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# HAITI DEMOCRACY, HUMAN RIGHTS, AND GOVERNANCE (DRG) ASSESSMENT

## FINAL REPORT

OCTOBER 2016

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# ABBREVIATIONS AND ACRONYMS

ASEC	Communal Section Assembly
CASEC	Communal Council
CEP	Provisional Electoral Council
CFI	Investment Facilitation Center
CSO	Civil Society Organization
CSPJ	High Council of the Judiciary
CSSCA	High Court of Auditors and Administrative Disputes
DEA	Drug Enforcement Agency
DR	Dominican Republic
DRG	Democracy, Human Rights and Governance
EU	European Union
FBO	Faith-Based Organization
FENAMH	National Mayors Association
FL	La Famni Lavalas Party
GBV	Gender Based Violence
GDP	Gross Domestic Product
GOH	Government of Haiti
HNP	Haitian National Police
IDB	Inter-American Development Bank
IFI	International Financial Institutions
IMED	Mobile Institute for Democratic Education
IMF	International Monetary Fund
INL	Bureau of International Narcotics and Law Enforcement (State Department)
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MEF	Ministry of Economy and Finance
MINUSTAH	United Nations Stabilization Mission in Haiti
MJPS	Ministry of Justice and Public Security
MOI	Ministry of Interior and Territorial Communities
MP	Member of Parliament
NGO	Non-Governmental Organization
OAS	Organization of American States
OMRH	Office of Management and Human Rights
OPC	Office of Citizen Protection
OPL	Struggling People's Organization
PAP	Port-au-Prince
PHTK	Parti Haitien Tet Kale
POHDH	Platform for Human Rights Organizations
PTA	Parent Teacher Association
PWD	Persons with disabilities

ROL	Rule of Law
SME	Small and Medium Enterprise
TIP	Trafficking in Persons
UCREF	Central Financial Intelligence Unit
ULCC	Anti-Corruption Unit
UN	United Nations
UNDP	United Nations Development Program
UNOPS	United Nations Office for Project Services
U.S.	United States
USG	United States Government
USAID	United States Agency for International Development

# EXECUTIVE SUMMARY

Haiti is in a stalled democratic transition. Although it has the formal structures of a democracy, these have never fully developed and are continually undermined by political and institutional instability. The actions of some members of the political class to gain and maintain power through almost any means perpetuate instability and undermine and corrupt the formal institutions of the state and governance.

With strong leadership and political will for genuine democratic reform the situation could turn around. The upcoming presidential and legislative election may provide the opportunity for significant change if the electors vote for someone with the vision, will and ability to change the status quo. Unfortunately, there are few incentives for the more disruptive members of the political class to respect the rules or for the outcomes of a new government to be any different than the previous ones.

## CONTEXT

Haiti is in the middle of another electoral and political crisis. Most of the presidential candidates participating in the October 2015 elections claimed fraud, and although they were not able to provide evidence of fraud, they refused to accept the electoral results. Many Haitians claimed that many party monitors voted multiple times; that ballot boxes were stuffed; and that election results were manipulated at the electoral tabulation center. A team of US lawyers from the National Lawyers Guild and the International Association of Democratic Lawyers who observed the elections reported that voting procedures were inconsistently applied and that the widespread use of observer and political party accreditation led to people voting multiple times, potentially accounting for as much as 60 percent of the 1.5 million votes cast.<sup>1</sup>

The second round, scheduled for early 2016, was therefore abandoned due to boycotts, rising insecurity and instability. A last minute political agreement between the then President Michel Martelly and parliament allowed Martelly to leave office at the end of his term, and for an interim president to be installed with the mandate to hold the elections, and for a permanent administration to assume office by April. However, during August 2016 field work for this DRG assessment the interim government was still in office and parliament was unable to obtain the quorum needed to vote on the extension of his mandate. A new Provisional Election Commission (CEP) was in office and had set a new election date of October 9, 2016. Given the CEP's logistical and management challenges and the need for the Government of Haiti (GOH) to find funding for the reruns, the assessment team was doubtful that this date could be met.

## KEY CHALLENGES TO DEMOCRATIC GOVERNANCE

The assessment found problems in all five elements of democracy, human rights and governance (DRG) in Haiti. The most critical were in the areas of competition and political accountability. These directly and adversely affected the other elements, contributing to exclusion, poor governance, and a lack of justice for the majority of Haitians.

**I. Consensus.** Haitians voted overwhelmingly for a democratic form of government in the 1987 constitutional referendum, but the political class has not consistently abided by its terms. Haiti's social and political divisions are exacerbated when members of the political class unscrupulously use collusionary tactics, for example to undermine the legitimacy of a political opponent by failing to renew an expired term, or to diminish the authority of a political opponent by circumventing procedure to override the opponent's decisions. There is little trust between colluders, and the political alliances behinds the collusions are often short lived. Beyond a general support for democracy, there is little consensus on the rules for electing political leaders, understanding that not everyone can be a winner and that in elections, only one candidate is supposed to be elected to office. The fragmentation of political party system and the difficulty of building long term coalitions among different parties only exacerbate the difficulty in building consensus on the rules of the game.

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<sup>1</sup> Miami Herald Nov 24, 2015 U.S. Observers: Haiti's Presidential Elections Deeply Flawed

**2. Inclusion.** Haitian society is deeply divided by socio-economic status, gender, and geography. Despite constitutional protections, channels for social and economic mobility are limited by the lack of opportunities and predatory behavior of the state and of the political class. The winner-take-all tradition in politics, a holdover from past despotic experiences, dispels many from meaningful participation, and voting is low. Women are under-represented in national political offices and positions, and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons are excluded by social norms.

**3. Competition.** Competition is dominated by the personalistic and clientelistic political practices of a small political elite (referred to broadly in this report as the “political class”), perpetuating a climate of distrust. The zero-sum electoral process remains a flash point as many political candidates use violence and intimidation to win, and cry foul play when they lose. Political parties, although numerous, are marginalized by the system. The CEP remains provisional and is frequently changed. Moreover, recent Freedom House reports highlight diminished press freedom and an increasingly hostile environment for rights advocates and high-level civil society representatives in Haiti in past years,<sup>2</sup> Collusion between the economic elite and political class distorts and limits economic competition.

**4. Rule of law and human rights.** Justice remains elusive despite formal protections and an established judiciary. Formal rules are bypassed through the use of informal systems and deal making, which leads to inequitable treatment, corruption, and impunity. The justice system lacks independence and has serious issues with pre-trial detention and prison overcrowding. The Haitian National Police (HNP) has made significant improvements but the United Nations (UN) peacekeeping mission in Haiti still has a sizeable presence that will be difficult for the HNP to fill when it draws down. According to the United States Department of State Trafficking in Persons Report Haiti is a Tier 3 country for trafficking in persons (TIP) and still has high levels of gender-based violence (GBV), however there are improvements in the area of human rights.

**5. Government responsiveness and effectiveness.** The massive international response to the 2010 earthquake was an opportunity to address the Haitian government’s systemic lack of technical and managerial capacity. The slogan to “build back better” was widely used when referring to infrastructure as well as institutions by both international aid agencies and NGOs but, obviously, was not as widely applied: Haiti’s state institutions are still underfunded, highly vulnerable to corruption, provide limited services, and reach a small percentage of the population.

## **KEY POLITICAL ACTORS AND INSTITUTIONS**

Political power is concentrated in the presidency, and the constitution protects the separation of powers through a system of checks and balances, but Presidents have used their legacies to retain influence when out of office. The President selects the Prime Minister, who manages the government through a council of ministers ratified by the Senate.

The Office of Management and Human Resources (OMRH) is currently working with USAID to standardize civil services policies and to apply transparent procedures for recruitment and management of civil servants. The Ministry of Economy and Finance (MEF) and a number of anti-corruption agencies control and oversee the use of government funds. Efforts to improve GOH cash flow and accountability are stymied by weak Central Bank practices.

Local governments are closer to their constituents than national government but are also constrained by the national political situation. The Ministry of Interior and Territorial Communities (MOI) is currently working on a plan to standardize local government staffing positions and has submitted a decentralization bill to parliament that could strengthen local government if adopted. The 2015 local elections brought a significant number of women into local elected positions because of a recently enacted quota for women in public office.

Haiti’s bicameral parliament reflects Haiti’s zero-sum political game and fractured political party system, as its primary power currently lies in its ability to block presidential action. This has resulted in presidents

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<sup>2</sup> Freedom House, *Freedom in the World: Haiti*, <https://freedomhouse.org/report/freedom-world/2016/haiti>.

bypassing formal approval mechanisms to get things done.

The Ministry of Justice and Public Security (MJPS) still maintains considerable control over the judicial system and court employees. However, the establishment of a High Judicial Council (CSPJ) to oversee the judicial branch is expected to improve the independence of the judiciary if it can act decisively. The CPSJ created a judicial inspectorate and has started a vetting process for all judges and prosecutors, which is an important step towards improving court performance and increasing citizen access to justice. The constitutional court has not yet been established.

The Office of Citizen Protection (OPS) is an outspoken advocate for citizen's rights with a network of offices throughout Haiti. The current Ombudswoman has collaborative relationships with civil society organizations (CSOs) and the HNP and is getting an increasing number of complaints from citizens and persons in detention.

Citizen trust in the HNP has increased as it is taking action on police abuses. Its counter-narcotic units are only present at a few border locations and its Coast Guard lacks the capacity to significantly tackle trafficking which funds criminal networks and contributes to general insecurity and corruption.

Haiti's political parties have proliferated and weakened considerably since the 1990s. Most serve primarily as vehicles for the personal ambitions of candidates and are frequently abandoned once the politician is in office and able to make more useful alliances. The leftist Lavalas movement that originally brought Aristide into power has split into several factions, dividing the large Lavalas vote and enabling candidates from other parties to win some seats.

Following the political party law, in 2015 the GOH provided funding to all political parties involved in the electoral process. Many parties used some of these resources to fund party poll watchers, (*mandataires*) a decision that led to the accreditation of a high number of poll watchers for the 2015 elections and that created serious logistical problems at the polls and integrity concerns.

A newly established provisional CEP is managing the 2016 elections and faces the daunting task of organizing credible elections within a tight timeframe, during an active hurricane season and with limited funds. The UNDP-managed electoral basket fund was intended to cover one presidential election, and the U.S. removed its remaining funds after the GOH decision to rerun these elections. However, this should help to increase Haitian ownership of the electoral process and greater CEP attention to the cost of election administration.

Haiti has a number of strong human rights NGOs and women's groups that are funded primarily by donors. However, their lack of financial viability and political divisions are major constraints to coalition building among them. Local development groups are active at the grassroots and partner with international development efforts. Politically oriented groups also exist and are often used by politicians for both legal and illegal purposes. The broadcast media sector is active, but few undertake investigative journalism. Community radio is prevalent and the use of social media is growing rapidly because of increasing use of inexpensive mobile phones.

The business elite is economically powerful and trades political and economic support with the political class. This has contributed to Haiti's position as one of the most difficult places to do business and is one of the reasons why 90 percent of Haiti's businesses occur in the informal sector.<sup>3</sup>

Haiti's youth are becoming better educated, but there is still a large pool of unemployed, under-skilled, politically alienated, and easily exploitable youth. Women have equal rights but are still under-represented in many sectors and leadership positions. An estimated two million Haitians live abroad, and many make a significant contribution to the Haitian economy through remittances. Though their participation in Haitian political life has traditionally been limited, the 2012 constitutional amendments now permit dual citizenship, ownership of land, and other rights in Haiti. As a consequence overseas Haitians are poised to play a significant role in Haiti's transition to democracy.

Haiti has a large number of non-state actors including religious groups that are active and influential. On the other hand there also exist para-legal forces that are used by some political actors for nefarious purposes.

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<sup>3</sup> World Bank, *Ease of Doing Business 2016, Haiti*

These include neighborhood gangs which contract themselves out for disruption and intimidation purposes; armed security personnel in the employ of political leaders; and strongmen with political agendas. International organized crime also has tentacles in Haiti, most notably for narco-trafficking.

The international community, in particular the United States, France, Canada, Venezuela, the Dominican Republic, and Cuba, is deeply engaged in Haiti, each through significantly different relationships. Haiti benefits from significant bilateral aid support offered by some of these international partners, such as technical and financial assistance in health, education, food security and economic growth from the US, medical personnel and medical training opportunities from Cuba, and preferential oil rates through the Venezuelan Petrocaribe Alliance. Much of Haiti's international trade involves the Dominican Republic (DR), which recently started deporting Haitian workers and their families back to Haiti. Multinational organizations including the United Nations, the Organization of American States (OAS), the Interamerican Development Bank IDB and the European Union (EU) are also deeply engaged. The UN has fielded a 10-year peacekeeping mission and the IDB's Multilateral Investment Fund are among the most impactful.

## **OPERATIONAL AND PROGRAMMATIC ENVIRONMENT**

Haiti is a policy priority for the U.S. It needed immediate humanitarian assistance after its destructive 2010 earthquake, but beyond this also needed to improve its democratic and economic governance to avoid becoming a safe haven for narco-traffickers and a source of refugees. USAID is currently developing its next country development cooperation strategy to which this assessment will contribute. USAID currently has a substantial portfolio in Haiti that includes a large DRG program focusing on supporting credible electoral and legislative processes, improving access to justice and legal assistance, protecting human rights and vulnerable populations, and strengthening public administration and local governance. Its assistance is focused in three main geographic areas, but USAID is considering expanding this approach.

USAID and others have provided DRG assistance to Haiti for decades. Some of the key lessons are that:

- Reform is possible when found useful by a champion of reform in a position of power, who also wants to strengthen governance and is willing to take the risks of promoting change.
- Continuity of assistance and relationships are also critical: piecemeal assistance, such as for an election event, has helped to ensure that the event happens, but does not ensure that the broader process is improved or institutionalized.
- Governance issues also need to be prioritized in every sector, as does the preservation of institutional memory.
- Investing in senior-to middle level management is critical to creating the managerial and technical systems that can improve DRG outcomes and build a more responsible class of professionals who will one day be in leadership positions.

## **STRATEGIC AND PROGRAMMATIC RECOMMENDATIONS**

The DRG assessment largely validated USAID's current DRG programming and the DRG-focused approach used in some of USAID's other sector programming. However, the sectors are guided almost totally by their own, separate objectives and are not sufficiently integrated with the democracy and governance needs that are common to Haiti's sustainable development and that should provide a comprehensive foundation for the entire aid portfolio.

In the immediate term, Haiti must hold credible elections where the losers accept the results to signal a move towards greater compliance with the constitution and the rule of law. The most important element for the future is for Haiti's social, economic, and political leaders to work within formal systems where the rules can be applied and persons can be held accountable for their actions.

The recommended DRG objective is to strengthen Haiti's rule of law, political and electoral processes, national and local governance, and citizen's voice to foster a more responsive and accountable governance and more equitable citizen access to economic and social justice.

Recommended programmatic priorities are:

1. **Increased accountability of government institutions, access to justice, and protection of human rights**

through strengthening judicial independence, effectiveness and efficiency, strengthening access to justice and greater oversight over the implementation of human rights policies, and strengthening anti-corruption mechanisms. Priority actors are the courts, CSPJ, OPC, anti-corruption agencies, CSO/media monitors as well as support to establish the constitutional court.

2. **Strengthen the electoral and political processes** through strengthening the credibility of the electoral process and acceptance of the results, strengthening DRG related policy making and reforms and the accountability of parliament, and strengthening national and local governance. Priority actors are a permanent CEP, political parties, candidates, parliament, women and young political leaders.
3. **Strengthen national governance** through strengthening its accountability, efficiency, responsiveness and oversight mechanisms. Priority actors are ministries with USAID programs, the OMRH, parliament, oversight bodies, CSOs, and media.
4. **Strengthen local governance** by supporting decentralization and greater fiscal autonomy for local government and by increasing local governance efficiency, responsiveness, and accountability. Priority actors are the mayors, local government, local CSOs, media, MOI, and relevant national institutions.
5. **Build media capacity and promote press freedom** by supporting independent community radio networks and increasing the capacity of journalists to conduct investigative reporting.

Priorities for cross-cutting areas for all of USAID's programming include anticorruption; access to information; use of good governance principles and standardized systems; conflict prevention and dialogue; evidence-based decision making; and, democratic political culture to build a new generation of leaders.

The DRG assessment also recommends USAID assistance be conditioned on a few critically needed reforms. For the near term on the passage of some important legislation that is with parliament and annual external (international) audit of the Central Bank. For 2017, on the establishment of the permanent CEP and the constitutional court.

# I. INTRODUCTION

## **ASSESSMENT OBJECTIVES AND METHODOLOGY**

USAID/Haiti contracted Democracy International to conduct a Democracy, Human Rights and Governance Assessment of Haiti. The DRG assessment is intended to assess the democratization, human rights, and state of governance in Haiti; consider the United States Government's (USG) operational and programmatic environment; and develop strategic and programmatic recommendations to address the core DRG problem(s) identified in the assessment.

The assessment followed the DRG Strategic Assessment Framework (*Conducting a Democracy, Human Rights, and Governance Assessment: A Framework for Strategic Development*).<sup>4</sup> This framework includes a political economy analysis of a country, leads to program choices, and incorporates lessons from comparative experiences. The framework uses a four-step process to develop a DRG assistance strategy for a country:

- Identify the DRG problem through analysis of five key attributes of a democracy (the degree of consensus on rules and fundamentals; the degree to which the rule of law and human rights are respected; the degree of competition and political accountability; the quality of political inclusion; the level of government responsiveness and effectiveness) and the direction of change on the democratic development continuum.
- Identify the key actors and institutions that can support or obstruct DRG reforms and assess the incentives and resources for reforms (political economy analysis).
- Distill the ideal strategy for assistance from an analytical standpoint and determine how USAID can best help to address these problems.
- Recommend strategy and programming options for USAID that will most effectively address the major DRG problems identified.

The assessment team also looked at the lessons learned and best practices from previous and current DRG programs to help inform future effectiveness. It also looked at remaining DRG challenges and sustainability issues that need to be addressed and prioritized its recommendations for the short, medium and long terms. The team also looked at how support for DRG could be integrated into other USAID/Haiti programs and cross cutting issues.

The fieldwork for the Haiti DRG assessment was undertaken in August 2016 by Sue Nelson, Team Leader; Bertrand Laurent, Senior Political Scientist/Country Expert; and, Dr. Yves Francois Pierre, Thematic Specialist. The DRG assessment team was supported by Frantzdy Hervé, Evaluation and Monitoring Program Specialist from USAID/Haiti's Office of Democratic Governance, who participated in many of the assessment interviews and team discussions, and Myrtha Durand, Logistician, in Haiti.

While in Haiti the assessment team met with a wide range of political, civil, and international actors (Annex B) and reviewed relevant documentation and reports related to the state of democratic development and assistance in Haiti (Annex C). In addition to interviews in the capital area of Port-au-Prince, part of the team travelled to the north of Haiti, including Cap-Haïtien, Ouanaminthe on the DR border, Ft. Liberté and Caracol. The other team member traveled to the South and South East and covered the areas of Les Cayes, Jeremie and Petit Goave. In these locations the team members met with local officials, CSOs, the media, HNP, judges, political actors and electoral authorities among others. Although the team was able to meet with a wide range of people and over 60 institutions, its sample size was relatively small given the complexity of the environment. Nevertheless, the information provided by the different sources was validated by its consistency. Assumptions about broad public sentiment were corroborated by published public opinion surveys available to the team. Similarly, governance indicators from the World Bank, International Monetary Fund (IMF), and the United Nations Stabilization Fund in Haiti (MINUSTAH)

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<sup>4</sup> USAID. (September 2014). *Democracy, Human Rights, and Governance Strategic Assessment Framework*.

progress reports as well as international and national organization reporting helped ground arguments made throughout the report.

This assessment is also a reflection of the time in which it was conducted. An interim government was in power even though its mandate had expired and opposition members in parliament were refusing to provide the quorum needed to vote on its extension. The 2016 date for the reruns of the aborted 2015 presidential election slipped from April to October, and now, given the recent storm, even further. A new CEP was named to organize these reruns and the GOH had to find the funding to cover the costs for these unanticipated elections. During the assessment field work no one was certain whether the elections would be held on schedule. Thus, the political and electoral climate was characterized by uncertainty and interim officials were still running state institutions.

## **BACKGROUND**

Haiti is in the midst of yet another electoral and political crisis, the most immediate cause being the cancellation of the first round presidential election. A second round of elections was not held as scheduled in early 2016 due to boycotts and accompanying “political jockeying and simmering conflict.”<sup>5</sup> Last-minute negotiations facilitated by an OAS Special Representative at the request of the GOH, avoided an escalation of the crisis and resulted in a political agreement to create a six month interim government to organize new presidential elections. As noted by the Special Representative, “. . .the interests of the nation had to be put above all other consideration. That is why a political compact was necessary to allow for a rapid return to some degree of constitutional normality and the installation of an elected leader. The moment was critical, the cost of failure too great.”<sup>6</sup>

The political agreement allowed President Martelly to leave office in February as prescribed by Haiti’s constitution, and for Senate President Jocelerme Privert to be installed as Interim President. The presidential elections were rescheduled for April, with the intention of inaugurating the newly elected president in May 2016. These dates, however, were not met because of political wrangling over the composition of the interim government, the establishment of a new CEP, and a decision to rerun the elections following a commission of inquiry into the matter. The interim government’s mandate expired in June but it stayed in office and was still working as of the date of this assessment, with elections rescheduled, this time to October 9, 2016. There was uncertainty during the assessment if this date could be met. Opposition members in parliament were withholding a quorum in order to avoid voting on its extension which was widely expected to be passed by the majority.

In the turbulent 24 years between enactment of the 1987 constitution, itself a major achievement, and the January 2010 earthquake, Haiti has had 17 presidents and four coups d’etat. Three of these presidents (Henry Namphy, Jean-Bertrand Aristide and Rene Preval) were in office twice, but this did not afford any stability for the country, as both Aristide and Namphy were overthrown by coups during each of their terms. Since 1987 only Préval, and now Michel Martelly, have served their full terms in office.

In the lead up to the 2010 presidential election, Haiti was struck by a magnitude 7.0 earthquake that had devastating consequences. It killed more than 200,000 people and injured another 300,000. Another 1.5 million persons were displaced and more than 80,000 buildings were destroyed, 4,000 of which were schools that provided education to approximately 2.15 million children.<sup>7</sup> Besides destroying many government buildings and records, the earthquake killed many civil servants, directly affecting the ability of the government, including law enforcement, to function. The international community pledged \$13.3 billion from bilateral and multilateral donors and \$3.1 billion in private donations for recovery and mounted a massive assistance program, although not all of this ended up obligated and/or disbursed for many different reasons.<sup>8</sup> Though the political environment had been difficult before the quake, the disaster precipitated a crisis of citizen confidence in the government and its ability to respond. This was followed by the first outbreak of cholera in Haiti in more than a century, affecting over 450,000 persons and causing at least

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<sup>5</sup> OAS, *Report to the Permanent Council of the Special Mission to Haiti*, p2

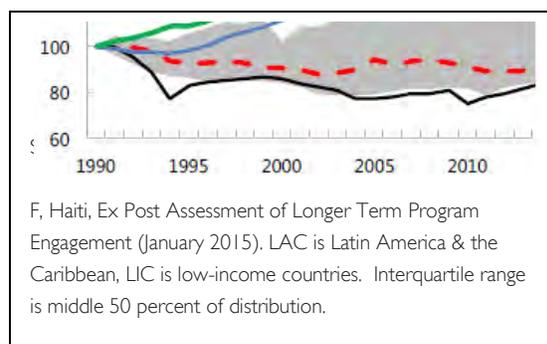
<sup>6</sup> OAS, *Op Cit*, p. 3

<sup>7</sup> UN Human Rights, Office of the High Commissioner, *Human Rights Committee considers report of Haiti*

<sup>8</sup> GAO, *Haiti Reconstruction*, p 1

6,500 deaths.<sup>9</sup> All of this contributed to a significant setback to the progress that had been made in Haiti since 2004.

Elections in 2010-2011 brought Michel Martelly, a popular musician, into office. Parliament also adopted constitutional amendments in June 2011 to: 1) establish a constitutional court to assure the constitutionality of laws and executive administrative acts; 2) require that at least 30 percent of government jobs be held by women; 3) recognize dual citizenship and provide some rights for dual citizens (voting and eligibility for some government offices); and 4) streamline the nomination process to establish a permanent electoral council to oversee the country's elections. In spite of this, Martelly's term was marked by difficulties with parliament and delays in scheduling elections, resulting in the dissolution of the lower house in January 2015 and leaving the Senate without a quorum until January 2016. As a result, President Martelly ruled by decree during this period.



Haitians have been severely affected by the country's political instability, poor governance and other factors such as natural disasters. Haiti is 163 out of 187 countries on the United Nations Development Programme (UNDP) Human Development Index. Moreover, 72 percent of its population is in or near multidimensional poverty and 20 percent suffer from severe multidimensional poverty.<sup>10</sup> Rural areas are the most affected, particularly in the northeast and northwest (43 percent and 40 percent, respectively). More than two thirds of the extreme poor are in the agriculture sector. Haiti has a high level of remittances from Haitians abroad, but remittances do not act as a safety net for the very poor as most of the diaspora that send remittances come from the higher classes or from the capital area. The very poor receive only 13 percent of the remittances.<sup>11</sup>

In addition to the human impact of poverty, the low income level of many Haitian families means little tax revenue for the Haitian government. This reciprocal and self-reinforcing relationship between state and individual poverty means that as Haitians become poorer and pay less taxes, the government becomes even less able to provide for its citizens, who in turn fall deeper into poverty. Aggravating this is the size of the informal sector that falls outside the tax system and GOH regulation as well as the systemic corruption that affects every sector.

Haiti has made some strides in improving some of its basic indicators, such as education, where now 90 percent of Haitian children are in primary schools, and for under-five mortality, which has dropped from 137.7 deaths per live births in 2001 to 92 in 1,000.<sup>12</sup> However it still suffers from decades of poor access to basic services. For instance, the average Haitian over age 25 still has less than five years of schooling.<sup>13</sup> Low literacy levels and lack of basic skills contribute to high unemployment rates, especially in rural areas where opportunities are particularly limited. More than two million Haitians are estimated to have moved to urban areas where services and opportunities are concentrated.<sup>14</sup> About 70 percent of the population of Port-au-Prince lived in informal settlements before the 2010 earthquake, and this has since risen substantially. As in other countries around the world, criminal activity is rife in slum areas, where residents are more vulnerable to violent crime than other city dwellers and young people are at high risk of becoming trapped in cycles of unproductivity, exploitation and risky behaviors.

Haiti has an unequal social class system inherited from its French colonial legacy and reinforced by economic and environmental crises. Stark social inequities date back to its war for independence and the country's

<sup>9</sup> CNN, *UN Acknowledges involvement in Haiti cholera outbreak for first time*; and CDC, *Haiti Cholera Outbreak*

<sup>10</sup> UNDP *Human Development Report, Haiti* Multidimensional poverty encompasses factors such as acute deprivation in health, education and standard of living. Severe multidimensional poverty affects those with a deprivation score of more than 50 percent.

<sup>11</sup> World Bank, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, pp. 30 & 33

<sup>12</sup> World Bank, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p 31

<sup>13</sup> USAID/Haiti, *Education Fact Sheet*

<sup>14</sup> World Bank, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p 38

ensuing socioeconomic struggle for survival. The social class system permeates Haiti's political, social and academic institutions, and perpetuates vertical patron-client relationships of loyalty through which people traditionally seek favors and political outcomes. As the democratic political system evolves, Haiti's vertical client-patron relationships are slowly being replaced by egalitarian interest-based associations. Even within the civil service, merit-based hiring and legitimate job competition is increasingly valued by government employees, though progress toward meritocracy has been slow. The World Bank has assessed Haiti as the sixth-worst country in the world for income inequality.<sup>15</sup> Many members of the educated class have chosen to leave Haiti, resulting in more than two million Haitians living abroad, a significant brain drain that has left behind a relatively small middle class.

Haiti's economic growth has also lagged. A recent World Bank report noted that gross domestic product (GDP) per capita fell by approximately 0.7 percent annually on average between 1971 and 2013.<sup>16</sup> Although progress towards increased political and economic stability was made under Preval's second term, it was disrupted by the earthquake, environmental challenges such as severe drought, and political conflict. In 2015, the IMF forecast Haiti's economy to grow by one or two percent, but food price increases caused by drought and the depreciation of the gourde was expected to push inflation up towards 10 percent. All of this affected the value of the Haitian currency (gourde). Given that Haiti imports more than 50 percent of its food supply, that unemployment hovers around 50 percent, that two thirds of the population earns less than \$2 per day, and the 2016 electoral uncertainties, the drop in the value of the gourde against the U.S. dollar has been devastating.<sup>17</sup>

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<sup>15</sup> World Bank, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p 30

<sup>16</sup> World Bank, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p 43

<sup>17</sup> World Food Program, *10 Facts About Haiti*, 12 January 2015

## 2. KEY CHALLENGES TO DEMOCRACY, HUMAN RIGHTS, AND GOVERNANCE

This section describes the key challenges to democracy, human rights and governance in Haiti by focusing on five analytical elements: consensus, inclusion, rule of law and human rights, competition and political accountability, and government responsiveness and effectiveness. The assessment found problems in all five elements, but the most critical area was in competition and political accountability. The impunity of the political class as well as clientelism and corruption drives many of the problems found in the other elements.

**TABLE 2.1: KEY ANALYTICAL ELEMENTS OF THE STRATEGIC ASSESSMENT FRAMEWORK**

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**Consensus:** Is there basic consensus on questions of national identity and the fundamental rules of the game, and is the political contest played by those rules?

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**Inclusion:** Are there problems of inclusion or exclusion? Are parts of the population formally excluded and disenfranchised from meaningful political, social, or economic participation? Is participation in political life, economic life, and social life high or low?

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**Competition and Political Accountability:** Is there competition in the system? Are free and fair elections a regular feature of competition? Are there other mechanisms beside elections that ensure the government delivers on its promises and fulfills the public trust? Is there a competition of ideas, a free media, and a vibrant civil society? Is a healthy set of checks and balances present between branches of government or between levels of government?

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**Rule of law:** Is there ordered liberty? Are political life, economic life, and social life bound by a rule of law?

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**Government Responsiveness and Effectiveness:** Are public institutions administered effectively? Do they respond to public needs and provide socially acceptable services? Do robust internal mechanisms exist to hold government institutions accountable and enhance their effectiveness?

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### 2.1 CONSENSUS

Haitians are united by their national identity but divided on many other issues. They voted overwhelmingly for a democratic form of government in the 1987 constitutional referendum. This sets up a system of multiparty elections to be held on a regular basis to elect national and local representatives, and separates and balances the powers of the state among executive, legislative and judicial branches with a number of other accountability mechanisms. These provisions were intended to prevent Haiti from returning to another dictatorship. However, politics is pursued as a zero sum game in which the winner lays claim to total control and losers are unwilling to accept defeat. Commitment with the rules of the game is thus often replaced by collusion to circumvent the rules, and public discussion or open debates to find common ground are rare.

### 2.2 INCLUSION

Channels for social and economic mobility in Haiti are limited for both the middle and lower classes, because of the limited opportunities and predatory behaviors of the political class. Until recently, access to most levels of justice, birth certificates, licenses, land titles, and vehicle insurance among other services, could only be obtained in the capital, effectively excluding most rural or peasant Haitians from government services.

Before the practice was banned by the 1987 constitution, birth certificates of anyone born outside of a departmental capital classified them as “peasant,” formalizing severe restrictions against social mobility and

inclusion. The upper class alone controlled political power in the capital and national assets such as ports and power generation. It was his opposition to this exclusion that gave President Aristide his mass base of support in the 1990 election. However, President Aristide and subsequent governments have not delivered the inclusive governance needed to turn the situation around, and the lower classes continue to be excluded from meaningful competition and governance today. In this dynamic, the middle class has failed to grow, hampered by bad governance, corruption and continuing outmigration, many of them choosing to leave the country when offered the opportunity.

Many Haitians still resent certain groups or powerful individuals for past abuses, including illegal land takeovers committed by the likes of Duvalier's brutal paramilitary force, the *tontons macoutes*. They also resent unresolved atrocities, such as the 1964 Duvalier-sponsored massacre of Jeremie's social elites and the 1994 massacre of pro-Aristide demonstrators in Raboteau. As a result, many Haitians feel the country needs a deep social discourse to address its social and political injustices, and to reach a consensus on basic economic rights and minimal standards of living for all Haitians regardless of their economic and social background. A World Bank diagnostic for Haiti also argues this point, saying that Haiti needs a 'social contract' to bind the state and the people.<sup>19</sup> During the past three decades Haiti went from a dynamic of hope and optimism to a pervasive inability of its citizens to claim their substantive rights and call for state accountability.

Haitians are also divided politically along similar lines, with the political actors and their economic backers on one side and the rest of the Haitian population on the other. The political system excludes most of the population from meaningful participation except through the occasional formal event such as voting. However, these have lost meaning for most of the electorate and participation levels have been declining, in some elections as low as five percent.

The lack of inclusion also corresponds to informal forms of exclusion, such as decreasing levels of political tolerance towards groups with different viewpoints. Survey data shows that citizens were more tolerant in 2006 after President Aristide went into exile than they were in 2014 (Table 2:2). Tolerance of marginalized groups, such as LGBTI persons, is increasing though still at extremely low levels. In 2014 about 10 percent of the population believed LGBTI persons have the right to run for office, up from 7.1 percent in 2006. And only 6.7 percent in 2014 thought same-sex couples should have the right to marry, up from five percent in 2010.<sup>20</sup> Other groups, such as persons with disabilities (PWD), orphans and persons who are still internally displaced do not face the same type of social exclusion, but encounter difficulties with inclusion due to access issues.

Women dominate petty commerce and control much of the local agricultural supply chains, most of which are in the informal sector. However, the political culture marginalizes women's participation in the public and political sectors. In a recent survey, 30 percent of men and 32 percent of women did not think that men and women should have equal rights or receive equal treatment. Almost half agreed that men made better political leaders than women.<sup>21</sup> With few exceptions, women candidates reported physical intimidation intended to hinder their ability to run for office. Only recently did Haiti adopt a 30 percent quota for women in public life and began appointing more women to positions in government. The electoral commission ensured the quota was respected for the 2015 local elections by requiring that at least one candidate out of the three candidates running on the mayoral slates (cartel) be a woman. The electoral law provided an added incentive for the 2015 legislative elections, allowing for a 40 percent reduction in

	2006 %	2014 %
Critics have the right to vote	62.6	52.4
Critics have the right to speak	57	39.9
Acceptable to block roads during protests	17.2	34
Acceptable to overthrow government	10.9	23.3
Vigilante justice is acceptable	29	35

18 USAID, Political Culture of Democracy in Haiti and in the Americas, 2014, p 171

19 World Bank Group, Haiti, Towards a New Narrative, p 9

20 Ibid

21 USAID/Haiti, Human Right Baseline Survey, Survey Report p 28

registration fees for parties that met the 30 percent mark for female candidates. Yet only eight percent of all those running for office in the 2015 legislative elections were women, none of whom won.<sup>22</sup> Haiti had its first female presidential candidate in 2010 and currently has three female presidential candidates. Ten of the 23 ministers in the previous Martelly-Lamothe administration were women, the largest female proportion in any administration in Haiti's history.

The diaspora still faces inclusion issues as the state has been reluctant to recognize them as citizens. Even though Haiti has a ministry specifically dedicated to its overseas community, the constitution barred dual citizenship until the 2012 amendments granted this with voting rights for Haitians overseas as well as the right to hold certain political offices.

## **2.3 COMPETITION AND POLITICAL ACCOUNTABILITY**

Competition in Haiti is dominated by the personalistic and clientelistic political practices of the political class. Despite constitutional and legislative checks and balances, the winner-takes-all-politics and attitudes espoused by this group have captured the state and competitive processes, easily circumventing the formal accountability and transparency mechanisms and perpetuating a climate of impunity and corruption.

The national executive, most notably the office of the presidency, dominates the system, even though on paper, the legislative branch has significant powers to hold a president and government in check. The legislature's main source of power lies in its ability to block action on presidential appointments, suspend a Minister or even the Prime Minister, draft legislation and pass the annual budget. At the time of this assessment the opposition parties were refusing to give parliament a quorum in order to avoid voting on the extension of the interim government. The judicial branch has the constitutional authority to check the actions of the other branches but lacks the independence to hold them accountable. Other institutional and constitutional checks and balances are rendered ineffective by lack of authorities or resources or bypassed altogether by corruption and collusion. Some, such as the Constitutional Court, have yet to be created. Local government should be able to share power with the central government since the constitution provides Haiti with a decentralized system of governance. However, power remains centralized and still needs to be devolved.

The electoral process continues to be a flashpoint for Haitian politics. The zero sum political tradition of Haitian elections means that a loss results in exclusion from power and access to the assets of the state. It also removes the opportunities for patronage, which are an essential means of maintaining support, as elections are about the person and what s/he can do for supporters, rather than a policy platform. Haitian elections are rarely held without major disruptions, multiple reruns, or negotiated outcomes. Tactics include boycotts, violence, burning polling stations and ballots, corrupting election administration officials, and refusing to accept the election results. Although elections are usually found to be 'acceptable' by international observers, meaning that they reflect the will of the majority of voters despite considerable problems, many of Haitians interviewed felt that all elections had been captured by one group or another and did not reflect genuine results.

The Haitian electoral system and process is unwieldy, with a high number of elected local offices and a two round system that requires a majority plus one vote to win. Furthermore, the terms of electoral offices are not harmonized, meaning that some form of national election is held almost annually. This is an expensive undertaking for a low income country, and electoral administration has been funded almost exclusively by external donors since Haiti held its first credible post-Duvalier election in 1990. The cost of election administration has increased over time from \$18 million (1995 presidential, parliamentary, and local elections) to around \$55 million in 2015. The electoral machinery has also always been provisional, resulting in a continual loss of institutional memory, systems, and assets since it was established in 1987.

The constitution calls for a permanent CEP to be established, but as control over the electoral administration is seen as one of the ways to win an election, there has been no political will to establish a permanent and independent CEP. Haitian elections are always conducted in crisis mode, with tight timelines that are difficult to meet even under the best of circumstances. Even well-meaning CEPs spend much of their time addressing crises, distracting from their mission and limiting their ability to deliver a well-organized

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22 IDEH, Rapport de lignes de base sur la situation des LBT à Port-au-Prince, Cayes, Cap-Haitien et Gonaïves, p 19

and credible election. This disorder gives ample ammunition for spoilers to reject the results. Already the political parties interviewed for this assessment expressed concern over the state of preparations for the upcoming election and for the impartiality of this CEP. This is important to note as it lays the ground for a possible rejection of the election results or the process by some of the parties. Most election campaigns are contested vigorously, with the exception of larger-scale opposition boycotts, such as for the second presidential round in 2000.<sup>23</sup>

Political parties have become weaker in the past decade, and most are now used as branding by candidates for electoral campaign and ballot purposes and are without structure or substance. Most are run autocratically and members who cannot move ahead or disagree with party leadership tend to split off and create their own parties. There were 52 parties and 11 presidential candidates in the 1990 elections<sup>24</sup> and 128 parties and 55 candidates in the 2015 elections.<sup>25</sup> The increase was enabled to a large extent by political party regulations that make it easier to create a party than to run as an independent candidate, and by providing state funding to parties participating in the electoral process. It only takes 20 signatures to establish a party, while an independent candidate needs the signatures of two percent of the electorate and is not eligible for state funding.

Women are grossly underrepresented in political parties and elected offices despite the recent quota for public offices. Some respondents reported that they feel the harsh and sometimes violent political system inhibits women's interest and participation in political activities, including monitoring by female civil society activists. Although 129 women candidates ran for a seat in the Chamber of Deputies (out of 1,621 candidates) and 23 women candidates for Senate (out of 232 candidates), none won and there are currently no women parliamentarians.<sup>26</sup> This represents a decline from the previous electoral cycle. Moreover, only 12 out of 140 mayoral cartels, each comprised of a slate of three candidates, won that were headed by women. Yet the women mayors interviewed for this assessment seemed extremely capable, and some can be expected to run for national office in future years.

Voters have become marginalized in the electoral process. The enthusiastic voter turnout of 50.16 percent in 1990 that brought Aristide to power has degenerated over time and dropped to 17.8 percent for the 2015 election.<sup>27</sup> Among the causal factors are voter fatigue from continual electoral crises and reruns, political instability, election-related violence, and disillusionment with elected officials and offices. Haiti's socioeconomic situation also directly affects the quality of participation: by 2009 CSO observers were already reporting that voters were demanding money in exchange for votes. Money is also the main driver of political violence and electoral demonstrations and, according to interviews, is readily available from drug traffickers. Haitian electoral campaigns are expensive, with presidential campaigns estimated to cost about \$12 - 15 million. There are campaign spending limits and financial disclosure laws, but these are not enforced.

Political violence is decreasing but is used as a tool to destabilize the processes and deter opponents.<sup>28</sup> It is linked directly to political events or situations (such as elections), and is usually orchestrated by political camps as illustrated in USAID's electoral security assessments.

Despite Haiti's pro-business policies and legislation, economic competition is also constrained. Starting a business is costly and time consuming, and it is difficult to access credit and obtain licensing. The families that dominated the Haitian economy during the Duvalier regime are still in control of large segments of the economy. Collusion between the economic elite and political actors distorts both economic and political competition as they exchange financial resources for favorable policies and state contracts. This has

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23 This resulted in an uncompetitive election and a sweep by President Aristide with 92 percent of the vote. Those elections were also organized exclusively by the GOH since the international community withdrew its support because the first round results were 'fundamentally flawed' as they did not follow constitutional and electoral law requirements. OAS, The Election Observation Mission for the Legislative, Municipal and Local Elections, February to July, 2000, p 4

24 IRI, The 1990 Elections in Haiti, p 66

25 United Nations Security Council, Report of the Secretary General on the United Nations Stabilization Mission in Haiti, p 2

26 IFES, Elections In Haiti, 2015 Legislative Elections, Frequently Asked Questions, p 2

27 International IDEA, Voter Turnout for Haiti

28 USAID, Electoral Security Assessment

contributed to a state capture that continues to undermine attempts at reform and good governance. This has also hampered the entry of new Haitian actors into the market and drives up consumer prices.<sup>29</sup> Around 95 percent of the companies in Haiti are informal and the informal economy is widely used and accepted as normal.<sup>30</sup>

There is a competition of ideas and local interests in Haiti through a pluralistic media and civil society. There are about 2,400 registered civil society organizations, but estimates of actual numbers run from 3,000 to 10,000.<sup>31</sup> Though some are mobilized by political candidates to intimidate opponents and disrupt campaigns, many activist and issues-oriented organizations are focused on community development or on making legitimate efforts to mobilize voters to support issues and policy positions. There is also a significant number of organizations focused on DRG issues, and in particular on human rights. Many are divided by personalities and politics and there is competition among these different groups and within networks for donors and other funding. They have been able to raise certain issues, such as GBV and trafficking of children, and in some cases have successfully pushed parliament to pass legislation. Their efforts to hold government accountable have exposed areas where change is required, such as better accountability mechanisms within government and a more independent judiciary.

Media organizations are free to gather and publish information but few are fully independent. Many are affiliated with political interests, which are reflected in their coverage. Some journalists and media outlets self-censor, especially in regards to covering issues such as drug trafficking or organized crime<sup>32</sup> or because they fear a story may cause retribution to their outlet, most of which are in precarious financial conditions. Many journalists are not paid regularly, forcing them to moonlight in other jobs. Journalists also report incidents of harassment from government officials for covering stories of government misconduct. While Freedom House still ranks the Haitian media as only partly free, the conditions for freedom of association and media have improved noticeably in the past decade, though a number of past murders of journalists remain unresolved. There is a lack of well-trained investigative journalists. Investigative reporting in Haiti is limited except when supported through international donor programs as investigations are costly in terms of time and money and journalists also fear reprisals. Most newspapers are based in the capital, but broadcasters can be found in most major towns, especially for radio. Community radio is prevalent.

## **2.4 RULE OF LAW AND HUMAN RIGHTS**

USAID's 2015 Rule of Law Assessment found the justice sector had been resistant to change over the past 20 years and thought that no significant change could be made at the systemic level without strong political will, which was not evident at that time.<sup>33</sup> Nevertheless, there has been some improvement in the ROL framework. The 2012 constitutional amendments provided for the creation of a Constitutional Court to decide on the constitutionality of legislation and a High Judicial Council to oversee and ensure independence of the judiciary. The Constitutional Court has yet to be established, but the CSPJ has been created. Before it was established, judges were appointed and dismissed at will by the MJPS.<sup>34</sup> This left the judiciary dependent on the executive and highly vulnerable to political pressure and manipulation. This had also resulted in the appointment of some judges without the required professional qualifications, many of whom are still on the bench. The appointments of a new CSPJ president and judicial inspectors in March 2015 raised hopes of a more independent Council. The CSPJ intends to vet all judges, prosecutors, and members of the CSPJ's Technical Secretariat for technical capacity and integrity. So far about 70 vetting reports have been completed, but action on those reports has not yet been taken.<sup>35</sup> This process should make a substantial impact on reforming the judiciary assuming the CSPJ has the will and ability to fire the worst offenders.

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29 World Bank, Haiti, *Toward a New Narrative, Systematic Country Diagnostic*, p 2

30 IDB, *Private Sector Assessment of Haiti*, p 12

31 BTI, *BTI Index - Haiti, 2016*, p 11

32 State Department, *Human Rights Report, Haiti 2016*

33 USAID/Haiti, *Haiti Rule of Law Assessment*, p 15

34 Center for Human Rights and International Justice, *UPR Review: Access to Judicial Remedies in Haiti*, p 5

35 Data from USAID's ProJustice project.

These changes have already caused Haiti's rank for independence of the judiciary to improve from 140th out of 142 countries (2010) to 118th out of 138 countries (2016).<sup>36</sup>

Yet limited independence is not the justice sector's lone issue. It was particularly hard hit by the earthquake, which destroyed courthouses and killed many justice sector actors. In particular, the earthquake destroyed the Justice Palace, a downtown Port-au-Prince landmark that housed the Supreme Court, appeals court and other city courts. While the Supreme Court and Court of Cassation have since been rebuilt with the help of the Taiwanese government, several other judicial sub-branches, including the Court of First Instance, Prosecutor's Office, and the Appeals Court, remain housed in former USAID offices.<sup>37</sup> There are also language barriers within the justice system. Haiti retained French as its official language and uses it for legislation, state affairs, and the administration of justice. This adversely affects access to justice for the majority, who do not speak French. Haiti's justice system also reflects its colonial past and its penal code dates from 1835. It has been supplemented over the years by laws and presidential decrees, creating a confusing mix of legal documents that defendants need lawyers to help them navigate. This again works against the poor as Haiti has no public defender's offices and legal aid programs are only provided through international community support. Many of Haiti's laws predate its ratification of international human rights conventions and those provisions have yet to be harmonized in Haitian legislation. Significant efforts were made under the previous government to modernize the penal code and procedures, which have continued under the interim government. These draft reforms are currently with parliament to be legislated.

Haiti also has extremely serious pre-trial detention and prison overcrowding problems. There are almost 11,000 persons in the prison system, 71 percent of whom are awaiting trial. Port-au-Prince has the largest concentration of prisoners, with almost 4,500 persons, 88 percent of whom are in pretrial detention. Many of those detained are persons rounded up by police, who leave them for the judges to sort out, and who then become victims of administrative shortcomings and bureaucratic inefficiency. Haiti's prisons are also inhumanely overcrowded. The international standard for prison space is four square meters per person, but the national average in Haiti is 0.56 square meter per person. In Port-au-Prince it is 0.36 square meters. Women and juvenile offenders are kept in separate facilities, but their conditions are equally inadequate. Juveniles in detention have 0.85 square meters per person and 87 percent of the 90 juvenile detainees are waiting for adjudication of their case. 79 percent of the female prisoners are also in pretrial detention.<sup>38</sup> Electronic case management system and other mechanisms implemented in some locations, such as St. Marc, Fort Liberte and Cap Haitien, have successfully reduced the length of pretrial detentions.

Haiti's security and law enforcement situation has improved considerably in the past decade. For instance, residents report less concern with gangs today than in 2012, although 37 percent of Port au Prince residents still say gangs disturb their neighborhoods. The areas least affected by gangs are in the south, where only 15 percent of residents find them a problem.<sup>39</sup> Insecurity and political violence remain prevalent during the electoral periods and as noted are directly linked to political actors who use these gangs and neighborhood youths (often referred to often in interviews as "*jeunes des baz'*") to destabilize the electoral process and gain political advantage.<sup>40</sup>

The HNP has made significant improvements in its efforts to protect human rights and reduce incidents of police brutality. It promotes officers from within its ranks, which makes it more difficult to bring in politically-affiliated persons from the outside. Because of support requirements by the U.S. State Department's Bureau of International Narcotics and Law Enforcement (INL), police officers, including cadets, are vetted for human rights abuses. The close working relationship of the HNP with the UN Police and the earlier UN Civilian Police units over the past two decades, and the out-of-country training for about 40 percent of the police force, have resulted in a more professional and career minded force. Still, MINUSTAH has a large law

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<sup>36</sup> World Economic Forum, Global Competitive Index, 2015

<sup>37</sup> Star Tribune, *Taiwan President Welcomed in Haiti in Start of Visit to Regional Allies*, <http://www.startribune.com/taiwan-leader-starts-caribbean-tour-in-haiti/219408301/>.

<sup>38</sup> MINUSTAH data provided to Assessment Team.

<sup>39</sup> One out of four Haitians believe their neighborhood is affected by gangs in 2015 vs one out of three in 2012. USAID, Political Culture of Democracy in Haiti and in the Americas, 2014, p 150

<sup>40</sup> USAID, Electoral Security Assessment Haiti 2015

enforcement and security footprint with more than 2,380 UN Police and 2,350 military staff and contingents spread across the country. Depending on MINUSTAH withdrawal plans, the HNP may be faced with significant pressures when it has to cover more areas.

Haiti receives visits from an Independent Expert from the Office of the Commissioner for Human Rights as part of Haiti's implementation of the International Covenant on Civil and Political Rights which it signed in 1991. The Independent Expert has made a number of recommendations for Haiti. This includes the establishment of a national commission to provide redress to victims of serious crimes committed under the Duvaliers, military and by groups supporting or opposing Aristide similar to the National Truth and Justice Commission created for victims of 1991 coup. The Expert believes this is needed symbolically to improve the human rights situation in Haiti as well as to signal an end to impunity.<sup>41</sup> The GOH also needs to implement the recommendations of the Truth and Justice Commission in respect to the serious violations committed between 1991 and 1994.

The human rights situation has improved for some, but there are still continuing issues. The most vulnerable are those who are still internally displaced from the 2010 earthquake, single parent families, and child laborers. Discrimination against women and LGBTI persons discourages victims of violence to seek legal remedies. The poor are more directly affected by this because of the lack of services within their neighborhoods and their lower levels of education, with one survey noting that residents of low-income households in urban areas are 27 times more likely to be sexually assaulted than residents in the more well off areas.<sup>42</sup> Human rights groups note that the system discourages victims from reporting GBV because of the stigma associated with rape and threats by the assailants of retaliation. More generally however, the absence of an availability, accessibility, acceptability and quality framework is an important reason for the low access to justice and health care in Haiti.

LGBTI are among Haiti's most vulnerable population because of conservative and religious norms. Their situation became more visible as a result of the earthquake when widespread destruction of homes caused many to be exposed, resulting in demonstrations against them in some cities and reprimands from church pulpits. They have also been subject to attacks, robbery, and in some cases murder, because of their gender expression or style of dress.<sup>43</sup> Few make complaints to authorities and, according to human rights groups, few investigations are made. The reform of the penal code, if adopted, would help address GBV and discrimination against LGBTI people by modernizing the definition of rape to including criminalization of sexual harassment and discrimination against sexual orientation and gender identity.

According to the United States Department of State, Haiti has been downgraded to a Tier 3 country for trafficking of men, women, and children for forced labor and the sex trade.<sup>44</sup> This means that Haiti does not fully comply with the minimum standards for the elimination of trafficking and has not demonstrated increased efforts to combat trafficking compared to previous years. CSOs in the south, especially around Jeremie, have been extremely active in fighting the trafficking of children for domestic servitude as have women's associations in the northern border area.

A large part of the trafficked persons are the estimated 225,000 children working in domestic servitude, known as '*restavek*'. These are mostly girls, between five and 17 years of age who work an average of 10 to 14 hours a day. Almost half of these are considered slaves, sold into servitude by poor parents or trafficked, placing Haiti 8<sup>th</sup> out of 167 countries for slavery.<sup>45</sup> According to UNICEF, the average *restavek* weighs 20 kilos less than the average Haitian 15 year old who is not living in servitude.<sup>46</sup> Many of these children run away and end up on the street, vulnerable to sexual predation and other crimes.

A large number of people of Haitian origin live and work in the Dominican Republic, and in some cases were born there and/or have been there for decades. As many were considered to be illegal immigrants,

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41 UNOCHR, p 12

42 FASCDIS, Violence and Discrimination against Women and Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Haiti, p 2

43 Ibid, p 4

44 State Department, Trafficking in Persons Report, 2016 p 190

45 Walk Free Foundation, Global Slavery Index, 2016 Haiti

46 ILO, From Haiti, Slavery in a free land.

the DR set a June 2015 date for foreigners to regularize their immigration status and then started deportations. Many have returned to Haiti voluntarily and without support. The most vulnerable of these are the unaccompanied minors, single female heads of households and lactating mothers.<sup>47</sup> The GOH is working with NGOs to provide services, but resources are scant and coordination is nonexistent. The flow of returnees is likely to continue and grow for the next several years while emigration of unemployed workers to the DR is likely to fall. This may have significant effect on the labor situation and economy and increase political pressures, particularly in the northeast border communities.<sup>48</sup>

## **2.5 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS**

Haiti's current government structure and systems are a result of its 1987 constitution and its state of implementation. Some of the government institutions are well established with several decades of institutional experience, while others are only recently formed or function without the levels of autonomy, authority, personnel or financial resources needed to effectively exercise their mandates.

The state of Haitian governance is clear in its basic indicators. The World Bank puts Haiti's government effectiveness at 1.1 percent (2014) which is slightly higher than the one percent scored during President Aristide's second term (2004). The highest level of government effectiveness was registered in 1996 at 9.3 percent, likely explained by the intensive focus of international community to restore democratic governance and build state institutions following Aristide's post-coup return.<sup>49</sup>

The IMF defines "state capture" as "the efforts of firms or individuals to actually shape the laws, policies, and regulations of the state to their own advantage by providing illicit private gains to public officials. Because actors use their influence to block policy reforms that might eliminate these advantages, state capture is not merely a symptom but also a fundamental cause of poor governance. The policy and institutional reforms necessary to improve governance are undermined by collusion between wealthy stakeholders and state officials who reap substantial private gains from the continuation of weak governance."<sup>50</sup>

A few statistics can illustrate the how this governance problem is reflected in daily life. Only 42 percent of the electricity generated by the public electric company is billed and less than a third of those bills are paid.<sup>51</sup> Only two percent of Haitian homes are connected to a sewer system.<sup>52</sup> Public access to tap water is at 18 percent for urban dwellers and five percent for rural populations. Almost a third of the civil service payroll are ghost employees. Within a context such as this, the country's ability to finance social safety nets for the poor and other vulnerable groups is limited. Women rank consistently lower than men for many governance indicators such as education and income. For example, adult men average two more years of education than women and are 10 percent more likely to be literate. 65 percent of all births take place outside of a health care facility, making Haiti's maternal mortality five times higher than the regional average.<sup>53</sup>

Nevertheless, public satisfaction for services has not reached the lows expected from such a situation, most likely because Haitians have limited expectations after decades of neglect. In polling, satisfaction is at 45 percent for public health services; around 36 percent for schools; and around 34 percent for roads.<sup>54</sup> Polling also shows that the school rate for school aged children in urban areas is six percent higher than for rural children (93 to 87 percent respectively) and that only 11 percent of persons in rural area have access to electricity, compared to 63 percent in urban areas.<sup>55</sup>

The portion of services provided by international and national NGOs funded by donors, which increased after the 2010 earthquake, has recently declined. Unless a plan exists to generate enough revenue locally, external funding creates parallel and unsustainable dependency on foreign donors. Worse, externally

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47 IOM, Border Monitoring Report, January 2016

48 State Department, p 177, Trafficking in Persons Report, July 2015, p 177

49 World Bank, Governance Indicators, Aggregate Indicator: Voice and Accountability 1996 - 2014

50 Hellman, *Confronting the Challenge of State Capture in Transition Economies*

51 IMF, Haiti, Ex Post Assessment of Longer-Term Program of Engagement, p 22

52 USAID, Political Culture of Democracy in Haiti and in the Americas, 2014, p 145

53 World Bank, *Haiti, Toward a New Narrative*, p 35

54 Ibid, p 147

55 World Bank Group, Haiti, Towards a New Narrative, Systematic Country Diagnosis, p 31

funded services lead to permissive attitudes on tax evasion and limit revenue collection. Though the GOH has not been responsive to the need to tighten the Central Bank controls and accountability, valuable assistance to improve the national tax management system is being provided by the US Treasury Department through a Participating Agency Service Agreement (PASA) with USAID. Also, local governments are receiving technical support from international donors to use the Haitian-developed CIVITAX software system for tax and budget management to improve local revenue tracking. However, local governments have generally not been creative in boosting their local economies and increasing revenue that they could access directly and are therefore limited mostly to local property taxes, which are deposited with MOI and eventually redistributed to the municipalities.

## **2.6 DRG CHALLENGE**

The DRG assessment found significant challenges in all five DRG elements. Specifically, the lack of accountability and adherence to the formal rules for political and economic competition directly and adversely affects all the other elements, contributing to exclusion, unresponsive and dysfunctional governance, and lack of justice for most Haitians. The ambitions of the political class to gain and maintain power through almost any means prevent Haiti from moving beyond its continuous cycle of crisis and political instability and undermine and corrupt the formal institutions of the state and governance. This has created a climate of impunity and pervasive clientelism that drive predatory practices and disenfranchise the majority of Haitians who have little recourse through formal systems. The most vulnerable are those at the bottom of the socioeconomic ladder: rural populations, women, children, the elderly, persons with disabilities and LGBTI persons. In short, the majority of Haitian citizens.

The situation in Haiti could turn around quickly, however, with stronger leadership and greater political will for genuine democratic reform and good governance. The current electoral crisis is but a reflection of the degree of dysfunctionality that has become accepted in the country as normal. When finally held, the elections will not, in themselves, solve Haiti's problems. However, they may provide the opportunity for a significant change once a new administration is in office if the electors vote for someone with the vision, will, and ability to change the status quo. The donor community has an important role to play in solving this problem, as programs that reward and reinforce poor governance to achieve modest single-sector results will not move the political class to change its behavior and will not empower the champions of change.

# 3. KEY POLITICAL ACTORS AND INSTITUTIONS

This section offers a political economy analysis. It explores how key actors and the institutions relevant for the prioritized elements in Section 1 operate and how they are influenced by the structures and incentives created by each institution. It considers the extent to which the existing legal framework and enabling environment can provide opportunities to support the democratic reform process within Haiti.

## 3.1 THE EXECUTIVE

The President of Republic is the head of state, elected directly by the voters for a five year term. The president, together with Parliament, nominates the Prime Minister, electoral council, courts and ministers and is the most powerful actor in the country within standard constitutional provisions for checks and balances. In spite of the 1987 constitution, however, weaknesses in the institutional landscape bolstered by traditions normalized over two centuries of autocratic rule have enabled presidents to bypass state institutions and override checks and balances, directly controlling the government, police and courts through appointees. Discontent over such practices contributed to widespread civil unrest and eventual departure of President Jean-Bertrand Aristide into exile in 2004. A two-year transitional government followed until new elections were held.

The current president heads another interim government. President Jocelerme Privert's interim presidency was to oversee new presidential elections and the inauguration of the next president by May 2016. He was still in office during the DRG assessment despite an expired mandate. It seems unlikely that there will be many calls for his departure if the elections slip into 2017 since most of the political actors interviewed were complacent about his unofficial standing or were benefiting from the political uncertainty and status quo.

The interim Prime Minister, Enex Jean-Charles, was an advisor of Presidents Preval and Martelly. His position, and those of his cabinet, was not approved by parliament until 24 March 2016, which left too little time to organize the rerun elections intended for April 24.<sup>56</sup> Jean-Charles named a 15 member cabinet of ministers, most of whom were already in place by the time of the assessment.

The assessment found a significant level of human resource capacity in government at mid to senior level management in the ministries and agencies, such as the OMRH in the Prime Minister's Office. Some directors are also recruited from within, having spent significant time within the ministry, such as the current director of the Territorial Collectivities unit in the MOI. Many of these persons have benefited from the training and support provided by the international community over the past decades. These professionals want the system to function more efficiently, be better resourced, and base its hiring on merit. However, pay is extremely low and working conditions difficult, making these offices and the broader system extremely susceptible to departure of qualified personnel, as well as graft and corruption. On Transparency International's global corruption perception index, Haiti ranks at 158 out of 168 countries.<sup>57</sup>

There is a dire need for civil service reform, not only to make the civil service more performance based but to improve government services across the board. Government positions are sometimes used for patronage and, like in many countries, not all civil servants are interested in their work, qualified for their position or have the incentives to improve their job performance. There is also a high number of employees on the payroll who do not show up for work. Earlier estimates put this at 30 percent of the civil service.<sup>58</sup> Civil service reform has been attempted before, but has yet to succeed as there is little interest among the political class to change the system since they receive support in exchange for patronage. USAID's support to the OMRH for installing systems to track civil servant positions and attendance, and to local government for identifying key municipal positions and developing standard job descriptions, are significant investments for civil service reform. However, the dynamic OMRH director who was leading this effort has been

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<sup>56</sup> Miami Herald, *Interim Haiti prime minister, government finally take charge*

<sup>57</sup> Transparency international, *Corruption Perceptions Index, 2015*

<sup>58</sup> National Academy of Public Administration, *Why Foreign Aid to Haiti Failed, p12*

appointed the executive director for the new CEP. The continuity of these efforts will now depend a great deal on the interest and ability of his replacement to maintain the new systems and continue their development.

The Ministry of Economy and Finance and other institutions noted below are key actors in the state's efforts to improve government performance and increase accountability. According to the Inter-American Development Bank (IDB), the GOH has made progress in creating a treasury single account to put in controls over its cash flow management and improve its spending effectiveness, an effort supported through technical assistance (TA) provided by the US Department of Treasury. These are important tools for economic growth and to combat corruption.<sup>59</sup> However, efforts to manage the cash flow of the government and make these more accountable and transparent are stymied in large part by the lack of engagement of Haiti's Central Bank in the efforts, along with its reluctance to disclose all of its resources and to tighten its financial controls. As a result, experts estimate that only a quarter of GOH finances are included in the daily cash management systems.

The Anti-Corruption Unit (ULCC) of the MEF is mandated to investigate government corruption. The mandate includes embezzlement of public property, abuse of position, kickbacks, over-invoicing, illegal procurement, bribery of domestic and foreign public officials and unlawful banking practices. Its mandate was extended in 2014 to include issues of government favoritism, influence peddling, nepotism, and insider trading. As such it is an important actor in the fight against corruption. A 2008 law requires public officials to declare their assets before taking office. However, according to the ULCC, only President Martelly did this. If more public officials complied with this regulation, the ULCC could determine if their assets grew while in office and then take appropriate action if indicated. It has investigated over 100 cases since it was created in 2004, sending 31 cases to the prosecutor, but only one person was jailed as a result. The ULCC is advocating for the authority to also prosecute cases as it believes that prosecutors are not independent enough to be able to effectively argue these types of cases in the courts.

The MJPS' Central Financial Intelligence Unit (UCREF) works closely with the HNP to track and investigate money-laundering and related financial crimes, but as with other anticorruption mechanisms, its effectiveness is also constrained by the weaknesses in the judicial system.

## **3.2 THE LEGISLATURE**

Haiti has a bicameral parliament with a 30 seat senate and a 119 seat chamber of deputies. According to the constitution, senators serve six year terms, with one third elected every two years. Deputies serve four-year terms. All are elected on the absolute majority system (50 percent plus one) directly by the voters. Theoretically this could make them more accountable to their constituents than if there were a system of proportional representation, but the concept of accountability has been lost in the years of electoral crises, political gridlock and unchanged conditions. All of the current parliamentarians, with the exception of one third of the senators, were elected in 2015. Contrary to the presidential elections, results of parliamentary elections were not questioned or regarded as fraudulent.

Parliament was significantly affected by the earthquake in 2010. The parliament building, a Port au Prince landmark, was destroyed. Parliament is currently housed in interim facilities, built in large part with USAID support. The 49<sup>th</sup> parliament (2011-2015) passed major legislation related to anti-money laundering, adoption, anticorruption, and political party and electoral laws but did not take up pending legislation regarding education financing, decentralization, and penal code reforms among others.

Frequent delays to parliamentary election timelines have left presidents free to rule by decree and contributed to an unfortunate pattern of parliaments blocking actions and of presidents bypassing formal approval mechanisms. As an example, from 1997 - 2000, parliament passed only two bills, and President Preval never submitted a budget to it for approval. President Preval told the assessment team that parliament's ability to block executive action needs to be addressed in some way so the executive can do his job.

Martelly did not have a majority in parliament at the start of his presidency and was faced with a political impasse for much of his term. Among other things, parliament focused on disqualifying him as president on

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<sup>59</sup> Inter-American Bank, Op Cit, p 7

grounds of his nationality and then fought with him over CEP nominations. This eventually led to a “national dialogue” in early 2014 that resulted in the signing of the “El Rancho Agreement” to hold overdue elections in October 2014. That agreement fell through as some parties, including Fanmi Lavalas (FL), refused to sign it, and a “Group of Six” senators then refused to give parliament a quorum. Eventually the mandates of all parliamentarians but 10 senators expired in January 2015.<sup>60</sup> This left parliament without enough members to form a quorum until the new parliamentarians were elected at the end of 2015 and sworn into office in 2016.

There are no women currently in parliament. Few were elected in the 2010 - 2011 elections. There was one woman senator whose term ended in 2012 and only four women in the chamber of deputies whose terms ended in 2015. No statistics were available on representation of marginalized groups, such as people with disabilities or members of the LGBTI community.

The parliament was barely functioning during the assessment because of the political situation, so it was not possible for this assessment to gauge how the parliamentary committee or staff systems actually functioned. However, long time parliamentary observers felt that parliamentary operations had degraded over the past fifteen years.

### **3.3 THE JUDICIARY AND LEGAL PROFESSIONALS**

As with the other branches, Haiti’s judicial and legal practices are shaped directly by its politics and the historical use of the judiciary by autocratic leaders to legitimize their actions and punish detractors. In Haiti’s winner-take-all system, maintaining control over the judiciary is essential for the elite’s political and economic survival.<sup>61</sup> For instance, those responsible for political violence under Aristide were not prosecuted during his term in office (or even many since) and the court overturned the convictions for those responsible for the 1994 massacre at Raboteau under the transitional government. Although the Martelly government prosecuted former President Duvalier and his henchmen, and other former Presidents such as Aristide and Rene Preval were interrogated by judicial officials, none of these cases resulted in a court decision.<sup>62</sup>

During a relatively open period, Parliament passed legislation in 2007 to create the CSPJ to oversee the administration of justice and management of its justice sector resources and to be responsible for the selection, appointment and oversight of judges. However, at the same time, the Supreme Court positions, including the post of Chief Justice, remained unfilled denying the court the quorum it needed to function and hear cases as well as to establish the CSPJ. The Supreme Court vacancies were not filled until five years later under President Martelly. Only after this was the CSPJ actually created.<sup>63</sup>

The CSPJ is still in the process of setting up its systems and procedures. The 2015 appointment of a new CSPJ president was seen as an indication that the executive branch might be willing for it to operate more independently, although legal watchers felt the CSPJ still had to send a strong enough signal to this effect. The MJPS still has considerable control over the judicial system as it controls the CSPJ budget, court operations and staff salaries. The MJPS still has not respected a 2012 CSPJ - MJPS Memorandum of Understanding dictating that the CSPJ would oversee the court employees (clerks and bailiffs). The Ministers of Justice themselves are frequently changed. There were 17 ministers between 1994 and 2011<sup>64</sup> although those assisting the MJPS felt the Ministry, despite these changes, was vested in improving the administration of justice.

The CSPJ created Haiti’s first judicial inspectorate in 2015. After its first court inspection in Jacmel in late 2015, the body found that judges delayed cases without reason and had incomplete files, among other issues. If the CSPJ can continue these investigations, and ensure corrective actions are taken, it could be an important step towards improving court performance and improving citizen access to justice.<sup>65</sup> The vetting and certification program for all judges and prosecutors in the country can also be expected to increase the

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<sup>60</sup> USAID, *Parliamentary Strengthening Program for Haiti, Final Project Report*, p 4

<sup>61</sup> Berg, *All Judicial Politics are Local: The Political Trajectory of Judicial Reform in Haiti*, p 3.

<sup>62</sup> *Ibid*, p 21. This is the first time in Haiti’s history that former heads of State were brought to a court.

<sup>63</sup> *Ibid*, p 15

<sup>64</sup> Berg, *Op Cit*, p 28

<sup>65</sup> ABA, *Haiti’s Judicial Inspection Unit Assesses Jacmel First Instance Court*,

accountability of judges and prosecutors if the CSPJ acts on the cases and removes offenders. CSPJ staff have already prepared dossiers for 40 of the 70 cases that have been submitted to it by the MJPS/CSPJ vetting commission.<sup>66</sup> They have determined that about half need additional investigation and that already one person so far should be fired. The CSPJ would not give a timeline for hearing cases, nor would it give an indication as to how many judges it expected to certify annually. With about 800 judges, the process could take quite some time, and will likely require continued civil society monitoring and advocacy as well as moral and resource support from the international community. What they do with the certification cases, and how quickly, will likely show if this body will be able to act in a decisive manner to ensure the independence and accountability of the judiciary.

The certification program is also expected to increase public confidence in the judiciary, especially if the public is well informed about the progress. Polling shows that only 42 percent of the population trusts the judicial system and only 37.2 percent are confident that the judiciary will punish the guilty. The levels of trust for the judiciary have been on a downward trend since a high in 2006 of 51 percent.<sup>67</sup> Legislation needs to be enacted to separate judicial staff from the executive civil service and for the CSPJ to be able to oversee the court management systems and personnel. There has been continuity for some court staff. For instance, the bailiff in Ft Liberte had been there for 45 years.

The judges themselves saw the CSPJ as a protection from political influence. They feel they need to be extremely careful in their work and relationships, especially with lawyers, since the public perception is that judges are inaccessible and corrupt. This impression is validated by polling where 68 percent of Haitians surveyed said they were asked to pay a bribe to the courts. This is up from 2012 when it was 52.9 percent.<sup>68</sup> According to the judges, lawyers tell their clients they have to pay a bribe to the judge to hear their case and have a favorable verdict. Some judges said they were pressured to rule certain ways by their communities and/or policy makers and felt insecure in their work. They also noted the lack of resources for court management and investigations, especially for the smaller courts. Some felt their only support was from USAID and MINUSTAH programs.<sup>69</sup>

Women comprise less than 10 percent of the judiciary, with only one woman on the Supreme Court and one assistant prosecutor. There is a concerted effort to increase the number of female judges. About half of the most recent class at the magistrate school are women. There are also more women teachers at the law school, but they still are not at parity.

The Bar Association is active in Haiti with 18 bars around the country. Lawyers must be members of the bar to practice. There are 1,600 lawyers in the country. 603 of these are practicing lawyers, and about 200 are recent graduates who must undergo a two year internship period. The remaining lawyers are either in elected office or not practicing.<sup>70</sup> Most legal work is for civil cases, such as contracts. Much of the legal aid in Haiti is provided by the bar and has been funded by the international community. The Bar believes the pretrial detention problem in Haiti is primarily a court management issue aggravated by the police practice of rounding up suspects and leaving it up to the judges to investigate their cases and decide who to prosecute.

The High Court of Auditors and Administrative Disputes (CSSCA) is an independent body that audits public institutions and private bodies to ensure compliant use of public funds. It is staffed by certified accountants and auditors and is assisted by the prosecutor's office. USAID programs are working to link

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<sup>66</sup> Data from USAID's ProJustice Project.

<sup>67</sup> USAID, *Political Culture of Democracy in Haiti and in the Americas, 2014*, p 176

<sup>68</sup> USAID, *Political Culture of Democracy in Haiti and in the Americas, 2014*, p 156

<sup>69</sup> The assessment team noted the number of times the international community had provided infrastructural and other support to some of these courts. For instance, the courthouse in Ft. Liberte had several plaques. It was reconstructed with Canadian assistance (1994-1997), was a UNDP pilot jurisdiction (2002), and rehabilitated in 2007 again by Canada. Recently it received USAID's electronic court management system. This system was seen as useful by the judges but required internet and electricity which are not available in all courts.

<sup>70</sup> Bar Association information

the CSSCA with CIVITAX and other integrated financial management networks to improve the efficiency and effectiveness of its work, which has been hindered by lack of actual independence.

### **3.4 NATIONAL HUMAN RIGHTS INSTITUTIONS**

The Office of Citizen Protection (OPC), Haiti's ombudsman, became an independent institution in 2009. Though marginalized by successive governments and by inadequate resources, legal standing and neglect, it was strengthened in 2012 by legislation that established its institutional structures and clarified its mandate to protect Haitians against the abuse of state power. The current Ombudswoman, appointed in 2009, has been dynamic in getting that legal framework in place and in increasing its budget, staffing, and visibility. She did this through direct lobbying, by using the press and collaborating widely. These efforts increased the OPC's budget from 1.5 million gourdes (2009) to 31.9 million gourdes (2012-2013)<sup>71</sup> to around 45.4 million gourdes in 2015. The OPC has also increased its staffing from 11 to 57 persons, 17 of whom are women (2013).<sup>72</sup> Although the OPC says it still does not have enough resources for it to adequately do its work (which it estimates costing 200 million gourdes a year), the increased funding has allowed it to start investigating complaints and open offices in 15 cities and two border towns.

The OPC today is a direct result of the leadership and vision of the Ombudswoman. To get the OPC structure in place, she actively worked with the GOH and civil society to develop the draft organic law and worked with Senator Youri Latortue to drive the bill through parliament. At the same time however, it took until 2016 for her choice for Deputy Ombudsman to be appointed. The Ombudswoman's term ends in September 2016 which raises the issue as to whether the next Ombudsperson will be as active in promoting government accountability. The Ombudswoman also had similar concerns, but felt she had put systems in place and had trained the OPC staff, including the Director General who had been there for four years, so that the office could continue operations despite changes in leadership.

The OPC's departmental representatives regularly visit prisoners at police stations to check on their physical treatment. They can also ask the courts to provide legal assistance to detainees. Interviews with HNP and human rights organizations showed a reduction in cases of physical abuse by police which they credited to increased emphasis on human rights in HNP training and through increased coordination with the OPC. More public awareness about the OPC and its ability to help citizens' access justice could help increase demand for its assistance and in turn help improve access to justice for the average Haitians.

The OPC handles two types of complaints from citizens: abuse of power by officials and abuse in detention. As of September 2012, the OPC had received a total of 4,710 complaints; 451 for abuse of power and 4,259 from person in detention. The number of complaints has increased steadily, from 172 in 2009 to 3,240 in 2012. The number of cases resolved has also increased, from 24 in 2009 to 305 in 2012. Most of the complaints are from men. Only 23 out of 104 complaints on abuse of power and six out of the 68 complaints from prisoners were from women (2009). For the first nine months of 2012, 28 women filed complaints out of a total of 150 complaints for abuse of authority. There were no complaints from children before 2012 when the OPC received 144 complaints from minors.<sup>73</sup> Most of the complaints from prisoners came from Port au Prince (1,287 complaints out of 2,945 in 2012, out of which 985 complaints were resolved).<sup>74</sup>

### **3.5 SECURITY SERVICES**

Haiti's police force was originally a branch of the army. A separate Haitian National Police was established under the MJPS in 1994. The HNP has since grown in size and experience. In the 1990s and early 2000s, HNP were widely accused of corruption and many officers were found to be complicit in drug trafficking, kidnapping rings, and political violence. In 2005 several senior police officers, including the former head of Haiti's top anti-drug police unit and the former head of security at the presidential palace, were found guilty of drug trafficking by U.S. courts. Assassinations of senior police officers and allegations of complicity in kidnapping rings dogged the HNP as recently as 2012. However from interviews, human rights reports and survey data, the HNP has greatly improved its effectiveness, record of integrity, and public trust. During the

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<sup>71</sup> OPC *Rapport Annuel Combiné 2009 - 2012*, p 27

<sup>72</sup> Ibid, p 34

<sup>73</sup> Ibid, pps 70-71. All figures for 2012 are through September 2012.

<sup>74</sup> Ibid, p 74

past 15 years, the government has invested significantly to strengthen the police force. Indeed, the police force has received more funding than the justice system. As a result, the police have improved its performance in arresting criminal offenders, but the justice system remains weak and unable to prosecute these cases effectively and efficiently.

Trust in the police was only at 39 percent in 2006, but by 2014 was at almost 58 percent. Reports of police abuse have declined and, according to the OPC and CSOs, the police are taking action on the complaints received. Twenty seven officers were recently fired after investigations by the HNP Inspector General. The HNP also works more closely with CSOs on issues such as child trafficking and GBV, and with the OPC on prison conditions.

The HNP recruits its cadets from the population. HNP respondents maintained that the moral and educational quality of its cadets reflect the quality of education in the country. As it moves forward with an ambitious recruitment program to expand its almost 12,000 person force to 15,000 by the end of 2016,<sup>75</sup> the HNP is conscious of the assets and limitations of its pool of recruits. The HNP's human resource challenge also has long term and governance implications, as it seeks to develop and promote leadership from within the force to avoid the political ties that often come with senior leadership appointed from outside the force. The HNP therefore considers national education and youth development as a priority for its own institutional development. The HNP has made efforts to include women within the force, and has almost 1,000 female officers. Twelve percent of the 1,500 cadets currently finishing their training are women.<sup>76</sup>

According to MINUSTAH, Haiti has approximately 118 police per 100,000 people, putting Haiti at the lowest level of police presence in the Caribbean. The police have adopted a community based crime prevention approach where its presence is thin, and work closely with citizens and community organizations in neighborhoods to identify and address the causes of crime. It has started a community policing program and established a GBV investigation unit within the judicial police which is responsible for investigating sexual and gender based violence. Victims are still reluctant to report problems. Only 51 percent of male respondents who said they had been a victim of crime in the past year reported the incident to the police. This dropped to 32 percent for the female respondents.<sup>77</sup>

There are three different demographic groupings within the police based primarily on their era of recruitment. One is from the first HNP groups who were mostly recruited from off of the streets and who are characterized by a wide range of education. Another is the ex-military who were rehabilitated and reintegrated into the police. The third group comprises those recruited in President Preval's second term and beyond, who are better educated many with university degrees. This has led to more police professionalism and less politicization. The police officers who are former military are looked up to by many HNP officers, however the military generation is slowly retiring and becoming less of a presence.

Haiti is a transit point for cocaine from South American and marijuana from Jamaica to the U.S and elsewhere. Its weak border security and justice system make transshipments through Haiti lower risk than through other routes. The HNP has a counter-narcotics unit but it is only present at a few border locations and ports within Haiti. It also has Coast Guard units to guard maritime borders, but does not yet have the capacity to significantly tackle the interdiction problem. The Haitian Coast Guard and HNP have no collaborative relationships with their Jamaican counterparts. Narco and other types of trafficking fund many local criminal networks and gangs, and contribute to general insecurity and corruption.<sup>78</sup>

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<sup>75</sup> UN Security Council, *Report of the Secretary-General on the United Nations Stabilization Mission in Haiti*, p 6

<sup>76</sup> Ibid

<sup>77</sup> USAID/Haiti, *Human Right Baseline Survey, Survey Report*, p 36

<sup>78</sup> In 2008 the HNP and the Jamaica Constabulary Force began to collaborate on drug and small weapons interdictions, TIP and international gangs with significant results in apprehensions and interdiction of drugs and weapons. They were planning to widen and strengthen their collaboration, however developments were disrupted by the earthquake, which caused the death of MINUSTAH officials who were involved, and by subsequent changes in both countries' political leadership and police force management. This is an opportunity for the DRG office and the INL representative in both missions to work together to support security cooperation between the two forces.

President Preval was extremely blunt in his interview with the assessment team, stating that drug trafficking was more powerful than government and that it is the biggest destabilizing factor in Haiti. He also blames consuming countries, like the U.S., for creating the demand that brings the drugs through Haiti, as he states that Haitians are not consumers for these products. Drug traffickers go through Haiti because its institutions are weak. They have the money to buy judges, politicians and customs officials. He hopes for more U.S. Drug Enforcement Agency (DEA) interdictions as “this is a huge challenge that a weak country cannot handle on its own. If it is not addressed it will continue to undermine any efforts for a rule of law, accountability and good governance.” The GOH has worked closely with the U.S. on anti-narcotics, allowing suspects to be deported to the U.S. to face trial. This collaboration could be a significant deterrent if the volume of cases of persons arrested in Haiti and deported to the U.S. increases. CSPJ vetting may also help to weed out some of the judges and prosecutors on the traffickers’ payroll, but this can be expected to take some time since the CSPJ vetting is moving slowly and has yet to start sanctions.

### **3.6 LOCAL GOVERNMENT**

Throughout Haiti’s history, the state appointed civil, military, and paramilitary officials throughout the country to maintain order and funnel local resources to the central government. Through these officials, communes were accorded minimal authority and autonomy until the end of the Duvalier regime. The 1987 constitution provided for a decentralized system of government through locally elected offices, local revenue generation, and the local provision of services to the public. However, in practice decentralization is hampered by the absence of financial decentralization, allowing municipal governments to control their budgets, as well as by Haiti’s political tradition of centralized decision making and winner-take-all systems that seek to consolidate power rather than share it.

It was not until 1997 that all local offices were elected and not until 2006 that the transitional government adopted the decrees needed to establish the mission and functioning of the local collectivities. Continuing political crises and delays in holding elections at the national level also directly affect the administration of local government. Presidents have dismissed mayors when their terms were up and the local election dates slipped, and then appointed their replacements. This happened as recently as February 2015 when President Martelly dismissed the last group of mayors when their terms ended and appointed interim officials. These interim officials remained in office for more than a year until the newly elected officials were recently sworn in. Many of the new mayors coming into office found significant levels of debt and a lack of records when they took office.<sup>79</sup>

The MOI sets the policies for local governance and makes decisions on how local government operates. The current head of the Department for Territorial Collectivities helped develop the decentralization bill that is currently in parliament which is expected to strengthen the decentralization efforts.<sup>80</sup> This bill was reportedly discussed widely with Members of Parliament (MPs) while being developed but not with mayors. Going forward, including the mayors in the process at the committee level could help ensure that the bill also addresses their concerns since it will directly affect the way they are able to operate. The same Director also worked with the OMRH to develop a standard framework for a local civil service positions which would provide some autonomy for local governments by identifying the key permanent (non-political) posts, standardizing job requirements and establishing competitive recruitment procedures. If implemented these can be expected to reduce the opportunities for political patronage and informal hiring, and improve the professional quality of local government staff. The Director also wants to expand the CIVITAX system to other communes beyond those assisted by USAID as a tool for communities to manage their tax collection and revenues.

In local government, mayors are often popular figures, having built social capital through work with communities and their churches and other local institutions. Their campaigns are often financed through contributions by local business persons and they are often reelected. Women comprised more than 30% of

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<sup>79</sup> NDI, *New Generation of Women Leaders Take Local Office in Haiti*

<sup>80</sup> *Loi cadre sur la décentralisation et la fonction publique locale*

candidates during the 2015 municipal elections, which led to the installation of a woman as either mayor or co-mayor of every cartel in the country.<sup>81</sup>

The CASEC (Communal Councils) is the elected body at the communal section level and the ASECs (Communal Section Assembly) is the elected body that makes decisions at the communal section level. They are important within their areas, usually for the mediation of local conflicts. However, most citizens will go directly to the mayor's office as the mayor is usually presumed to have the connections that can help resolve problems within a centralized system. Mayors and CASECs/ASECs in general share local interests and have collaborative relationships which bind them more than party relationships. The mayors follow the pattern of MPs, identifying with a party to get onto a ballot, but often distancing themselves from the party once in office. Very few mayors said the parties had helped them once elected.

Citizens still expect their local government to resolve problems regardless of the rules. Significant efforts, including civic education, are still needed to develop a more democratic political culture, not only with the elected officials, but with the electors as well. Some capacity has been built within some communal governments through the training and knowledge transfer done over the years by various development projects. The new mayors interviewed were just getting up to speed in their responsibilities but seemed well aware of the problems in their communities and vested in improving local conditions. The new leadership in some cities provides a good opportunity to work towards improving accountability at local levels, if supported by appropriate legislative action at the national level.

A key issue for local government is the level of resources available and the degree of control over decision making for their communities. Property taxes are one of the key and most stable sources of local revenue. The central government collects the tax for the communal governments, holds the funds and apportions some of it back to the communes through a process that local authorities find arduous and inequitable. The state retains 20 percent of the revenue for this service. The CIVITAX system helps communes to track their funds and identify properties that are delinquent in payments and should help to increase their revenue. However, the collection of these taxes is complicated by structural impediments, such as the lack of addresses for many properties due to unplanned urban development, and taxpayer perceptions that the quality of services received do not justify the payment of taxes.

Increasing local revenue is important for local government to decrease their dependence on national government and provide needed resources for local development and services. At the same time, greater transparency and better oversight over communal expenditures is needed to ensure better accountability and their proper use.<sup>82</sup> The line ministries provide most of the services within a community such as police, education, health and infrastructure. Local government is responsible for land use planning and management in the municipal jurisdiction, the management of common urban spaces, such as local markets, and other services such as permits for local moto taxi operations, local small infrastructure and garbage removal. In many towns visited garbage collection was clearly problematic, most notably in Cap Haitien where waste choked miles of its shoreline and rivers. In other areas, such as Delmas, the streets clean and the garbage removed. Communes do not have the means to enforce their ordinances or regulations. Mayors are organized into associations at the national as well as regional levels. There is also a women's branch within the National Mayors Association (FENAMH). This provides them with a more effective voice with government and parliament and provides opportunities for national and departmental collaboration and

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<sup>81</sup> National Democratic Institute (NDI), *New Generation of Women Leaders Take Local Office in Haiti*, [https://www.ndi.org/Political\\_Leadership\\_Academy\\_Haiti\\_Women\\_Mayors](https://www.ndi.org/Political_Leadership_Academy_Haiti_Women_Mayors).

<sup>82</sup> There are areas beyond property taxes and increasing their collection, where communes could increase their revenue. These include market transaction fees, market stall rental, and a range of business fees for services to small and medium enterprises (SMEs) that could enhance the business environment. For instance, local authorities could create a category of business registration that, for a small fee, would allow small local businesses to enter the formal system. This would benefit local government by providing it with more revenue as well as useful empirical data about the local economy while also allowing the businesses, through their official recognition, to enjoy a certain level of legality (eg for banking, contractual and other purposes). Bringing local businesses into the formal sector would be of particular value to SMEs, which collectively employ many more people than the few large enterprises in Haiti's formal private sector. However, this requires creativity, entrepreneurship, and a level of policy consultation and cooperation between municipal leaders and their local business communities that is difficult given the low level of trust and the current political culture.

lesson-sharing. These associations also provide a space for locally elected leaders to develop their political leadership skills beyond their local communes and help develop a cadre of national political leaders with a vision that is rooted in local development, accountability and decentralization. The association however is affected by the national political situation and the delays in local elections which disrupts their membership and continuity of activities.

### **3.7 POLITICAL PARTIES AND ELECTORAL INSTITUTIONS**

Political parties and electoral institutions are key political actors in Haiti. Their behavior directly affects the quality of inclusion, competition, accountability, governance and rule of law. Both institutions have always been weak, but the parties seem to have reached new lows in recent years while the CEP remains a provisional institution constantly in the process of reconstitution. Their weakness is played out in the chaotic, and sometimes violent and discredited elections; in the perpetual political gridlock of parliament; and in the largely unaccountable executive. It is also evident in the repeated need for international mediation and peacekeepers. This dynamic is driven by Haiti's winner-take-all system and perpetuated by the lack of a democratic political culture; the lack of demand to change that culture; and the lack of an independent judiciary to provide redress for wronged parties.

In most democratic societies, political competition and policy making are organized through political parties where like-minded persons congregate to develop their vision and provide policy alternatives for voters. Haiti's political parties have few supporters and are not internally democratic. Voter identification with parties is at 34.31 percent (2014) and only 11 percent of Haitians attend political party meetings.<sup>83</sup>

Haiti's political party legislation enables the fragmentation of parties as it recognizes entities as parties without ensuring that they have party structures or popular support. The GOH also provides public funding for registered parties, and many parties use these resources to fund poll watchers, creating an incentive to register as a party and mayhem at polling sites where poll watchers from more than 50 parties with candidates on the ballots can show up and compete for space. In 2015 parties asked the CEP for monitoring credentials for almost one million poll watchers.<sup>84</sup> This is notable for a country with six million voters and a voter turnout in those elections of less than 18 percent.<sup>85</sup>

Until the mid-2000s, the country was generally polarized between supporters and opponents of President Aristide. This united an otherwise fragmented and predatory political class. Today, Haiti has three former presidents which has altered the dynamics of power within the country. Each expanded their power while in office and retained some of this power in the form of political capital after leaving office. This has enabled them to stay politically active informally and has led, in the context of the Haitian political culture, to more diversified alliances and competition between groups that can be roughly divided between the left and the mid-to-right of the political spectrum. Former presidents Aristide and Preval hail from the broader Lavalas groupings that brought Aristide to power in 1990 on the left, and former president Martelly is on the center right. Most voters still identify with the left (62.1 percent), with only 13.8 percent identifying with the middle and 24.1 percent with the right.<sup>86</sup> Most of the parties today also originated from the Lavalas movement. This provides for alternative choices for the majority of Haitian voters, but also splits their vote which allowed for Martelly's outsider candidate, Jovenel Moïse, to come in first in the 2015 first round with 32.8 percent of the vote. Had the parties on the left united around one of their candidates, it is likely that this person would have won the most votes.

Aristide has been rarely seen in public since he returned from exile in South Africa but is active and has remained faithful to the Fanmi Lavalas (FL) party that he created after splitting off from the People's Struggle Party (OPL) in 1996. (OPL still exists, but is a shadow of the once powerful party. It currently has one senator and seven deputies.) The FL candidate, Dr. Maryse Narcisse, won only seven percent of the vote in the 2015 first round even though FL still has influence among the poor, especially in Port au Prince slum areas. FL currently has six senators and one deputy.

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<sup>83</sup> USAID, *Political Culture of Democracy in Haiti and in the Americas: 2014*, pp 199 & 187

<sup>84</sup> UN Security Council, *Report of the Secretary General on the United Nations Stabilization Mission in Haiti, March 2016*, p 1

<sup>85</sup> International IDEA, *Voter Turnout, Haiti*

<sup>86</sup> *Ibid*, p 199

Preval heads another Lavalas faction and reportedly wields the most power. He was allegedly behind the selection of Privert as interim president, who beat out former OPL senator Edgar Le Blanc. Preval has never kept to any one party, first running for president on a loose coalition of parties (LESPWA) and then created his own party (Verité) which currently occupies three senate and 13 deputy seats. Jude Celestin's Alternative League for the Progress and Emancipation of Haiti (LAPEH) party is another faction. He came in second in the October election with 25.2 percent of the vote and is said to be well resourced. His group led the opposition in the Chamber of Deputies with 33 deputies including those from FL, Patriotic Union (4) and OPL. LAPEH itself has three deputies. Moïse Jean Charles, another presidential candidate, is from the Platform Pitit Desalin movement, another leftist group. He received 14 percent of the first round vote and Pitit Desalin has one representative in the lower house.<sup>87</sup>

What will happen in the rerun of the presidential election is far from certain since President Martelly has been out of office for most of the year and his influence is therefore diminished. Some of the candidates with a substantial number of first round votes may also be more energized to win. Most party watchers thought it was unlikely that the left would unite around one of its candidates for the rerun given their antipathy towards each other. Since Martelly is no longer in office, his power is waning while Privert's as interim president has increased. This may affect Jouvenel's chances for the reruns.

Preparations for the 2016 presidential election reruns were underway during the assessment. These were being done by a new provisional CEP whose commissioners had just been named in May. This CEP was widely seen as credible. Its President reportedly is providing strong leadership and its new Executive Director demonstrated sound civil service reform management and institutional development skills in his previous position heading the OMRH. This CEP also includes three women counselors. The previous CEP had developed a comprehensive National Strategy for Gender and Elections with USAID support. The current CEP is expected to use this strategy, and the other inclusion mechanisms adopted by the past CEP, and it also intends to address the key concerns raised about the previous CEP's performance.

It was clear to the assessment team that the CEP faced a daunting challenge. The UNDP-managed basket fund was intended to cover one set of presidential elections, not two. The GOH has said it will come up with the funds for these elections, but it also has extremely limited resources and will have to take funds from another area to cover these costs. One of the areas where budget cuts were expected is the OPC, which had funds set aside for construction of its headquarters. These funds, recuperated from an illicit Duvalier Swiss bank account, were expected to be directed towards the elections. Securing funding is even more of an issue as this CEP inherited debt, some of the staff from the departmental and communal levels have not been paid in a year and it owes two to three years back rent for some premises. But having Haiti fund its own elections could significantly contribute to the democratic development of the country. It can help build more Haitian ownership of the electoral process, and help lay the basis for the creation of the constitutionally required permanent CEP. Election administration, and the large number of electoral workers that needed to be hired for each round, has been traditionally seen as a major source for patronage and as a means to gain political advantage.<sup>88</sup> Hiring qualified staff is one area that can be expected to improve within this CEP given its executive director's experience with civil service reform while at the OMRH.

However, the devastation and disruption of Category 4 Hurricane Matthew that hit Haiti October 4, less than a week before the elections were scheduled to take place, have interrupted the elections calendar and have thrown Haiti's ability to hold elections this year into question. Evolving effects of the hurricane such as severe crop failure, flooding, and exacerbation of the cholera epidemic cannot yet be measured and there is a high risk, once again, of the massive emergency relief efforts being conducted in ways that reduce, rather than improve, local institutional capacity. This disaster, which may have cost a thousand lives in the Grande Anse, will be a test of Haiti's resiliency and of USAID/Haiti's ability to incorporate good governance principles into its immediate and long term responses to ensure sustainability.

Eventually, Haiti will hold its elections. Outside of the financial incentive to have good elections, the need to avoid costly reruns, and the drive of this CEP, the elections will face many familiar challenges. For instance, election results are always contested as there is no room for those who do not win the majority vote.

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<sup>87</sup> InterParliamentary Union, *Haiti, Chamber of Deputies*

<sup>88</sup> OAS, *The Election Observation Mission for the Legislative, Municipal and Local Elections, 2000*

Spoiling an election or blocking a president's platform by minority parties once in office have become accepted norms. The parties met during the assessment were already developing their arguments for why these elections would not be credible. These ranged from concerns about the lack of funding for electoral administration and party poll watchers, to an alleged two million missing national identity cards, to the lack of international observers which they felt was needed to deter fraud. The PHTK party, which sees itself as the victim of sore losers, is concerned about the electoral climate. Since February it says Jovenel Moise's bodyguard and four party members were assassinated, some of their supporters' families have had to leave the country, and their communications manager had her office windows shot out. During the assessment, they said Moise's convoy was shot at during his pre-campaign trip in the north. Election security will be an issue for these elections given this climate and past practices.

The FUSION (Merging of Haitian Social Democrats) party office appeared to be in full campaign mode during the assessment with lines of party members filing in for a party meeting. This was the only office visited that seemed to have this level of party activity. It is clear that FUSION made the most of the years of U.S. political party building assistance although it still has little representation in elected office.

The FL candidate was extremely articulate and had a platform of ideas for the future. However, she noted that given the Haitian context, the first thing needed if elected was a governance pact. This was one of at least three separate expressions of interest in some form of constitutional reform. The instigators for these reforms were allegedly the former presidents, and there was speculation that the proposed changes would include lifting of the two term presidential term limit. There seemed to be some degree of concern that the electoral system in Haiti needs restructuring. If constitutional reform comes on the table, serious consideration needs to be given to streamlining the electoral system and adopting a proportional representation system for the lower house that could allow for representation for parties that won significant levels of support in an election but not a majority.

### **3.8 CIVIL SOCIETY**

Haitian civil society is shaped by its historical experiences (explained briefly in Annex A), the difficult Haitian context and the fluctuating availability of donor funding. It has played a critical role in Haitian democratic development, especially in times of crisis. For example, the solidarity of religious organizations contributed to the toppling of the Duvalier regime. In the current political crisis, the new CEP council that is expected to deliver credible elections that can end the crisis includes three representatives of religious organizations and one from civil society.

More than 10 percent of the population are members of faith-based organizations (FBO). Their members participate in spiritual, cultural and charity work, such as poverty alleviation, with their faith providing meaning to their service. FBOs are driven by values and morals and have an institutional presence in their communities through their churches.

Haiti has a number of strong human rights NGOs, most of which have been donor supported since the early 1990s. Their lack of financial viability is a major constraint. Some reflect the polarized political situation and have allies in the different political camps. They are active and vocal in many human rights areas including gender, equitable justice, children, internally displaced persons and socio-economic rights. They are based throughout Haiti and many work actively with local as well as national government. CSOs link with each other through coalitions and networks at all levels in their areas of interest. This helps to increase their voice and presence. This also helps them to minimize risk as human rights activists have been targets in the past of state and politically motivated aggression.

As recently in 2014, the director of the Platform for Human Rights Organizations (POHDH), a network of eight human rights organizations, was killed along with his wife in what the human rights community characterized as an assassination. The GOH said their deaths were not related to his human rights work.<sup>89</sup> One of POHDH's members is the National Human Rights Defense Network (RDDNH) whose executive director is currently the Secretary General of the International Federation for Human Rights. Another group of around 15 NGOs include IMED (Mobile Institute for Democratic Education) another active human rights

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<sup>89</sup> Center for Economic and Policy Research, *Human Rights Leader Killed in Haiti* and Freedom House, *Freedom in the World, Haiti 2016*

NGO. The IMED director was elected by the NGO community as their representative for the 2016 CEP, but the person eventually seated was the POHDH candidate. The accounts of the appointment varied among respondents, but the process seemed to be indicative of the problems within the sector, possibly a partisan influenced split in the human rights community.

The National Episcopal Justice and Peace Commission, which is part of the Catholic Church, is active in the human rights sector. Created in 1995, it has 4,000 members nationwide and uses trained volunteers to monitor the human rights situation and report on issues. The Commission maintains a database on issues that could be of use as an advocacy tool. The Commission credits its reporting, as well as that done by other human rights NGOs, with increasing the level of discussion within the country on the need for justice reforms.

Human rights groups are also active at departmental levels. These groups find it difficult to engage with some GOH counterparts, including the HNP, because of Haiti's centralized nature with decision making and policy authority concentrated in the capital. Illustrating CSO difficulty to stay abreast of policy development, Jurimedia, a human rights organization in Cap Haitien reported that it was unable to get a subscription to the *Monitor*, the official gazette which publishes legislation, because the paper is not delivered outside of PAP. Jurimedia, along with the Ecumenical Center for Human Rights (CEDH) and the Civil Society Initiative (ISC) form one of the active domestic election observation groups. NGOs have been active in donor-funded electoral observation and civic education efforts since the 1990s, and play an important role in trying to improve the knowledgeable participation of voters, and to identify and deter problems in the electoral process.

Women's organizations are also very active. They focus on advocacy and policy development on specific issues such as equal rights, ending GBV and protecting vulnerable groups, such as children. The cell phone became an important tool for women's groups in the aftermath of the earthquake, enabling them to network quickly through SMS, social networks and apps to support GBV victims and coordinated with police, the GOH and international aid groups.<sup>90</sup> The importance of male allies in their reform efforts is a lesson learned as most decision makers and power holders are men. Changing social norms and redefining gender roles are issues that affect everyone, not just women or LGBTI persons.<sup>91</sup>

Several organizations work on LGBTI rights. One of these is IDEH (Initiative for Equitable Development in Haiti) which recently did an LGBTI mapping survey. These groups find their members are more vulnerable than others because of social norms and lack of community support. Although the women's groups have successfully raised the level of public awareness of the rights of women and children resulting in the adoption of important national policies and legislation, such as the recent paternity law that gives the same rights to all children, LGBTI issues receive limited attention. Their organizations and members have been attacked, such as the office of KOURAJ in 2013 where armed men beat up the staff, ransacked the office and told them to close down.<sup>92</sup>

At the community level, parent-teacher associations (PTA) are widespread. Education is widely valued for social mobility and employment, and many parents want to make sure their schools deliver their children a good education. About 12 percent of the population are PTA members. This group of around one million persons provides a natural ally for DRG efforts, and consideration should be given to using them more, not only in educational efforts but for civic education, good governance programming and anti-corruption activities.

There are also grassroots groups at the local levels, which bring in the lower classes. Local development groups, organized by local residents to undertake small development activities such as fixing the streets and drainage, and often link up with the development activities of international NGOs. Other groups are more opportunistic and politically oriented, and proliferated during the time of Aristide. These *organisations de baz* are still present in most Haitian communities and many are associated with the broader Lavalas sector. They tend to look towards the mayor, political party, political actor or the state for revenue generation opportunities rather than towards development agencies, and so are viewed more as political organizations

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<sup>90</sup> USIP, *Haiti: Women's Organizations and the Role of New Media*

<sup>91</sup> Ibid

<sup>92</sup> Amnesty International, *Urgent Action, LGBTI Organization's Office Attacked in Haiti*

than community development organizations. These groups can quickly mobilize large numbers of people which is especially useful for political actors. Some of these groups have been associated with political violence.

### 3.9 MEDIA

The electronic media is one of the main avenues through which Haitians access information as well as being one of the main channels for political and civic discourse. Politicians and lawmakers are frequently on radio or television to promote their cause or voice their dissent, along with average Haitians who are extremely outspoken, especially on radio talk shows. Justice watchers say Haitians are more likely to denounce problems, including governmental and criminal actions, on radio than they are to make a complaint to the police or other authority since they lack trust in the official systems. This had made radio outlets and journalists a target of state violence in the past. Incidents continue, although most are politically instigated rather than state-backed.

This also results, however, in rumors and half facts often being repeated on radio and by partisan outlets, either through a lack of accurate information or for deliberate misinformation. With Haiti's weak institutions and volatile political situation, either can destroy the credibility of an institution or process. Accountability is as important for media outlets as it is for political parties, and it is important that they not only be able to check facts but also value the veracity of the information they broadcast

The majority of Haitians get their news from radio, which is widely accessible, even through mobile phones. In Port au Prince 96 percent of the population listens to the radio every day, 67 percent of them to the news.<sup>93</sup> Although media was hard hit by the earthquake where over 95 percent of the radio stations and the two main daily newspapers stopped working,<sup>94</sup> the media has rebounded and reflects Haiti's social and economic diversity. There are over 350 radio stations (2012), most of these small and privately owned with local reach. Some of these are community radio stations which provide their communities with local news and information as well as national content that they rebroadcast. Much of their programming is in Creole. Community radio stations offer an opportunity for local populations to become more engaged in their local issues and can be an effective tool for civil society advocacy, education and monitoring activities. However, one of the community radios visited during the assessment were not operating. It appeared to be linked to municipal authorities who controlled the hiring and firing of staff.

There is a state-owned Haitian National Television and about 60 private television stations but their reach is limited by the lack of reliable electricity and by the relatively small number of television sets owned by their audience because of their limited purchasing power. Some of these stations also own popular radio stations and have a larger, more permanent staff to produce news and current affairs programming. Haitians however, only watch television about four to six hours a week.

There are several prominent privately owned newspapers. These publish in French, among these *Le Nouvelliste* and *Le Matin*. Their reach is limited by low literacy levels, language and the cost of the papers. The *Nouvelliste* distributes 15,000 papers and has 62 percent of the newspaper market. *Le Matin* produces 10,000 copies, half of which are distributed free of charge. They also have online versions which are read mainly by the Diaspora. The *Nouvelliste's* facebook page has almost 325,000 subscribers.

With the advent of more affordable smartphones, access to the internet is increasing, and was at 12 percent of the population in 2012.<sup>95</sup> Haiti's fixed lines are limited and cover only around 0.5 percent of the country. The use of social media, especially Twitter and What'sApp, is increasing. Most politicians and many government offices have social media accounts but few followers, and they do not yet use social media to constructively engage the public. During the earthquake the huge use of cell phones took up most of the available bandwidth, leaving social media as the most reliable means of communication. During the cholera outbreak researchers also found that the information provided through social media provided real time data

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<sup>93</sup> Internews, *Haiti, Media and Telecoms Landscape Guide*

<sup>94</sup> Freedom House, *Countries at the Crossroads, Haiti, 2012*

<sup>95</sup> Internet Live Stats, *Internet users by country*

on the number of cases compared to official reporting channels which took two weeks to disseminate.<sup>96</sup> This was also the case for damages wrought by hurricane Thomas.

### 3.10 PRIVATE SECTOR

Haiti is a difficult business environment. The World Bank's Ease of Doing Business Index for 2016 ranks Haiti at 182 out of 189 countries which places it below countries such as Liberia and Afghanistan and on a par with Chad (Table 3:1).

Factors for these low scores include Haiti's political and economic instability, high corruption, limited infrastructure, low skills, and lack of the basic services that impede business development and create an environment that favors large businesses able to influence policies and negotiate terms with the state. The GOH created an Investment Facilitation Center (CFI) in 2006 to help investors access services and information, and to help navigate the government's administrative procedures and bureaucratic red tape. The decision to create this agency indicates GOH awareness of some of the systemic administrative and bureaucratic bottlenecks to private sector growth and its willingness to help investors circumvent the problems. But through this process, the CFI relieves some of the pressure off of government to make the needed systemic changes, suggesting a lack of political will to address and permanently resolve the problems.

	2010	2016
Resolving insolvency	-	189
Starting a business	151	188
Protecting investors	165	187
Access to credit	135	174
Dealing with construction permits	126	167
Registering property	129	179
Paying taxes	99	143

To minimize the risks of operating in such a context, the private sector limits its long term investments and sends its profits out of the country to the extent possible. This favors importation rather than local production and has resulted in 50 percent of Haiti's food being imported (including 80 percent of its main staple, rice). Limiting the exposure that comes with local investment also limits economic growth and state revenues, which in turn hinders employment and the ability of government to provide services and build capacity. Poor educational standards and limited opportunity affect the entire economy and the quality of its labor force. Another major constraint is having secure land rights. Less than five percent of the land is registered<sup>98</sup> and around 75 percent of rural property contracts are regulated by traditional procedures and therefore are not legally registered.<sup>99</sup> Thus, land owners lack the security needed to comfortably invest in improving their properties and are unable to use their land as collateral for credit.

The difficult business environment is reflected in the low utilization of credit. Domestic credit to Haiti's private sector as a percentage of GDP is very low, at 19 percent (2013), well below the Latin America and Caribbean regional level of 28.2 percent<sup>100</sup> and commercial bank penetration is among the lowest in the world at 2.74 per 100,000 people.<sup>101</sup> While commercial banks typically charge annual interest rates of 8 - 15 percent, microfinance institutions charge 2-4 percent per month and pawnbrokers and moneylenders charge up to 20 percent per month.

Haiti has about 840,000 microenterprises and about 60,000 SMEs.<sup>102</sup> These are mostly in the textile and garment manufacturing that make up 90 percent of Haiti's exports and in the agricultural sector where half of Haitians work. Much of Haiti's private sector is informal, only 13 percent of the labor force has formal employment.<sup>103</sup> The service sector is the largest employer and contributor to GDP at 56 percent in 2013.<sup>104</sup> Most small producers have limited access to value chains and markets. In visits to Haitian market places the

<sup>96</sup> Chunara, Rumi, *Social and News media enable Estimation of Epidemiological Patterns Early in the 2010 Haitian Cholera Outbreak*, pp 39 - 45

<sup>97</sup> World Bank, *Ease of Doing Business 2010 and 2016, Haiti*

<sup>98</sup> Inter-American Op Cit., p 20

<sup>99</sup> World Bank, *Étude diagnostic sur l'intégration du commerce, 2013*

<sup>100</sup> Ibid

<sup>101</sup> The Economist Intelligence Unit, *Global Microscope*, 2015

<sup>102</sup> Inter-American Development Bank, *Private Sector Assessment Report*, p 3

<sup>103</sup> World Bank diagnosis, p xii

<sup>104</sup> Inter-American Bank, *Op Cit*, p 14

oligopolistic nature of the market was evident; buyers had little buying power and were relatively few in number, compared to the number of sellers and producers. The seasonal drops in purchasing power of the many low-budget buyers (such as school-fee time, in the case of this assessment) cause economic hardship for the many small producers, who consequently have neither the incentive nor the revenues needed to invest in improving their businesses or the quality of their products.

There is a small, but powerful business elite in Haiti. Many of these are descendants of immigrants from Europe and the Middle East who came to Haiti in the mid to late 1800s and established the import businesses on which Haiti is dependent. A symbiotic relationship developed between this elite and Haiti's political leaders over the past century, trading between political and economic advantages and support. This relationship continues today, diminishing the relationship between citizens and political actors. Their relationship with wealthy patrons enables politicians to buy citizens' votes with financial largesse rather than earn their votes with responsive policies. This also undermines the effectiveness of civil society in its advocacy role and points to serious issues in Haiti's economic governance, an important area where economic growth and democracy development strategies overlap.

A number of associations play a significant role in Haiti's business sector. For example, the Center for Free Enterprise and Democracy (CLED) is a business association that promotes communication and exchange between Haitian and U.S. businesses and advocates for international policies favorable for Haitian business. Another advocacy group is the Association of Haitian Industries (ADIH) that promotes the interest of Haitian industrial firms. The Chamber of Commerce and Industry takes political positions in promotion of the business environment in Haiti and regional chambers of commerce exist in the departments. A number of women's business associations are very active, such as the Haitian Women's Solidarity (SOFA), Fanm Deside and the Sun Women's Association of Haiti (AFASDA). Trade unions such as Batay Ouvriye, the Confederation of Haitian Workers and the Haitian Labor Syndicate (CSH) are also active participants in the business sector and champions for workers' rights.

### 3.11 KEY POPULATION GROUPS

**Poor.** The poor have almost no voice in Haiti's governance yet they comprise almost 60 percent of the population.<sup>105</sup> They are excluded from meaningful participation by their socio-economic status, location and low levels of education. They lack trust in the state and see no change coming from their elected officials. Their political participation rates are low and after unmet high expectations from the early 1990s have become alienated from the 'democratic' process as played out in Haiti. They face food and physical insecurity, have substandard housing, and lack access to safe drinking water, sanitation and health services. Poor children are often exploited as domestic servants. Low socio-economic conditions and limited education contributes to aggressive behavior and high levels of domestic violence. Rural Haitians have strong family values and ties, but these are undermined by socio-economic conditions.

**Youth.** Haiti has a large youth population; 21.6 percent of the total population is between the ages of 15 and 24 years of age.<sup>106</sup> This population can play a constructive role in its development, but has acted as a destabilizing factor in the past as they are easily exploited by political and other actors. Among these is a large pool of unemployed, under-skilled and politically alienated youth. Although the youth literacy rate is now at almost 75 percent, which is much better than the rate for previous generations, many lack the knowledge and skills necessary to have a productive and civic-minded life because of the low quality of education. The Haitian economy also does not generate enough employment for youth. The World Bank lists Haiti youth unemployment at 14.5 percent,<sup>107</sup> however unofficial estimates place this at over half the youth aged 15 to 24. Of these, only about 35 percent are actually looking for work. The remainder has given up. The lack of employment increases the pressure on youth to migrate to urban areas or abroad. Before the DR's crackdown on Haitian immigrants, many male Haitian youth crossed into the DR to work in construction or agriculture. They are now much less likely to go there and many of those that were in the DR are now returning, increasing the pressure on the Haitian state to provide them with social and other

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<sup>105</sup> World Bank Group, *Country Partnership Framework for the Republic of Haiti for the period FY16 - FY19*, p 3

<sup>106</sup> CIA World Factbook. See [http://www.theodora.com/wfbcurrent/haiti/haiti\\_people.html](http://www.theodora.com/wfbcurrent/haiti/haiti_people.html)

<sup>107</sup> World Bank Group, *Toward a New Narrative, Systematic Country Diagnostic*

services. Most of the Haitian women migrants to the DR traditionally sought work as domestic servants in urban areas or became market women.

Although the situation is not as critical as it was in the early 2000s when angry youth took to the streets, eventually bringing out university students and the general population leading to widespread instability that resulted in Aristide's departure, the potential for strongmen, spoilers or criminals to co-opt young people and use their frustration and anger for their own purposes remains high. Political parties generally do not include youth into their party efforts beyond mobilization for political and electoral demonstrations. Internship opportunities for youth in state agencies and civil society are also minimal.

**Women.** Haitian women won the right to vote in 1950, and Article 17 of the constitution provides for gender equality. Women in general play such an important socioeconomic role that Haitian society is generally described as matrifocal. Haiti's market women are the largest interface between Haiti's agricultural sector and the market place with almost a third of Haitian women are engaged in trade and commerce, versus only around ten percent for men.<sup>108</sup> These realities do not, however, empower Haiti's women because they work mostly in the poorly paid informal sector and the majority of households that suffer from extreme poverty are female-headed.

Biases and violence against women limit their access to justice, equal treatment and their participation in political life has generally been low, especially in urban communities. Historically, Haiti's women leaders tend to come from backgrounds of civil society activism, humanitarian work and local community development. Combined with increasing activism in civil society and local economic development, the viability of women as candidates for political office is growing.

**Professionals.** Haiti has a significant pool of professionals who work in the government, private sector, civil society and for the international community. Many of these have higher education and overseas university degrees. Many professionals have already left Haiti for better employment, physical security and quality of life reasons and now live and work abroad. This has resulted in a significant brain drain for the country with an estimated 80 percent of university graduates out of the country.<sup>109</sup> Most of the professionals remaining in Haiti want better governance, a more secure future and more performance based systems. However, Haiti's weak economy and working conditions make this group extremely susceptible to corruption and political cooptation.

**Diaspora.** An estimated two million Haitians live abroad, half of these in the U.S. where many have become successful professionals. The diaspora plays a significant role in Haiti's economy; about one third of all households receive remittances, which contribute to about 20 percent of their household income. Remittances exceeded two billion dollars in 2015, or almost a quarter of the country's GDP.<sup>110</sup> Diaspora participation in Haitian political life is limited, but this is changing. The 2012 amendments to the constitution recognize dual citizenship and allow them to own property in Haiti and hold certain government positions. Overseas voting, however, is not allowed.

The Diaspora is becoming increasingly involved in Haitian development and governance. A large number of diaspora returned to Haiti during the 2004 - 2006 transitional government hoping to help with the rebuilding of a more democratic Haiti. However, many were disillusioned by the way the system operated and left. The diaspora also came forward in large numbers in 2010 after the earthquake to help the country with humanitarian assistance, but relatively few diaspora invest in Haiti because of the high risks of the Haitian economic environment.<sup>111</sup> Currently a number of Haitian Diaspora organizations in the US have been advocating for reinstatement of US financial support for the Haitian elections. Several have created a coalition, the United Front of the Haitian Diaspora, which has organized an election observation mission that has been recognized by President Privert and the CEP.

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<sup>108</sup> World Bank, *Factors Impacting Youth Development in Haiti*, p 35

<sup>109</sup> Fang, *The Importance of the Diaspora's Investment in Haiti*

<sup>110</sup> World Bank, *Personal remittances received*

<sup>111</sup> Riddock, *Haitian Immovable Property Law Obstacle for Development*

### 3.12 NON-STATE ACTORS

**Para-legal forces.** The Haitian executive has a tradition of using para-legal forces to implement its orders. For example, president Geffrard had 'les Tirailleurs'; Soulouque 'les zenglen'. Duvalier used his 'tontons makout'; and Aristide used gangs called 'chimères'. Poverty, unemployment and the easy availability of trafficking money has resulted in the proliferation of these illegal forces, even if they appear less visible in recent years due to increased HNP and MINUSTAH activity. Each of these groups have their power base and linkages into political, economic and criminal networks.

- ***Jèn de baz.*** The term *jèn de baz* was used by several respondents in the assessment as the groups used by some political actors to disrupt order and intimidate opponents during electoral campaigns or when political conflicts come to a boiling point (or when they want political conflicts to come to a boiling point). It is important to understand this phenomenon because it is an important threat to governance and the rule of law.

After the fall of Duvalier, local neighborhood associations called *organisations communautaires* or *organisations de base* (*baz* in Creole), began to appear.<sup>112</sup> After the military coup ousted Aristide, these groups helped to protect members of their communities who had supported Aristide. Upon his return in 1994 Aristide cultivated his previous ties with these groups, especially within PAP's poor urban neighborhoods where *baz* membership was mostly unattached youths. During the highly contested 2000 elections Aristide relied increasingly on armed urban *baz* youth (*jeunes des organisations de base*, or *jèn de baz* to mobilize supporters and repress opponents. In response his political opponents cultivated their own ties to local youth groups to mobilize opposition. Local *baz* competed, sometimes violently, for control over neighborhoods in order to attract the political patronage that would ensure their access to weapons and resource.<sup>113</sup> In the aftermath of Aristide's 2004 departure, competition among these groups escalated. The resulting wave of kidnapping, rape and other violent crimes severely affected the poorest urban PAP neighborhoods.<sup>114</sup> Business owners hired them to protect their factories and warehouses, international organizations relied on them to distribute humanitarian aid, and the *baz* leaders used access to finances and weapons to entrench their authority in the areas they controlled. These *jèn de baz* are still a factor, and in some areas, such as near the border with the DR, local officials expressed concern about their recent proliferation.

- **Armed political security personnel.** These are armed security personnel in the employ of political leaders. This differs from the licensed professional security services that are hired by individuals and companies to secure their premises, though there are reputedly some instances of crossover. According to assessment interviews, party leaders increasingly retreat to secure locations during the last few days of political campaigns, surrounded by their security personnel. This is also a time when tensions run high and *jèns de baz* are actively used for disruption and intimidation purposes, especially in areas that support their competitors. These are moments when a few miscalculations (and possibly deliberate action) can cause a response by armed security personnel that can quickly escalate and spread as rumors and retaliation get the upper hand. Some candidates are more likely than others to resort to such tactics, making it possible to identify and mitigate potential flashpoints if election security mapping is done ahead of time and the CEP, HNP, CSOs and political actors can work together to address the problem.
- **Strongmen.** A number of armed groups led by influential individuals with a political agenda have been able to establish varying levels of control over certain communities, some for an extended period of time. This is especially apparent during elections. These strongmen, some of whom may have a history of political insurgency, can compete with the local units of the state's security apparatus. These include

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<sup>112</sup> Òganizasyon de baz is apolitical, clientelistic and looks for a political patron whereas òganizasyon kominotè is a political and is involved in community social, economic and cultural activities.

<sup>113</sup> Muggah, *Security Haiti's Transition*, p2

<sup>114</sup> Estimates of violent deaths range from 1,600 to 8,000 in 2004-2005. In the most affected neighborhoods the homicide rate reached as high as 450 per 100,000 residents. In several areas such as Cite Soleil and Bel Air, armed *baz* with ties to politicians became the dominant security actors, often controlling access to electricity and water. Kolbe, *Human rights abuse and other criminal violations in Port-au-Prince, Haiti: a random survey of households*

Marc Lamour in the commune of Borgne, KOREGA in Anse d'Hainault and Guy Philippe, a former senior officer in the Haitian army, in Pestel. Although the activities of armed groups are not as acute as it was in the early to mid-2000s, the lack of control over state territory is one of the key criteria of a failed state. Guy Philippe is currently a candidate for the senate, which if he wins would provide him with immunities for any criminal actions. He also faces questions about a May 2016 attack on an HNP station in Les Cayes where 50 armed men in camouflage uniforms killed one officer and wounded another. As recently as September 2016, Guy Philippe told reporters, "I will fight if I lose this [senate runoff] election because I'll know the government did it illegally. I've got nothing left to lose."<sup>115</sup>

- **Organized crime.** A number of powerful criminal organizations use Haiti for international drug transshipments and trafficking in weapons and persons. These groups are based in Mexico and Central America and operate in several Caribbean jurisdictions, including the DR and Jamaica. The State Department rates the threat from narco-terrorists as low in Haiti and reports that most crimes are gang related.<sup>116</sup> However, narco-trafficking reportedly funds gangs and other criminal activities and is a destabilizing and corruptive influence in the justice sector and among the political and economic classes.
- **Religious groups.** Religious groups are free within Haiti to practice, and citizens are free to join, or not join, the religion of their choice. Haiti is a predominately Christian country with more than 65 percent of the population identifying as Christian, over half of which are Roman Catholics, followed by Protestants. The GOH provides funds and services to the Catholic Church, but not to other religious groups. Haitians who practice Vodou make up around two percent of the population although it is estimated that up to 50 percent of the population practices Vodou which is often done in tandem with Catholicism. Vodou is a registered religious group, but still does not have the full rights accorded to other religions, such as marriage and baptisms. The Federation of Vodou recently endorsed Jude Celestin for president. About 8,000 to 10,000 Haitians are Muslims.<sup>117</sup> Religious groups must register with the Ministry of Foreign Affairs and Religious Denominations. The National Council of Muslims requested registration of Islam however most religious groups operate openly even if not registered.

Several respondents during the assessment, including CSOs and a presidential candidate, noted the increased number of mosques in the country. They worry that the level of poverty, unemployment and lack of prospects for Haitian youth coupled with a gang-culture in urban areas make Haitian youths extremely vulnerable to recruitment by groups such as Islamic extremists. Haiti's close ties with Jamaica could also be a factor, as there are concerns about the growing number, although still small, of radicals from the Caribbean, including Jamaica, that have attempted join the Islamic State group in Syria.<sup>118</sup>

### 3.13 INTERNATIONAL AND GLOBAL ACTORS

International actors are deeply immersed in support for Haiti's humanitarian crises, stability, democratic transition and socio-economic development. Key actors include the United States, United Nations, OAS, IDB, EU, France, Canada and others. Many of these actors are frustrated over the continuing political and governance crises and the lack of sustainable development. Many Haitians are also tired of the continuing large scale international presence, some characterizing MINUSTAH as occupation. The role of the Nepalese MINUSTAH troops in bringing cholera to Haiti through careless waste management is a serious complaint.<sup>119</sup> Haiti, however has become donor dependent, not only for humanitarian and financial assistance, but for the international mediation efforts that have become an integral part of resolving its political crises.<sup>120</sup>

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<sup>115</sup> Jamaica Observer, "I will fight if I lose this election"; September 8, 2016

<sup>116</sup> State Department, *Haiti 2016 Crime and Safety Report*

<sup>117</sup> Background from State Department, *Haiti, 2015 International Religious Freedom Report*, p 1

<sup>118</sup> Jamaica Observer, *Top US general warns about ISIS fighters in the Caribbean*, January 9, 2016

<sup>119</sup> New York Times, *UN Admits Role in Cholera Epidemic*, August 17, 2016

<sup>120</sup> As examples: international mediation, a trade embargo and the threat of international military intervention restored Aristide to power after he was deposed by a military coup. International mediation helped the opposition come together into a transitional government of consensus when Aristide left for exile. International mediation again was called for when Martelly's mandate was ending and Haiti faced a constitutional crisis with no elected president to succeed him. The OAS, Core Group (including the U.S.) and the UN's Special Representative of the Security General have also all been active mediators.

The international community in general is taking a wait and see attitude towards the current political crisis. Its priority during the assessment was for Haiti to return to constitutional order through presidential elections although most donors were continuing their ongoing programs. The U.S. did suspend assistance to electoral administration and the EU withdrew its international election observation mission.

UN peacekeeping missions have played an important and almost continuous role in the safety and security of Haitians since 1995. In the break between peacekeeping missions (2000-2004) the country disintegrated towards widespread upheaval and insecurity, requiring the return of peacekeepers in even larger numbers. That MINUSTAH mission has been present ever since and its mandate expires in October 2016. Given the continuing political uncertainty and the increased levels of violence around the 2015 elections, the UN was expected to extend MINUSTAH's mandate. The effects of Hurricane Matthew on October 4 are now an additional factor of uncertainty. MINUSTAH has already been in Haiti for more than 10 years at a cost of about \$350 million a year. It has a very large footprint with more than 4,500 troops and UN police and 1,500 civilian employees. In the interim the HNP has gained in strength and legitimacy, but is not yet up to its needed strength. Without a gradual phase down, the departure of MINUSTAH is likely to create vacuums in some critical areas which could be easily exploited by spoilers or criminals.

Economically, the most important international actors are the International Financial Institutions, especially the World Bank and IMF. The IMF works with Haiti on macroeconomic programs to manage its debt and improve its financial systems. The World Bank has 15 projects in Haiti with a net commitment of \$867.76 million. This helps support GOH development programs in urban development, education, health, business development and other sectors.<sup>121</sup> Venezuela provided Haiti with oil at preferential rates through its Petrocaribe alliance which it signed with Preval in 2006. This has allowed Haiti to import large levels of Venezuelan oil at reduced prices with an upfront payment of 60 percent and the rest payable over 25 years at one percent interest. The low interest rate allows the GOH to benefit from the difference between the import and sales prices. This arrangement reportedly provides more than 10 percent of Haiti's revenues and amounts to about four percent of GDP.<sup>122</sup> However, Petrocaribe does not have the conditionality of IFI loans and has substantially increased Haiti's debt, which it had started to get under control before the earthquake. The Petrocaribe arrangement also provides significant opportunities for graft. In March 2016, Privert announced that Haiti had not made any payments to Venezuela for oil for almost a year.<sup>123</sup> Haiti's senate ethics and anti-corruption committee then accused 15 former ministers with corruption from the Petrocaribe Fund. Sources inside the interim administration said investigations were underway on the misuse of the funds and several high level former government officials were expected to be charged.

There is a sizeable Jamaican community on Haiti's southern coast and fishermen ply the areas between the two countries. Illicit traffic between Jamaica and Haiti is of concern to both governments though the GOH has not made any significant initiatives to regularize or formalize agreements with Jamaica to address this traffic. This leaves both countries vulnerable to the economically and politically destabilizing effects of organized international crime, especially with small arms, drugs and trafficking in persons that are known to be a problem between the two countries.

Haiti shares a border with the Dominican Republic, with a sizeable number of migrants in each other's country. More than 90 percent of migrant workers in the DR are Haitian. This has provided Haitians with an avenue for employment, especially in agriculture and construction. In the DR, the large influx of Haitians has fueled resentment in some sectors and is often politicized. A Dominican court ruling in 2013 took away DR citizenship rights from up to 200,000 Haitian immigrants, many of these born in the DR. The DR has since stated that Haitians with DR birth certificates may remain, but the rest must depart, sparking a migration of Haitians back to Haiti and forced deportations.<sup>124</sup> There are opportunities, however for cooperation that

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<sup>121</sup> World Bank, *Haiti, Projects and Programs*

<sup>122</sup> Hougansydnye.com, *PetroCaribe: Haiti and Nicaragua most affected by oil prices drop*

<sup>123</sup> Haiti Observer, *Venezuela; Abuse, bad management, nonpayment of petrocaribe fund revealed by Jocelerm Privert*, 14 March 2016

<sup>124</sup> Foreign Policy in Focus, *It's Really Happening: The Dominican Republic is Deporting Its Haitian Residents*

could help both countries, including in the agriculture, security, tourism, environmental management, education and light industry sectors.

International NGOs have been active in Haiti since the 1950s. They provide an important safety net especially among the rural poor. International NGOs provide about 50 percent of total health expenditures for mostly primary health care services.<sup>125</sup> Many of these are funded by international donors. A large number of religious missionary organizations work in Haiti. Some missions have operated in Haiti for decades providing health, education and other services in addition to their religious conversion work. This had helped to fill voids in government services. Christian missionaries for example, run more than 2,000 primary schools that serve about a third of the country's school aged population.<sup>126</sup> Others run hospitals and orphanages. Other missionary groups come for short visits on a large variety of efforts. Many of these are not coordinated with other ongoing efforts and at times lack an understanding of the Haitian context and sustainability or governance issues. This is a serious cause for concern.

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<sup>125</sup> World Bank Group, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p 12

<sup>126</sup> New York Times, *Missionaries go to Haiti, Followed by Scrutiny*

# 4. OPERATIONAL AND PROGRAMMATIC ENVIRONMENT

## 4.1 BROADER FOREIGN POLICY AND USAID DEVELOPMENT INTERESTS

Haiti is a policy priority for the United States because of its proximity, recurring political instability and systemic poverty. Haiti needed immediate humanitarian assistance after the earthquake, but beyond this also needed to improve its democratic and economic governance, as it was felt that without progress Haiti could become a “haven for illegal trafficking in drugs, weapons and people, and a source of refugee flows that place strains on neighbors and put Haitian lives at risk.”<sup>127</sup> The U.S. sees it has significant responsibilities to help the country given its historical relationship with Haiti and the large Haitian diaspora community living in the U.S.

U.S. policy towards Haiti is intended to “foster the institutions and infrastructure necessary for it to achieve strong democratic foundations and meaningful poverty reduction through sustainable development.”<sup>128</sup> Since the earthquake the U.S. committed more than \$4.5 billion in assistance for post-disaster relief as well as for Haiti’s long term recovery. It sees the GOH as an important partner and based its assistance strategy on the reforms and measures identified by the GOH in its Plan of Action (*Plan Stratégique de Développement d’Haïti*) to ensure the relevance and effectiveness of its assistance. Sustainability and Haitian ownership are key principles given the lack of sustainable results from many previous efforts. The U.S. also sees the development of a strong civil society and private sector essential to Haiti’s development.

The current U.S. assistance strategy for Haiti is based on a three-year extension of its 2011 post-earthquake strategy, *Towards Renewal and Economic Opportunity* which runs through 2018. The post-earthquake strategy, whose main objective is *a stable and economically viable Haiti* is intended to *catalyze economic growth through investments in agriculture, energy and infrastructure and ensure long term stability through investments in public institutions*. The strategy focuses on four areas: infrastructure and energy; food and economic security; health and other basic services, and, governance and rule of law. It also concentrates assistance in three geographic corridors: Cul-de-Sac, Saint Marc and North, although the extension strategy could extend assistance beyond these corridors if the U.S. finds opportunities in other areas for public private partnerships and global development alliances that can generate economic development.

The U.S. uses a *whole of government* approach. Agencies such as USAID, the Department of State, Department of Health and Human Services/Centers for Disease Control and Prevention, the Department of Treasury are all currently working in Haiti.

## 4.2 USAID’S CURRENT DRG PROGRAM

Support for governance and rule of law is one of USAID Haiti’s main assistance pillars. These two elements provide the foundations for successful USG investments in all sectors and for Haiti to achieve its development goals. The DRG program’s focus is on *more responsive governance* and *improved rule of law*. The program has two sub-intermediate results: *strengthened and representative, effective and transparent governance*, and *strengthened rule of law and human rights*.

Specific activities include:

### Support for credible electoral and legislative processes

- Electoral administration support through a UNDP managed basket fund for electoral planning, administration and capacity building as well as for direct election costs. This assistance stopped after the

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<sup>127</sup> State Department, *Post-Earthquake USG Haiti Strategy, Toward Renewal and Economic Opportunity*

<sup>128</sup> State Department, *Fact Sheet Haiti*, March 15, 2016

GOH decision to rerun the first round presidential elections and the U.S. is currently recuperating its unused funds.<sup>129</sup> (2012 - 2016. \$9.7 million)

- TA and mentoring for the CEP on outreach, communications and for the inclusion of women and PWD in the electoral process. These activities were refocused in 2016 on civil society and improving the quality of electoral participation. (2013 - 2016, \$12 million)
- Capacity building of CSOs for election observation, mitigation of risks for electoral violence and advocacy on respecting gender quotas as well as to assist political parties to train women candidates and newly elected mayors. (2013-2017; \$16.68 million)
- Support for international election observation done by the OAS. (August 2015 - July 2016, \$1 million)
- Support for election logistics including the delivery and recuperation of electoral materials through UNOPS. (June 2015 - March 2017; \$12.5 million). The amount may be lower now after the USG suspended its assistance to the electoral process.
- Electoral security assessments for the 2015 elections and recommendations for violence mitigation. (September 2015. \$0.15 million)
- Strengthening parliament (2011 - 2014) to help build its institutional capacity, enhance legislative transparency and encourage greater interaction between elected representatives and constituents. This project was hampered by changes in parliamentary leadership and MP politics and was closed down after its first phase due to the lack of parliamentary interest for the programmatic substance of the project.

#### **Improving access to justice and legal assistance**

- Promote an efficient and fair judicial system through the recently completed ProJustice program by providing TA and training to support the courts, develop a computerized court case management system, help the CSPJ become operational, provide free legal aid and alternative dispute resolution services as well as assist the Code Reform Commission to modernize the criminal codes. (June 2010 - July 2016. \$22.3 million)
- A follow on justice project is in procurement. This project will work to improve the legal, policy and regulatory framework, strengthen the judiciary as an independent credible and effective authority, improve access to justice and protection of rights, and strengthen civil society constituencies for reform. It will also continue support to expand the case management system developed under ProJustice.

#### **Protecting human rights and vulnerable populations**

- Support efforts to prevent violence against women and promote LGBTI rights and find common ground between women and LGBTI groups through its Equitable Development in Haiti (IDEH) project. (September 2015 - September 2017. \$0.5 million)
- Strengthen the protection of children, women, at risk youth and victims of human rights abuses, such as trafficking, through the completed Aksyon Kolektif pou Sekirite kont Eksplwatasyon project (AKSE). This strengthened public awareness, monitoring, service networks and institutions. (March 2014 - September 2015. \$6.3 million)
- Support for anti-trafficking efforts through a project currently in negotiation. (2016-2018. \$6 million)

#### **Strengthening public administration**

- Support GOH reform efforts to restructure and standardize human resource functions across government institutions through the Konesans E Konpetans Teknik (KONEKTE ) project. This works with OMRH and other GOH ministries to improve public sector human resource management and strengthen skills in the competitive recruitment of public servants. (\$21.7 million. October 2012 - October 2017)
- Support more transparent management of public financial resources through an Integrated Financial Management System (IFMS) project. IFMS works with the Ministry of Economy and Finance to standardize expenditure and revenue systems of 13 GOH institutions to improve their fiscal transparency and financial management, and share data in real time. These agencies include the CSSCA,

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<sup>129</sup> The USG has suspended its assistance to the electoral process. The amount invested may be lower now.

customs and tax administration, Ministry of Plan and the ULCC. (September 2014-September 2017. \$10.45 million)

- Support for civil society participation in Haiti's budgetary process to monitor the budget process and increase public awareness on budget allocations by sectors was recently completed. A follow on effort is anticipated to monitor budget use and increase government accountability for that use. (July 2014 - May 2016. \$0.37)

#### **Strengthening local governance**

- Strengthen local public services in nine municipalities through the Lokal Plus project by strengthening local government capacity and accountability; increasing local revenues and ability to leverage central government funds and services; and strengthening national policies for decentralization and deconcentration. It developed and helped install the CIVITAX software system. (January 2013 - January 2018. \$19.8 million)
- Support local solutions to Haitian development challenges through the KONBIT project by providing management and financial capacity building services to current and potential CSO partners. KONBIT provides small grants for a range of projects to address the needs of vulnerable women, PWD and LGBTI persons; as well as for small projects in business, health, agriculture, water and sanitation. (October 2015 - October 2020. \$4.65 million)
- USAID also intends to develop an integrated civil society and media program to increase civic engagement and investigative reporting.

### **4.3 OTHER USAID AND USG ASSISTANCE PROGRAMS**

USAID has a large portfolio of activities in other sectors. Some of these are directly DRG related. These include:

- **Energy** which developed a pilot power plant in the north to demonstrate sustainable electric utility operations while also providing the Caracol industrial park and four surrounding communities with dependable power.
- **Economic growth and agriculture** which focuses on increasing the household income of formal sector farmers and upgrading farm-level technology; creating more productive value chains for medium and small enterprises; increasing employment; and, access to microcredit. It also built a dam at Rivere Grise to prevent flooding and provide irrigation.
- **Education** to improve early grade reading and teaching and promote inclusive education for students with impaired vision. DRG related activities included strengthening the capacity of the Ministry of Education's reading improvement unit.
- **Health** to help Haiti meet its immediate health needs while working with the GOH to find long term solutions to chronic health challenges, including improving access to health services and strengthening the nationwide health service. It also has a Health Finance and Governance project, and a Leadership, Management and Governance project (through September 2017) that works with the Ministry of Health at central level to strengthen its leadership, management, policies, budgeting and reform of the health care system.
- **Environmental protection** which is a cross-cutting effort between sectors to help protect and preserve Haiti's natural resources, such as in agriculture (to stabilize watersheds, increase tree cover, promote sustainable agriculture); improved cooking technology (to help conserve trees) and health (disposal of medical waste).

Other USG offices also provide DRG related assistance in Haiti:

- INL provides TA to key HNP offices and core administration and management functions. It currently has seven embedded special advisors with the police in areas such as GBV and anti-narcotics. It supports the HNP to expand its police force and improve its infrastructure such as the police academy, police stations and prisons. It also provides training and mentoring for HNP as well as for judges and judicial oversight. (FY17 \$8 million)
- The Department of Treasury fields two persons funded by USAID's Economic Growth Office to work with the national revenue collection and expenditure systems. This provides a common tax revenue data system for the Ministry of Finance to track tax revenue, identify tax fraud, and to more easily share data between municipalities and MOF. It also works on the MOF cash management systems to track

and reconcile the daily expenditures of all ministries. Part of this is helping the MOF to develop a single central account and put in policies and procedures to increase the accountability for public expenditures.

#### **4.4 USAID RESOURCES AND INTENTIONS**

Funding for Haiti has been relatively robust since the earthquake but is decreasing in recent years. USG funding for Haiti in FY 2015 funding was \$242.9 million. The budget request for FY 2017 is \$218 million. Much of the funding for Haiti is earmarked with only \$21.5 million requested for DRG Economic Support Funds (ESF). Global Health has an earmark of \$25.2 million for USAID and 104 million for State, ESF is \$79.8 (down from FY 15 \$100 million); INL is \$7.5 million, IMET military support \$0.25m, and FMF, 1.2m.<sup>130</sup> USAID is currently preparing its next Country Development and Cooperation Strategy (2018 - 2023) and is undertaking a number of sector assessments, including this DRG assessment, to inform its programming. Other assessments include a gender assessment, youth assessment, private sector engagement assessment, local capacity assessment and public financial assessment. Previous assessments included the rule of law and media sectors.

USAID is also looking at whether to continue working in corridors or expanding its programming to other areas. In the DRG sector, programming will likely follow along the broad lines of its current programs, using lessons learned to improve the activities, but ensuring follow up of activities that have started to put systems in place that will increase the transparency and increased accountability for GOH processes. This includes continuing with the electronic case management systems in the justice sector, CIVITAX systems in local governance and human resource systems in national governance.

#### **4.5 DONOR COORDINATION**

Haiti has a large number of international donors, many of which coordinate regularly through established mechanisms, such as monthly or quarterly meetings on their sectors, which can become more frequent based on need such as election preparations in the lead up to an election. Coordination takes place at both policy and technical levels. A Core Group of international actors made up of ambassadors and heads of missions of the US, EU, Brazil, Canada, France, Spain, the UN and OAS have met regularly since the 1990s. This mechanism provides the international community with a unified voice for messages which are of critical importance in a polarized political context.

At the technical level there are many different sector level working groups that include the main donors and Haitian stakeholders. Sometimes this coordination remains at an information sharing level and requires strengthening to develop more mutually reinforcing and harmonized programming. In other sectors, donors are coordinating more closely, especially for political and electoral processes. In these cases, there is also good coordination between the policy and technical levels to ensure consistency of approach and message. For the electoral process, the UNDP-managed basket fund pools international and GOH contributions for electoral administration. This helps ensure that funds are used for priority areas and avoids duplication of efforts or funding between donors. In the finance sector the IFI's play the lead role for coordination, however differences between the IMF and some donors, including the U.S. on how the Central Bank should operate need to be resolved so that the U.S. efforts to strengthen GOH management of public funds can be more effective. On tax revenue generation there is coordination between Canada and the U.S. on the tax management software systems to ensure their compatibility as well as among the U.S. implementers working at the national and local governance levels on the CIVITAX system. However, this is not the case for all DRG activities, especially for the governance related activities, and more frequent exchanges between the different sector groups on their programs and plans and ensuring harmonization with GOH strategies and policies could help strengthen these programs.

#### **4.6 PRACTICAL CONSTRAINTS ON THE RECIPIENT SIDE**

Haiti is a mountainous country with limited infrastructure. This makes it difficult and expensive to reach rural communities with information and services or to include them in activities. Community radio makes this easier in places where it is operational. The weather has a significant impact on recipient efforts. Haiti is

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<sup>130</sup> Congressional Budget Justification, *Foreign Assistance, Summary Tables, Fiscal Year 2017*

prone to natural disasters such as hurricanes, floods and earthquakes. Only 40 percent of the rural population has access to all weather roads.<sup>131</sup> Haiti is still recuperating from the 2010 earthquake. Many civil society and government counterparts continue to work out of temporary facilities that are crowded and lack adequate meeting and working space. Many had their records destroyed, limiting the institutional memory of some state and civil society institutions.

A significant constraint is electricity. Only 35 percent of Haitians have access to electricity for part of the day, and only 11 percent in rural areas. For those who have it, electricity is unreliable with frequent outages and surges that can damage sensitive IT equipment. Many offices have generators, but these require funds for fuel and maintenance.

Haiti's brain drain has caused a shortage of skilled labor and technicians, especially for new technologies and mid-level managers. Organizations can recruit persons, train them and then lose them as they emigrate or move to better paying positions. Almost half the adult population in Haiti still does not have basic literacy and numeracy skills. This not only affects the availability of human resources, but also requires that training and civic education materials be tailored to different education and skill levels.

Haiti's political situation directly affects people's ability to work. Political stalemates and frequent changes of policy makers affect every sector including the ability to move forward on public policies, legislation, funding, and official approvals. Access to information is limited making it difficult for some organizations to have the information needed to develop their advocacy campaigns, educational materials, monitor programs or make policy recommendations. Many organizations are politicized, which constrains coalition building and networking and which can split efforts between two or more groups. Security remains a continuing concern.

Although mobile phone access is extensive, communications are still difficult or intermittent in many locations. Access to the internet is limited as are computers and computer literacy skills among the general population. However, the wide use of smartphones has opened opportunities for citizens to leverage the social media for advocacy, information sharing and mobilization.

## 5. RECOMMENDATIONS FOR THE USAID DRG STRATEGY AND PROGRAM

### 5.1 STRATEGIC CONSIDERATIONS

Some consider the rerunning of the 2015 presidential election as a setback for Haiti's democratic transition, seeing the elections as an acceptable process that was discredited by losers and perceptions of electoral impropriety and bias. For others, especially internal stakeholders such as presidential candidates Maryse Narcisse and Moïse Jean-Charles, it was a confirmation that the system worked-- an independent commission was established, investigated the situation and took remedial action.<sup>132</sup> For the purposes of the DRG analysis, it was a re-affirmation of Haiti's political status quo. Almost none of Haiti's elections have been held as planned, on time, without contestation, boycotts or reruns. The crises are resolved sooner or later, legally or illegally, by allowing the declared winner to take office, delaying the process, circumventing the results or abandoning them altogether. The current interim government is the latest of a half-dozen transitional or provisional governments since Haiti had its first credible post-Duvalier election in 1990. It is the second time that much of the international community has withdrawn from supporting the electoral process.

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<sup>131</sup> World Bank Group, *Haiti, Toward a New Narrative, Systematic Country Diagnostic*, p xiii

<sup>132</sup> Both Narcisse and Jean-Charles expressed this sentiment in meetings with the Assessment Team.

What is notable in 2016 is that many Haitians accept this situation as normal - though regrettable- and have no expectations that it will change. The upcoming elections may mitigate the immediate formal legitimacy issues of the interim government by installing someone in office who went through the appropriate process, but it will not solve Haiti's problems. Unless the incentive systems change and citizen apathy turns to a constructive demand for reform, there is no reason to expect the political class to change its behavior or for the outcome of a new government to be any different than those of previous ones. It would take an exceptional leader to be able to turn things around without this.

Nevertheless, coming out of an interim government that is allowing some state oversight institutions to start organizing their work in a more functional manner, with a CEP that so far has been accepted, and with a competent professional class that largely wants the country to operate normally, the upcoming elections provide an opportunity for Haiti to have a fresh start and to set the country in a better direction.

The Haitians will be paying for most of the rerun elections by themselves and will have fewer international technical advisors. This may instill a greater sense of ownership over the process, and likely a reluctance, if only financial, for unnecessary reruns afterwards. This is unlikely to provide the new government with any more popular legitimacy than previous governments, but it may quell some critic claims of internationally orchestrated results.

The new president will have issues that s/he will care about and will have made campaign promises about improvements for the future. The parliament will be in session and be able to reach a quorum, assuming senate elections are held as planned. The new local governments will be in place and organized, some with energetic officials wanting to modernize and improve conditions for their communities. The GOH is promoting some of USAID's and other donor-funded efforts to develop e-governance systems that will provide a means to modernize government administration, tax collection and other services. A growing group of professionals in state institutions and oversight agencies want their institutions to function better and provide more results, although there is no guarantee that the new government will keep some of the most effective actors in place, or that their replacements will have the same reform perspectives.

The DRG assessment's findings largely validated USAID's current DRG programming and the DRG-focused approach used in some of USAID's other sector programming. This approach supports efforts to establish systems and procedures that standardize work and make them more efficient, at the same time making it more difficult for persons to operate outside of the formal system. This reduces the room for arbitrary action and limits opportunities for graft and unpredictable outcomes, which is extremely important. Haitians have agreed to the rules of the state in their constitution. The most important element, and a prerequisite for durable positive change, is to get the political actors, institutions and citizens out of their informal systems and into the formal sector, following the rules agreed to through the constitutions and legislation so that the rules can be applied and persons held accountable.

DRG issues are systemic, and cannot be geographically prescribed. Rather than working in geographic corridors, USAID should consider targeting DRG assistance on institutions that are systemically and strategically relevant and to actors who have demonstrated a will to make change and are in a position to spur transformative change in their sectors, such as mayors and judges who are influential members of their respective associations, news radio producers, civil society activists, student leaders, and others.

The U.S. and international community are still influential actors in Haiti. The international community has invested billions of dollars in Haiti to support millennium development goals and provide humanitarian assistance, yet many conditions in the country are unchanged, and some have even deteriorated. There are many countries in need and international resources are not infinite. If the political actors are not willing to apply and abide by their constitution and make the country work for the benefit of all Haitians, then the international community should rethink the way it provides assistance.

## **5.2 DEMOCRACY, HUMAN RIGHTS, AND GOVERNANCE OBJECTIVE**

The DRG objective recommendation is to strengthen Haiti's rule of law, political and electoral processes, national and local governance, and citizens' voice to foster a more responsive and accountable governance and more equitable citizen access to economic and social justice.

### 5.3 DEVELOPMENT HYPOTHESIS

The development hypothesis is:

*If* there is greater accountability and access to justice, and

*If* political and electoral processes are more credible, transparent and policy-oriented, and

*If* national and local governments are more efficient, equitable and responsive to citizen needs, and,

*If* citizen voice is strengthened,

*Then* political accountability will increase, governance will improve, and citizens will have more equitable access to economic and social justice.

Strengthening the use, effectiveness and adherence to the formal systems of the state and economy through greater judicial independence and efficiency; electoral, political and governance reforms; and improved governance at national and local levels will address the structural issues of state capture, inequitable treatment, systemic corruption, and unfair competition. At the same time increasing citizen voice, transparency and access to information will increase public demand on the political class, parties and government for more responsive and accountable governance, more equitable access to justice, fair competition and ultimately will reduce corruption

The major assumptions underlying the ability to achieve these objectives are:

1. The present government situation stabilizes, either through elections or through a renewed political dialogue and formal agreement to extend its mandate.
2. The political and governance situation in Haiti will not change substantially only because of the election results alone.
3. Haiti will continue on its current path towards implementing its constitution rather than return to a repressive regime.
4. Haiti remains a priority country for the international community because of its humanitarian situation, geostrategic location, economic potential and potentially destabilizing influence in the region.
5. Other donors will continue to provide support and that MINUSTAH and/or UNPOL remain in some form to provide continue support for the HNP and Haiti's security.

### 5.4 PRIORITY SUB SECTORS AND ACTORS

- **The justice system, protection of human rights, and anti-corruption mechanisms.** This is to address structural and performance problems that limit their independence and ability to effectively deliver justice, protect human rights, provide oversight and hold persons and institutions accountable for their actions. This will strengthen the checks and balance system, allow for the more equitable application of justice and increase adherence to formal systems. Priority actors are the courts (all levels), CPSJ, OPC, ULCC and other anti-corruption agencies, CSO/media monitors as well as support to establish the constitutional court.
- **Electoral and political processes.** This is to address the dysfunctional nature of the electoral and political processes, and the lack of a democratic culture and policy driven governance. Reforms are needed to change the winner-take-all system and end political and legal impunity for those who corrupt or circumvent the formal system to hold power, and effectively exclude the majority of Haitians. It is also needed to build a more democratic political culture and develop a new generation of Haitian leaders. Reforms are also needed to strengthen and consolidate the political party system, build their internal democracy, and help to establish an independent and permanent CEP. Priority actors are a permanent CEP, political parties, candidates, parliament and parliamentarians, women and young political leaders. Each of these reforms should reinforce the notion that timely and credible elections should be the norm, in order to hold officials politically accountable to the electorate.
- **National governance.** This is to address the structural and systemic problems within government that perpetuate the lack of good governance, cronyism and corruption and to support legislation and policy reforms needed for better governance, delivery of equitable and adequate services and decentralization. Priority actors are the MEF, MOI, other ministries with USAID programs, OMRH, parliament, ULCC, CSSCA and other oversight bodies, civil society and media.

- **Local governance.** This is to strengthen decentralization and the devolution of power and empower local governments to be more independent and better able to serve the needs of their communities. Priority actors are the mayors, municipal councils, CASECs and ASECs, local CSOs, media, MOI and relevant national government institutions.
- **Citizens** through CSOs, media and their networks and coalitions to build a more democratic culture, increase their civic participation and increase their voice. Priority actors are citizens, national and local level CSOs and their networks and coalitions, the independent media and community radio.
- **Media and Freedom of the Press** through the support of independent community media networks and strengthening the capacity of journalists to conduct investigative reporting.

## 5.5 ILLUSTRATIVE ACTIVITIES

The DRG assessment team recommends the following sub-objectives and illustrative activities:

### 5.5.1 INCREASE ACCOUNTABILITY OF GOVERNMENT INSTITUTIONS

- **Strengthen anti-corruption mechanisms**

**SHORT TERM:** Increase effectiveness and credibility of anticorruption mechanisms such as the ULCC to address corruption. Support civil society efforts to publicize and combat all forms of corruption throughout USAID's different sector programs, and engage youth in those efforts as a means to develop civic engagement and a culture of democracy.

**MID TO LONG TERM:** Continue support to ULCC and other anti-corruption agencies such as UCREF to increase their independence and effectiveness of their efforts. Continue support for civil society efforts to report on and combat all forms of corruption and engage youth in the efforts. Support coalition building between the ULCC, CSOs and the private sector to increase the efficacy of the anti-corruption efforts and build a broader basis for support. Include standard reporting requirements on corruption indicators and anti-corruption efforts done in the respective sectors by all USAID contractors and grantees, so that these indicators and efforts are reported on across sectors quarterly. Develop a mission-wide database to collect and analyze the data, identify efforts and develop mutually supportive efforts with the other programs.

### 5.5.2 INCREASE ACCESS TO JUSTICE AND RESPECT FOR HUMAN RIGHTS

- **Strengthen judicial independence, effectiveness and efficiency**

**SHORT TERM:** Support for advocacy and monitoring for key legislation and establishment of the Constitutional Court to strengthen the legal and institutional frameworks for the administration of justice. Strengthen CSPJ capacity for inspection and oversight to improve the independence and performance of the judicial sector. Continue assistance for electronic case management systems and activities to improve court efficiency and performance.

**MID TERM:** Increase efficiency for more expeditious investigations, settlement of legal disputes and reduce backlog of cases through continued assistance for electronic case management. Support the functioning of the constitutional court and continue support to CSPJ for vetting judges and prosecutors, and for their public outreach and education on their efforts to build trust in the judiciary. Support justice reform and modernization efforts through advocacy, monitoring and TA. Support judicial leadership and training to improve ethics, standards, adherence to rules, transparency, equal application of law and judicial responsiveness.

**LONG TERM:** Continued support to CSPJ and Constitutional Court. Support implementation of key reforms. Build institutional capacity and modernize the justice sector. Support for CSO monitoring of judicial sector and its performance.

- **Strengthen access to justice and oversight of human rights**

**SHORT TERM:** Strengthen the OPC voice to protect and ensure the inclusion of citizens through public education, advocacy and use of community radio. Support access to justice for victims of political violence, women and other vulnerable people.

**MID TO LONG TERM:** Support OPC outreach and public education efforts, including use of its database to inform citizens and build demand for improved human rights and equitable justice and deter abusive executive action. Support the Office of the Ombudsman through targeted programming. Support the updating of national legislation to comply with international human rights conventions which Haiti has ratified. Support access to justice for victims of political violence and vulnerable populations, such as women, LGBTI, street children, displaced people, and refugees. Support legislation that requires police officers and prison officials to undergo pre- and in-service human rights training. Support CSO monitoring and advocacy of judicial rights and recourse to justice.

### **5.5.3 STRENGTHEN THE POLITICAL AND ELECTORAL PROCESSES**

- **Strengthen the credibility of the electoral process and acceptance of the results**

**SHORT TERM:** Support the current electoral process through observation, support for women candidates, dissemination of voter information and education, electoral dispute resolution, electoral conflict mitigation, and through the OMRH support the current CEP reform efforts to professionalize and standardize its personnel systems. Support for the development of a code of conduct for the electoral process, including for political parties' acceptance of the results and renouncing the use of violence, and for a public awareness campaign on tolerance and refraining from violence. Undertake a political party system assessment to examine parties' internal organizational structures and financial management capacities; analyze social, economic, and demographic factors that have driven ideological and policy platforms development over time; examine the feasibility of coalition building among different political parties; and assess the relationship between GOH institutions and the party system. Results of this assessment will provide actionable recommendations to USAID on how to design programs to strengthen the political party system.

**MID TO LONG TERM:** Support for advocacy and creation of the permanent CEP. Support the Permanent CEP once established (civil service, institutional systems and structures, operational procedures). Update the DRG assessment to assess the institutional actors if a new reform-minded government comes into power. This is not needed if the new government is status quo. Conduct a participatory assessment of the electoral system to propose actionable recommendations on how to promote structural improvements make the system less divisive and reduce the winner-take all incentives. Support development and passage of an updated electoral law, advocacy for reform of the political party law and strengthen implementation of existing campaign finance disclosure regulations.

**LONG TERM:** Continue institutional capacity building for the CEP within the context of the electoral process (electoral cycle support). Strengthen political parties using the political party assessment to guide programming. Support campaign finance reform and reporting requirements and monitoring of political financing to reduce the power of money in campaigns, break the practice of exchanging money for political favors, vote buying and funding demonstrations.

- **Strengthen DRG related policy making and reforms and the accountability of parliament**

**SHORT TERM:** Support CSO advocacy and input for key DRG related legislation such as the revised political party law, and to push for pending legislation such as the decentralization bills and updated penal code. Support CSO and media monitoring of parliament for action on pending legislation.

**MID TO LONG TERM:** Strengthen oversight of parliament by anticorruption agencies/units such as the ULCC and CSSCA. Continue support for CSO and media monitoring or and reporting on parliamentary performance.

- **Strengthen democratic political leadership and culture among emerging leaders and citizens**

**SHORT TERM:** Support for orientation of first-time MPs as early as possible with an emphasis on their roles, responsibilities, ethics, the importance of evidence-based policy making, constituent relations, information sharing and parliamentary procedures.

**MID TO LONG TERM:** Support GOH initiatives to institute civic education programs in the schools. Support GOH and UNICEF efforts to ensure anticorruption and civic education are addressed in the development of the national youth policy and its wide dissemination among youth. Support the

engagement of youth groups, including political party youth, university youth and community based youth groups in DRG programs, including those with local governance, parliament, the justice system, anti-corruption and civil society advocacy and monitoring.

#### **5.5.4 STRENGTHEN NATIONAL GOVERNANCE**

- **Strengthen national governance to be more accountable, efficient and responsive**

**SHORT TERM:** Undertake a comprehensive economic governance assessment to identify and develop strategies to address the causes of Haiti's severe systemic economic inequality which is a key driver of political instability and social unrest. Support advocacy and monitoring of the passage of key laws related to the functioning of national administration and decentralization. After the new government is installed, identify and work with potential champions for modernization and reforms.

**MID TO LONG TERM:** Support advocacy for and the development of key reforms that address systemic corruption and impunity that perpetuate poor governance. Increase efficiency and accountability mechanisms to limit the opportunities for graft, clientelism and political interference. Continue with MEF on the collection, management and oversight of revenues and expenditures. Provide leadership training for ministerial mid-management professionals as part of the GOH institutional reform process. Undertake a corruption assessment to identify problems and solutions. Support CSO monitoring and reporting.

- **Strengthen oversight mechanisms**

**SHORT TERM:** Identify oversight regulations that need to be updated to make them easier to apply and more effective.

**MID TO LONG TERM:** Support advocacy for and streamlining of oversight regulations to make them easier to apply and more effective. Strengthen anticorruption agency units, such as ULCC and the CSSCA to increase government accountability and adherence to formal systems. Support civil society advocacy and watchdog functions, including investigative reporting.

#### **5.5.5 STRENGTHEN LOCAL GOVERNANCE**

- **Support for decentralization and greater fiscal autonomy for local government**

**SHORT TERM:** Identify and support potential champions for modernization and reforms. Support advocacy and monitoring for passage of key laws and regulations on decentralization.

**MID TO LONG TERM:** Support passage and implementation of key laws and regulations on decentralization and deconcentration as well as fiscal decentralization. Update and modernize municipal revenue systems such as getting business to work in the formal sector, strengthening skills in resource generation.

- **Increase local governance efficiency, responsiveness, capacity to respond to natural disasters and accountability**

**SHORT TERM:** Continue USAID's local governance program to strengthen communal leadership and key staff on roles and responsibilities, ethics, professional standards, constituent relations, equity issues and gender sensitivity, transparency and accountability. Ensure inclusion of CASECs and communal sections in local governance programs.

**MID TO LONG TERM:** Continue strengthening training for mayors/municipal councils and include CASECs and ASECs to work within their legal framework and promote good governance. Foster coordination between mayors and other government institutions, including HNP for more effective security and with line ministries for improved services. Improve local economic development planning and training to increase revenue generation and improved services. Continue efforts with management tools such as CIVITAX. Improve public communications to develop more systematic programs of consultations with public and more transparent budgeting. Ensure inclusion of CASECs in other USAID-assistance programs such as infrastructure development and maintenance, including waste management and environmental protection.

- **Increase citizen participation in civic affairs**

**SHORT TERM:** Identify shortcomings in citizen involvement in communal affairs and develop program to address these issues. Increase outreach of partner community officials to different groups within the community, including youth, women, the poor, PWD, LGBTI persons and others.

**MID TO LONG TERM:** Increase citizen participation in local governance by developing more participatory mechanisms. Develop civil society-diaspora linkages as a means for technical and financial support.

### **5.5.6 BUILD MEDIA CAPACITY AND PROMOTE PRESS FREEDOM**

- **Support sustainable and independent media initiatives**

**SHORT TERM:** Support and provide technical assistance to independent community radio networks and link them to other USAID/Haiti program offices such as Education and Economic Growth.

**MID TO LONG TERM:** Ensure long-term sustainability and capacity of independent media networks by assisting them with fundraising and development efforts.

- **Expand and legitimize the field of investigative journalism**

**SHORT TERM:** Conduct workshops and discussion groups on investigative journalism and the editorial process.

**MID TO LONG TERM:** Establish a professional association for journalism that would award internationally recognized awards and certificates. Create a small endowment for a professorship in investigative journalism at the national university.

### **5.5.7 CROSSCUTTING**

DRG elements are an integral part of all official and nonofficial actions regardless of the sector and directly affect the quality of the sectors and the nature of their outcomes. The assessment team recommends USAID adopt a cross cutting DRG focus for all of its programming in Haiti to strengthen governance, build accountability and transparency and to strengthen CSO oversight and advocacy in all sectors. Activities should also increase public education.

Programming should also focus on moving actors and institutions in all sectors away from informal practices into formal systems, to change attitudes and understanding on the importance of abiding by the rules, and to fix the rules where not applicable or unjust.

More specifically, the following are cross cutting DRG programmatic recommendations:

- Strengthen anticorruption programs. Support increased access to information and the use of good governance principles and standardized systems to improve sector performance, limit the opportunities for monopolies and graft, and strengthen accountability.
- Support modernization and reform of systems to increase efficiency, improve performance, increase accountability and reduce the room for corruption and the use of informal systems.
- Strengthen leadership skills among mid-level managers and technical officials as well as evidence-based decision making and democratic political culture to build a new generation of leaders.
- Strengthen CSO monitoring and advocacy for reforms and modernization, and increase use of the media including community radios for wide dissemination of information, education and investigative reporting.
- Support Conflict prevention and dialogue programs to build consensus and marginalize spoilers on needed reforms, to improve systems and increase adherence to the formal rules and accountability.
- Mainstream gender to increase the participation of women in decision making and in the design of programs and activities; and including youth components to develop civic consciousness, improve their life skills and ensure their constructive participation in the economy and their communities.
- Strengthen interagency coordination for DRG-related activities across sectors to identify and develop areas of synergies between the different programming, to identify and link potential champions of reforms in the different sectors and to share lessons learned and best practices.

- Commission an assessment of Haiti's economic governance. Haiti's social and economic reality is complex and rigid, and it defines how citizens participate - or are excluded from- economic and political life. The way USAID and other donors engage with sectors of Haitian society plays into who "owns" Haiti and how that ownership is effected, its relevance to social equity and sustainable development in Haiti.

### 5.5.8 SCENARIO-BASED PLANNING

Generating scenarios in a setting as unpredictable as Haiti is a challenge. During the preparation of this report the strongest hurricane to impact the hemisphere in over a decade made landfall on Haiti's Grande Anse southern peninsula and wreaked havoc with the country's key food producing area possibly causing widespread famine in what is arguably the most food insecure country in the Americas, killed almost a thousand people, destroyed 80% of the peninsula's largest city, and caused indefinite postponement of the elections.

Socio-economic development and good governance need predictable outcomes and reliable institutions capable of delivering those outcomes. Yet, it is anyone's guess how the situation in Haiti will evolve over the next few months. The possibilities can, however, be grouped into a number of scenarios, either of which is possible given Haiti's history and the current context. The assumptions for the recommendations provided in Sections 5.4 and 5.5 are designed to work within Scenarios 1 and 2 which seemed the most likely as of the assessment field work. Scenarios 3 and 4 would require tuning of the recommendations to include a larger focus on conflict-resolution, political dialogue, consensus building, reconciliation, citizen security, and civil society watchdog functions. It would also require an increased focus on human rights, access to justice, oversight agencies such as OPC and support for victims of violence.

**Scenario 1: Old Best Case:** The reruns of the presidential elections are held as intended before the end of the year and its results are accepted. The second round is held before the end of the current senators' term and the new government is installed. Haiti returns to its status quo ante with all the issues that involved. The hurricane has made this scenario impossible.

**Scenario 2: New Best Case:** Because of the destruction of Hurricane Matthew the political elite develop an agreement or governability pact to continue this or another interim or transition government and reform process. This government could serve for an extended period of time in order to enact agreed reforms as was done in 2004. There will be some insecurity, but not too much violence. Relief efforts become a centerpiece of political discussion and civil society coalition-building. This is the "New Best Case" scenario. During this period, the international community works with Haitian civil society and key opinion shapers to facilitate civic dialogues to prevent Scenario 3 below.

**Scenario 3:** When the elections are finally held, results are not accepted by the loser(s) and are vigorously contested. There is renewed crisis and insecurity. There are two outcomes for this scenario: (1) the CEP announces a winner and that person takes office amidst strong, perhaps armed, opposition, and presidential action is blocked by the opposition in parliament; or (2) the president is not able to take office because of general instability as described in Scenario 4. The MINUSTAH mandate would need to be expanded and extended.

**Scenario 4: Worst Case:** The political elite is not able to reach agreement on interim government arrangements. The current interim president's term, which has already expired, is not extended and legitimized and he is challenged by a number of political and civil society actors and there would be no political agreement for him to remain in office or to be replaced by another interim government. Some political actors take advantage of the situation to stir up the population and orchestrate violence. This could result in street level conflict between certain groups and could lead to some armed non-state actors having stronger roles or greater legitimacy. The senate mandates would be up and parliament would be unable to get a quorum. The interim president would rule by decree if he remained. The gourde is likely to fall further in value, with resulting price increases further fueling citizen discontent. MINUSTAH would revise its plans to withdraw. A mitigating factor for Scenario 4 is that the HNP has become less politicized and more professional than it was in the early 2000s and is less likely to be used as a political tool by the executive.

### 5.5.9 SEQUENCING

The assessment team recommends DRG assistance be tailored according to the short, mid and long term needs of Haiti given the current political and environmental crises, interim nature of the current government and its uncertain outcome. The assessment team also recommends conditionality of funding, with conditions linked to each timeframe.

**Short term:** One year until October 2017. This timeframe covers the immediate need to get through the current political and environmental crises and back to constitutional order. This assumes that one year is enough for Haiti to complete the presidential elections and have the inauguration of a new government. At this point, the intentions of the new government and its priorities will be clear, which should make it possible to develop a longer-term DRG program. The immediate focus in the short term should be on advocacy to get pending legislation through parliament and on making the best use of USAID's existing programs to address the problems identified in the DRG assessment by tweaking them to:

- ensure they have an anticorruption and accountability focus;
- require DRG participation in the vetting of all USAID Public-Private Partnerships;
- ensure that all USAID program offices adopt relevant DRG sector indicators.

Funding should be conditional on the passage of some critical legislation that has not yet been acted on, such as the public service law, decentralization, the penal code and penal procedures as well as an external audit of the Central Bank.<sup>133</sup>

**Mid-term: October 2017** to mid-2020. The focus should be on resolving the issues that led to the current political and electoral crises to prevent another one, with a focus on getting the political class and others to work through the existing structures and rules, fixing those that they believe need to be changed-- but through the formal systems for change, and making those processes more efficient, reliable and inclusive. This needs to be done before the next presidential elections in 2021. Funding should be conditional on the creation of a permanent CEP and Constitutional Court.

**Long term:** Five to ten years or more. This effort would continue programs that are making a difference to help consolidate their gains, ensure they continue long enough to become institutionalized, and to avoid backsliding. This should go through the next presidential mandate and change of government (2026 assuming the elections do not slip) to ensure they carry on into the next government. Long term programs would have more focus on institutional capacity building, modernization of systems for more efficiency and to make going outside of the formal systems more difficult and easier to detect, and helping to ensure that reforms are implemented.

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<sup>133</sup> By an international accounting firm using international standards.

# ANNEX A: CIVIL SOCIETY, A BRIEF HISTORY

In a democracy, political will is shaped in large part by civil society advocacy. This not only informs and mobilizes popular opinion, but policy making and the allocation of resources. The state of civil society in Haiti is best understood against the backdrop of its brief history, which for the purpose of this assessment, unfolds in three phases.

Civil society was very small in its first and longest phase, from national independence to the fall of the Duvalier dynasty. It focused primarily in a non-political sphere and promoted education and the arts mainly for cultural preservation with the patronage of ruling elites and of chambers of commerce and professional associations that had been in existence since the colonial era and that promoted their members' interests and provided opportunities and standards for their members. In the 1900's faith-based organizations appeared that focused on rural development and food security.

During the late 1970's and early 1980's a social and political landscape that permitted activism developed primarily due to five key developments: 1) A major literacy campaign in the early 1980's facilitated communication and a realization by many disaffected groups of their common issues. 2) The nationwide swine eradication program wiped out what had essentially served as the "peasants' savings accounts", triggering severe economic disruption in the peasant economy right when the Duvalier family's excesses, such as the president's ostentatious wedding in 1980 and Mrs. Duvalier's highly publicized shopping sprees in Paris- were attracting attention (and were quickly communicated thanks to a more literate population). 3) Pope John Paul II's call for social change during his visit in 1983 emboldened social activism by both clergy and lay actors. 4) Food prices increased dramatically. 5) Public expressions of discontent were met with harsh response and abuses of power by the Duvalier regime. By the time Jean-Claude Duvalier fled the country in February 1986, nascent activist organizations were appearing.

Civil society in all sectors developed rapidly in the second phase, i.e. between the departure of Duvalier and the 2010 earthquake. The four years of severe instability between 1986 and election of President Aristide, followed by the coup and ensuing military rule until the return of Aristide, created an atmosphere of resistance in which many activists had to operate underground, some losing their lives. During this time ASOSYE, the first of several civil society strengthening programs was funded by USAID and civil society coalitions began to appear while LOKAL, USAID's first local governance support program started and FENAMH was created. The CSO community was greatly hampered by insecurity as well as institutional and resource weaknesses during this period. Of critical importance to governance and democratic development, both rural and urban CSOs faced challenges in their efforts to engage policy makers: the rural CSOs were hampered by the limited ability of communal leaders to make local policy, while the urban CSOs were hampered by parliamentary dysfunction and, for some period, even a total absence of a parliament. Nonetheless, the CSOs that lead today's landscape, such as Fondation Connaissance et Liberté (FOKAL), Fondation Héritage (which became the Transparency International Chapter in Haiti), The Center for Free Enterprise and Democracy (CLED), and others were created during this time.

The third and current phase began in 2010 with the earthquake. Much of the funding for humanitarian relief and reconstruction went through international NGOs, many of which used local CSOs to help implement their program. Many other international NGOs however engaged in direct distribution rather than maximizing the use of Haitian NGOs. The response to the earthquake, which lasted several years, could have helped to strengthen local capacity if Haitian NGOs had been more involved with its planning and coordination as well as in its implementation.

Today, Haitian civil society is needed for democratic development and is poised to resume its growth curve, but it still suffers from the weaknesses described above. Haitian CSOs still have the same problems raising funds for their operations and still have to rely on the donor community or international NGOs for their activities. They still have to find ways to effectively engage with lawmakers, many of whom are more responsive to their financial backers and personal interests than to their constituents. They still have difficulty

attracting skilled personnel and motivated supporters willing to volunteer their time and labor when funding is not available. And they still need technical assistance and training in how to build networks and coalitions and to develop strong advocacy campaigns.

# ANNEX B: LESSONS LEARNED FROM DRG PROGRAMMING

USAID and others have been providing DRG assistance to Haiti for more than 25 years. Many lessons have been learnt during that time. Some of these include:

- **Reform is possible when found useful by a champion of reform in a position of power, who wants to improve the systems and who is willing to take the risk** to confront the system and push the reforms. A key example is in the OMRH where the Executive Director saw the benefit of human resource reform and civil service standardization, and was willing to fight for systemic change starting with IT systems to manage the civil servants. This change was not necessarily seen as a reform, but as a modernization of the systems, making the management work of the ministries easier and more cost effective. This should help develop a more professional and performance based civil service, and limit the opportunities for political interference in staffing and patronage. Assistance in this effort needs to continue until the systems are firmly embedded so that these changes can continue to function beyond the departure of the champion.
- **Continuity of assistance in DRG work is critical** to move the political, judicial and electoral processes forward. Assistance provided piecemeal or focused on events has not been effective for systemic change. Event-based assistance may help ensure that an event happens, but rarely that it can be repeated. At the same time, the process itself could be a failure. This is evident in some of the election-focused assistance. One example was on the creation of the voter registry. After funding separate and expensive voter registration efforts for every election since 1990, USAID funded the OAS in 2006 to develop a national ID card that could also be used for the voter registry. The assistance continued in the post-electoral period to support the development of the National Identification Office to ensure that the institutional capacity built was not lost. This same system is still in use today.
- **Continuity of relationships can be as important as technical assistance**, especially in situations of political volatility and pervasive mistrust. This is especially important for work with political actors. Some of USAID's implementers are trusted institutions that have a valuable institutional memory, are trusted by local partner CSOs, and deeply understand the systems in which they operate. This provides a type of stability and consistency that is extremely important in a context where stability and consistency are not the norm.
- **Importance of institutional memory.** Donors are repeating many of the same DRG programs yet they still face the same challenges of lack of will, political uncertainty and lack of capacity. The assessment team found that for many aid officials, Haiti's history seems to begin in 2010. The limited history even among some organizations that had been working in Haiti since the 1990s, is a serious problem. The same applies to the GOH where changes of key personnel are frequent and where few archives of development projects are kept. USAID's current effort to document lessons learned from previous programming efforts in Haiti is important so that future programs can build on those past efforts and avoid some of the pitfalls and build on some of the successes.
- **Build local capacity rather than replace it.** Donor programs often breed dependency and limit institutional ownership of the effort. For instance, the international community has done election day logistics for the CEP for the past decade. During this assessment there was a widespread perception among internationals that the CEP could not deliver an election without this UN logistical support. However, until the elections organized by the transitional government in 2006, the CEP and GOH played a much more active role in their own logistics, and in fact, did all of the logistics for the 2000 second round without any international assistance. Those elections were not considered as credible, but for polling integrity reasons, not because of logistical issues.
- **Negotiate Memorandums of Understanding for DRG work with GOH institutions before procurement** of implementers to ensure institutional buy-in and agreement for the main objectives

and activities of the proposed program. The 2011 project with parliament felt its objectives were too broadly stated which left them open to different interpretations by MPs who wanted other uses for project funding. The use of a formal memorandum would commit the parliament as an institution to the project which is needed in the context of an institution that changes leadership annually and where each new leader wanted different things from the project.

- **Focusing on gender issues does not necessarily bring women to work together in a politicized and polarized context.** Women, as is the rest of Haitian society, are divided along many different lines. Women in parties or in CSOs working on gender issues are not necessarily united by the cause of gender equality or rights because of these other differences. Support should be provided to women opinion-shapers who can help these groups see beyond their differences and find common ground to address gender and other important issues. This lesson is also valid for men as well as women and for all groups working to strengthen DRG.
- **Focus on senior to mid-level management** and who will soon be in leadership positions. Significant progress can be made at the technical level to improve systems and 'modernize' operations. This can tighten the processes and procedures that lead to more standardization and greater transparency, reducing the room for clientelism and graft. The more professional and better trained upper to mid-level management class now working within government institutions can create the critical mass needed to sustain change.
- **The impact of political will on DRG development efforts cannot be under-estimated.** The lack of will for a more accountable system and power sharing has kept the massive international investment made in Haiti from making the changes needed for Haiti's overall development. This lesson has been evident since the 1987 constitution was enacted.
- **The issue of spoilers needs to be addressed proactively in all programming.** Spoilers have vested interests in maintaining the status quo or changing it to their benefit. They are ever present in the Haitian context and will work proactively to discredit, disrupt or co-opt processes where they think they have something to gain or lose regardless of how well it functions. And they will do this by any means. Programming that develops standardized systems, are transparent and inclusive can reduce the maneuvering room for spoilers, but only a change of culture and a more equitable power-sharing formula for governance will eventually remove them. Programming needs to be conscious of their presence and tactics, and incorporate mechanisms to deter spoilers, limit their range of operations and mitigate the worst effects of their actions.
- **Resolve governance issues as the top priority.** This was a lesson noted by the National Academy of Public Administration on why foreign aid to Haiti failed in 2006, and which still seems appropriate today. "Haiti illustrates that failing to address issues of poor governance and political instability jeopardizes the entire aid effort. Donors face two choices: either to engage governments or wait until countries resolve their own governance issues. The problem with the latter is that fragile, post-conflict states are very unlikely to ever resolve their own governance issues without assistance. And while they are doing so, economies, societies and people's lives can be severely damaged. ... strategic countries like Haiti require intense engagement with good governance and political stability as the highest priority."<sup>134</sup> Additional lessons are that technical solutions will not provide sustainable remedies unless they are part of a broader approach that includes the political dynamics and the institutional rules of the game in which the institutions function.

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<sup>134</sup> National Academy of Public Administration, Op Cit, p 25

# ANNEX C: GENDER CONSIDERATIONS

Women as well as men are affected by the main DRG problems identified in this assessment. However, women, persons with disabilities and LGBTI groups are more severely affected because they are already marginalized by custom and their place in society. Addressing the DRG problems identified in this assessment will help women, and LGBTI persons as well as the Haitian men and vulnerable groups such as the extreme poor and elderly. However, to address the specific needs facing women and LGBTI groups, the assessment recommends:

- Incorporate the findings of USAID's gender assessment into DRG and all USAID programming to ensure they address the specific rights and needs of women, LGBTI as well as men. For men in particular, the unemployed youth.
- Consult with women, youth and LGBTI groups on DRG-related program designs and implementation plans to ensure program inclusivity and to vet any training manuals developed by USAID and ensure they incorporate needed equity awareness components.
- Identify key women in leadership positions, both elected and in staff positions and local, regional and national levels, to ensure their inclusion in programmatic and training activities. Support networks that provide peer support to women leaders and focus on common issues.
- Build a power network of strong women leaders, parliamentarians, local officials, judges, ministers, civil society activists and businesswomen who can champion equity issues, gender reform and the inclusion of women at the national and local levels. Encourage networking with male champions of reform and link this network with similar efforts in the region, especially with the Dominican Republic.
- Continue support for women-led CSOs, LGBTI and youth groups for advocacy with elected officials for improved legislation, with ministries and the private sector for equal treatment and to develop and disseminate civic education messages on equal rights, inclusion, respect and tolerance.
- Continue support to educate the public on gender-based violence and violence against women and children, to monitor and publicize the situation and the work of the security and justice sectors in handling these cases.
- Continue support for women candidates, newly elected women leaders and women party members at both national and local levels. Support the implementation of the gender quota to increase the numbers of qualified women in elected, appointed and competitively recruited offices. Continue work on reducing election-related violence against women candidates and voters.
- Help to reduce the stigma of LGBTI through public awareness messages, networking of LGBTI advocacy groups and supporting advocacy for policy development and monitoring.
- Support women-driven community based development programs in other sectors. These programs are where many women get involved in good works at community level and some eventually run for local office. This work provides these women with social capital at the community level that have allowed them to overcome the male dominated political context in their areas and win elected office.
- Support for the women's and youth wings in political parties to strengthen their voice within the party, improve their inclusion and understanding of concepts such as internal party democracy and intra-party dialogue, and build their leadership skills to strengthen the next generation of leaders

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