ Crisis Group interview, senior official, alternative development platform, Port-au-Prince, 9 October 2012.

¹³² Crisis Group interview, senior officials, Haitian think-tank, Port-au-Prince, 19 September 2012.

¹³³ See fn. 10 above.

¹³⁴ "Haitian President launches key unblocking measures with the support of Club of Madrid", press release, 13 January 2012.

¹³⁵ IDEA's program focuses on several areas of its expertise: strengthening political parties and actors; support to the parliament; promotion of gender equality, including application of the constitutional quota; and support to electoral processes, in particular the CEP. Crisis Group interview, senior International IDEA official, Delmas, 6 September 2012. "International IDEA signs host country agreement with Haiti", press release, 3 October 2012.

ingness by the new UN SRSG to engage personally at difficult times would also be useful. This was spotlighted by outgoing SRSG Mariano Fernández, whose final press statement regretted that political elites had yet to come together to sign a “governability pact”, with as a first step “holding free, fair, inclusive and credible elections, as underscored by the [Security Council]”.¹³⁶

¹³⁶ “Mon plus grand rêve, c’est de voir que les élites haïtiennes se mettent ensemble pour signer un pacte de gouvernabilité, c’est l’un des grands défis à relievier.” <http://minustah.org/?p=40012>. “Haiti: Security Council calls for timely elections, security sector reform”, UN News Centre, 29 January 2013.

VI. Conclusion

Crisis Group began work in Haiti in 2004 following the forced departure of President Aristide and the arrival of first a multinational force, then a UN peacekeeping mission. Reporting has focused on citizen security and the rule of law as the critical foundations for conflict prevention and both democracy and economic development. Despite formal political progress, notably the transition from the interim government of President Alexandre and Prime Minister Latortue to the presidency of René Prével that resulted from a 2006 election in which some 62 per cent of eligible voters participated, the kind of national dialogue, consensus and accord that Crisis Group has consistently urged to overcome political polarisation remains absent. It is still needed to give Haitians confidence that both short- and longer-term vital issues are being addressed through compromises that put national over personal or party interests.

A national accord like those reached in some Latin American countries would need to be the basis for more than an interim agreement that finally enables delayed elections, though that is essential. It should also define steps to guarantee independence of the permanent electoral council the constitution demands; other actions also urgently needed in the short term include bolstering the capacity of the national police, allowing the CSPJ to vet judges and build judicial capacity and removing all bureaucratic obstacles to otherwise ready job-generating projects. It should likewise take up the longer-term challenges aptly incorporated in the Martelly Five-E development strategy.

Such an accord would not solve all problems, but it could offer basic support for continuing progress. Faced with rising internal frustrations and an increasingly sceptical international community, President Martelly needs to break the domestic stalemate and demonstrate Haiti is embarked on consensus building. Convening of a national dialogue needs to begin with the president and prime minister but encompass the diverse threads of political, economic and communal life. Donors should be fully supportive and prepared to adjust cooperation to reflect what Haitians agree on. Voices critical of the government should accept an offer to engage in the dialogue and help to implement subsequent agreements. Implementation must be a continual consensual process, with a monitoring mechanism led by the government but involving the full array of civil society, business and communal groups.

Haiti has missed previous opportunities to break out of the negative cycle of polarisation, zero-sum politics and perennial discord. The mid-point in the Martelly administration may offer a new chance to turn toward the kind of national transformation that could give the hemisphere's second oldest republic a hopeful future.

Port-au-Prince/Bogotá/Brussels, 4 February 2013

Appendix A: Map of Haiti



Appendix B: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 150 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

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

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Undersecretary of State and Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters is in Brussels, and the organisation has offices or representation in 34 locations: Abuja, Bangkok, Beijing, Beirut, Bishkek, Bogotá, Bujumbura, Cairo, Dakar, Damascus, Dubai, Gaza, Guatemala City, Islamabad, Istanbul, Jakarta, Jerusalem, Johannesburg, Kabul, Kathmandu, London, Moscow, Nairobi, New York, Pristina, Rabat, Sanaa, Sarajevo, Seoul, Tbilisi, Tripoli, Tunis and Washington DC. Crisis Group currently covers some 70 areas of actual or potential conflict across four continents. In Africa, this includes, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Sierra Leone, Somalia, South Sudan, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Malaysia, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, North Caucasus, Serbia and Turkey; in the Middle East and North Africa, Algeria, Bahrain, Egypt, Iran, Iraq, Israel-Palestine, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, Western Sahara and Yemen; and in Latin America and the Caribbean, Colombia, Guatemala and Venezuela.

Crisis Group receives financial support from a wide range of governments, institutional foundations, and private sources. The following governmental departments and agencies have provided funding in recent years: Australian Agency for International Development, Austrian Development Agency, Belgian Ministry of Foreign Affairs, Canadian International Development Agency, Canadian International Development Research Centre, Royal Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union Instrument for Stability, Finnish Ministry of Foreign Affairs, German Federal Foreign Office, Irish Aid, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Royal Norwegian Ministry of Foreign Affairs, Swedish International Development Cooperation Agency, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Kingdom Department for International Development, U.S. Agency for International Development.

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February 2013

Appendix C: Reports and Briefings on Latin America and the Caribbean since 2010

Haiti: Stabilisation and Reconstruction after the Quake, Latin America/Caribbean Report N°32, 31 March 2010 (also available in French).

Guatemala: Squeezed Between Crime and Impunity, Latin America Report N°33, 22 June 2010 (also available in Spanish).

Improving Security Policy in Colombia, Latin America Briefing N°23, 29 June 2010 (also available in Spanish).

Colombia: President Santos's Conflict Resolution Opportunity, Latin America Report N°34, 13 October 2010 (also available in Spanish).

Haiti: The Stakes of the Post-Quake Elections, Latin America/Caribbean Report N°35, 27 October 2010.

Learning to Walk without a Crutch: The International Commission Against Impunity in Guatemala, Latin America Report N°36, 31 May 2011 (also available in Spanish).

Guatemala's Elections: Clean Polls, Dirty Politics, Latin America Briefing N°24, 17 June 2011 (also available in Spanish).

Post-quake Haiti: Security Depends on Resettlement and Development, Latin America Briefing N°25, 28 June 2011.

Cutting the Links Between Crime and Local Politics: Colombia's 2011 Elections, Latin America Report N°37, 25 July 2011 (also available in Spanish).

Violence and Politics in Venezuela, Latin America Report N°38, 17 August 2011 (also available in Spanish).

Keeping Haiti Safe: Police Reform, Latin America/Caribbean Briefing N°26, 8 September 2011 (also available in French and Spanish).

Guatemala: Drug Trafficking and Violence, Latin America Report N°39, 11 October 2011 (also available in Spanish).

Keeping Haiti Safe: Justice Reform, Latin America/Caribbean Briefing N°27, 27 October 2011 (also available in French).

Moving Beyond Easy Wins: Colombia's Borders, Latin America Report N°40, 31 October 2011 (also available in Spanish).

Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender, Latin America Report N°41, 8 June 2012 (also available in Spanish).

Dangerous Uncertainty ahead of Venezuela's Elections, Latin America Report N°42, 26 June 2012 (also available in Spanish).

Policy Reform in Guatemala: Obstacles and Opportunities, Latin America Report N°43, 20 July 2012 (also available in Spanish).

Towards a Post-MINUSTAH Haiti: Making an Effective Transition, Latin America/Caribbean

Report N°44, 2 August 2012 (also available in French).

Colombia: Peace at Last?, Latin America Report N°45, 25 September 2012.

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