HAITI

CAPITAL: Port-au-Prince
POPULATION: 9.2 million
GNI PER CAPITA (PPP): $1,180

SCORES	2006	2010
ACCOUNTABILITY AND PUBLIC VOICE:	N/A	3.30
CIVIL LIBERTIES:	N/A	3.97
RULE OF LAW:	N/A	2.63
ANTICORRUPTION AND TRANSPARENCY:	N/A	2.04

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Daniel P. Erikson

INTRODUCTION

Haitian politics have been embroiled in conflict ever since the country gained independence in 1804. Over the past two centuries, there have been 34 coups d'état in Haiti, and the violent overthrow of government has been far more commonplace than the peaceful transition of power from one president to another. Indeed, the Haitian conflict has evolved into a kaleidoscopic, multidimensional power struggle among an evolving array of competing groups that has defined the country's contentious politics for more than two centuries. While the historical roots of conflict reach back to the country's founding, an analysis of Haiti's contemporary political landscape can usefully begin with the fall of the Duvalier regime in 1986. The ouster of Haitian dictator Jean-Claude "Baby Doc" Duvalier, who had succeeded his father François "Papa Doc" Duvalier following the elder's death, was a cathartic moment that ushered Haiti into an unstable period of democratic transition. However, that is where it remains largely stalled nearly a quarter-century later, struggling to overcome legacies of authoritarian leadership, poor governance, extreme social and economic polarization, and impunity for political and economic elites.

Haiti's path toward democratic consolidation has been marked by an intense array of tumult and setbacks. In the 1990s, Haiti was on the front lines of international efforts to help bind Latin America and the Caribbean into a

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"community of democracies." This was most dramatically demonstrated three years after the 1991 military ouster of democratically elected president Jean-Bertrand Aristide. The de facto military regime largely destroyed state institutions, while the economic embargo imposed by the United States and other international actors from 1991 to 1994 severely damaged the economy. In 1994, the Clinton administration authorized the U.S. military to help restore Aristide to power and stanch the migration crisis caused by tens of thousands of boat people fleeing the repressive military junta. Following Aristide's return, the United States and other international partners poured more than US$1 billion into Haiti to build its police and judicial institutions, fund elections and encourage good governance, alleviate widespread poverty, and forge a more sustainable economy.

Haiti held presidential elections in 1995, when René Préval, an Aristide ally, won the presidency in a free and fair vote, and again in 2000, when Aristide was brought back into office in an election that was boycotted by the opposition, spurned by international monitors, and characterized by low turnout due to an ongoing political dispute over the validity of parliamentary elections held in May of that year. The international community, led by the United States, responded by cutting off aid to the Haitian government, which began to unravel and eventually collapsed when an armed rebellion in the countryside forced Aristide from the presidency on February 29, 2004. Departing under intense pressure from the Haitian rebel uprising, domestic opposition groups, and the governments of the United States, France, and Canada, Aristide penned a resignation letter, boarded a U.S.-chartered plane, and was deposited in Africa, where he remains in exile.

During the next two years, from 2004 to 2006, the interim government of Gérard Latortue presided over a normalization of Haiti's relations with the international donor community and was kept in power principally by the Brazil-led UN stabilization force that entered Haiti with several thousand troops in the summer of 2004 and now numbers about 9,100 personnel. In February 2006, former president Préval was elected with a slight majority of the total vote in the first round of balloting, while the other 33 presidential candidates split the remaining half of the vote between them. During the next two years, Haiti notched up several important successes: a considerable diminution of politically related strife, the restoration of an elected parliament, a return to economic growth (estimated at slightly less than 4 percent in 2007), and the establishment of basic security as a result of improvements in the initially troubled UN mission.

In 2008, however, Haiti suffered a profound setback when riots sparked by rising food and fuel prices led to the parliamentary ouster of Prime Minister Jacques-Edouard Alexis in April, leaving the government rudderless for months until his successor, Michèle Pierre-Louis, was eventually confirmed in September. Until the riots, Préval appeared to be successfully balancing societal

tensions by reaching out to Haitian elites while signaling solidarity with the poor, and there has been undeniable progress in a country that has had to begin virtually from scratch time and time again in recent decades. However, this fragile consensus has become increasingly frayed and may unravel further. Moreover, Haitian politics will turn increasingly contentious in the battle to replace Rene Préval in the presidential election scheduled for November 2010, and the country remains both a source of regional instability and a country where freedom remains under threat by both state and nonstate actors. *[Editor's Note: In November 2009, Michèle Pierre-Louis was removed from her post after facing criticism by Parliament about Haiti's use of international aid funds and the country's difficulties in weathering the global economic slowdown. Her removal underscored the continued fragility of Haiti's political system, but the rapid appointment of her successor, former minister of planning and external cooperation Jean-Max Bellerive, avoided a prolonged crisis.]*

ACCOUNTABILITY AND PUBLIC VOICE   3.30

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS	2.75
EFFECTIVE AND ACCOUNTABLE GOVERNMENT	2.50
CIVIC ENGAGEMENT AND CIVIC MONITORING	3.67
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION	4.29

In February 2004, Haiti's simmering political situation exploded. President Aristide was forced from power a second time when the combination of a violent uprising, intransigent political opponents, and international pressure forced him to flee into exile in South Africa. Aristide's departure, coupled with the expiration of Parliament as the terms of most legislators came to an end with no new elections held, left the country devoid of any elected democratic apparatus whatsoever. The international community scrambled to put together a mechanism for selecting a new prime minister and created a seven-person *Conseil des Sages* (Council of Wisemen), who quickly settled on Gérard Latortue, a former Haitian foreign minister and semi-retired UN official who won the job on a phone interview from his home in Florida. Latortue then flew to Port-au-Prince to assume the post, while Supreme Court justice Boniface Alexandre was elevated to the presidency in accordance with procedures outlined in the Haitian constitution. During 2004, an emergency Multinational Interim Force was cobbled together by the United States, Canada, France, and Chile to provide stability in the wake of Aristide's departure. In June, this deployment gave way to a larger UN peacekeeping force, which was led by Brazil and featured heavy Latin American participation.

Latortue, who led Haiti's government from March 2004 to May 2006, assembled a cabinet of principally nonpartisan technocrats, although several opposition figures—including members of the army disbanded by Aristide in

1995—landed key posts, while Lavalas, the political organization founded by Aristide, went unrepresented. This unelected government largely derived its ability to govern from the support of the United States and other members of the international community, and its tenuous political legitimacy sprang from its rhetorical embrace of a mandate to organize credible elections and transition to a new government, along with progress in macroeconomics.

By the end of its mandate, however, the interim administration's technocratic credentials had become overshadowed by its penchant for becoming entangled in messy political battles, such as sparring with member countries of the Caribbean Community, jailing dozens of prominent Lavalas supporters, and later jumping into the presidential contest to bar prominent Haitian American candidates from participating. Latortue, who lacked a strong political base within the country, was hesitant to alienate the rebel leaders and opposition figures who had pushed for Aristide's ouster. However, the pledge taken by Latortue and his top ministers not to compete in the elections enhanced the political credibility of both the government and the election process as a whole. To its credit, the interim government never wavered in its support for Haiti's return to a democratically elected government, and it played a constructive role in the negotiations following the 2006 presidential elections. The Latortue government made little headway in promoting national dialogue and political reconciliation, but its political legacy was relatively benign.

Starting in February 2006, Haiti held three rounds of elections, for presidential, parliamentary, and municipal seats. Since then the democratic process has faltered. For example, new elections planned for December 2007 to replace one-third of the senate (10 of the 30 seats) were postponed until April 2009, when they were eventually held amid lackluster turnout. Furthermore, the Haitian constitution requires that the elected president (in this case Préval) appoint a prime minister to run governmental affairs, subject to approval by Parliament. Préval selected Jacques-Edouard Alexis, who had also served as prime minister during the previous Préval presidency. However, Alexis was forced from office in April 2008 when a majority of the Senate voted for his removal amid widespread dismay over high food prices. Haiti was thus left for four months with a caretaker government that could not initiate new programs. This created a sense of drift that was further exacerbated by fallout from severe damage inflicted by a series of hurricanes that battered the island in 2008, destroying crops, killing 800 people, and burying entire towns under mud flowing down from eroded hillsides.

Haiti's profound levels of socioeconomic inequality and exclusion, weak civil society, poorly articulated political party system, and structural class tensions have resulted in an extended period of low-intensity conflict that periodically sparks more widespread political upheaval. The Haitian constitution of 1987 is the governing political charter of the country, and although it upholds democratic values, many of its key provisions have traditionally been ignored

in practice. In recent years, Haiti has held semi-regular elections organized by—and often at the behest of—the international community. While there is a Haitian Provisional Electoral Council with nine appointed members charged with drafting election laws and organizing elections, it often operates in a murky and disjointed manner, and its staff has at times been driven from the country following elections due to threats of violence by actors who disagree with the outcomes. The country's chronic inability to form a Permanent Electoral Council is due in part to the requirement of a complex, constitutionally mandated process, which is one of several issues that have led to repeated calls for constitutional reform, including from the Préval administration itself.

The February 2006 presidential election was generally considered free and fair, but there were concerns that Préval was unfairly awarded a first-round victory despite his initial tally falling short of the 50 percent required to avoid a runoff. International monitors approved a plan whereby blank or spoiled ballots were not included in the total, which allowed Préval's vote to reach the decisive margin of victory. While incidents of violence and blatant fraud have decreased in recent years, significant problems persist, particularly in parliamentary elections. Low voter turnout is attributable to a security presence at the polls that may intimidate some voters, voter apathy due to poor government performance, and a ban on motorized transportation on election day. In addition, logistical problems are common, including tardily posted voter lists, the failure of polling stations to open on time, and inconsistent training of poll workers.

Haiti's political party system is a free-for-all, demonstrated most vividly when 34 presidential candidates competed in the 2006 election, most under separate party banners. Parliament is elected in a two-round system, with the majority of votes cast in single-member constituencies. Regulation of campaign financing is basically nonexistent, which means that influential business interests, foreign supporters, and even arms and narcotics dealers have the capacity to funnel resources towards their chosen candidates without oversight. Haiti already has some high-profile elected officials in Parliament with alleged ties with narco-traffickers, and observers are concerned that the role of drug money could increase in the next electoral process. Following Aristide's 2004 departure, Lavalas participated in the 2006 elections, but was excluded from the 2009 senatorial elections when its fragmented factions could not agree on a single slate of candidates. Préval has created a successor movement to Lavalas, known as Lespwa (Creole for Hope), but its members lack a formal party structure and remain atomized in Parliament. Since 1990, the history of Haiti's democratic transition has been dominated by two figures, Aristide and Préval, each of whom were twice elected president. Thus, Haiti still lacks an effective rotation of power among a range of political parties and leaders.

According to the constitution, Parliament is supposed to play a crucial role in governing the country by naming the prime minister, formulating the budget, and overseeing the operation of the ministries and the cabinet. In practice,

however, Parliament lacks a working committee structure, a professional staff, developed institutional norms, or even adequate physical facilities. Haiti's legislative branch consists of two chambers: a 99-member Chamber of Deputies and a 30-member Senate. In 2009, the Haitian legislature was divided among several smaller parties with no one party holding a majority, although the emergence of the cross-party Commission of Progressive Parliamentarians bloc of some 60 deputies has gained increasing importance in the legislative process. In general, Parliament's operational handicaps allow the president to assert his prerogatives, but even then, inadequate follow-through leads to important pieces of legislation stagnating in Parliament for months or years. Parliament also occasionally plays an important blocking role but has limited ability to propose or shape legislation.

Local political institutions exist, though in nascent form. In December 2006, voters filled 420 offices consisting of a mayor and two deputies for each municipality (140 mayors and 280 deputies in all) and 9,000 community officials, which according to the "bottom-up" approach codified in Haiti's constitution would provide the basis for selecting Haiti's Permanent Electoral Council, although this has yet to transpire and may prove impossible to bring about in practice.

Similarly, Haiti's political party system remains so atomized that many analysts argue that the country does not have political parties in the traditional sense, but instead has small, narrowly based groups that coalesce around leaders of varying stature and charisma, particularly as elections approach. As a result, these under resourced nominal parties do little in the way of presenting views on the country's pressing development challenges. The country's weak national institutions have proved ill-equipped to mitigate political conflict; the judicial system is overburdened and ineffective, and there is an alarming trend of extrajudicial justice being meted out on the local level. A recent rise in lynching indicates the high level of citizen frustration with the country's dysfunctional judicial and penal systems, which could become very dangerous if left unchecked.

In addition, Haiti lacks adequate channels for civic monitoring. Key government decisions are often made in secret or without full public review, and the Préval government lacks a coherent public relations strategy or even appropriate mechanisms for keeping the public informed about government business. Still, local civic groups, often supported by foreign aid, do manage to operate relatively freely. Greater attention is being given to the fact that the cacophony of 3,000 or so nongovernmental organizations (NGOs) working in Haiti operate in an uncoordinated and unregulated fashion, particularly now that donors have endorsed the government's national development plans. Parallel calls have emerged from leading multilateral institutions such as the World Bank for greater coordination between donors and donor-supported NGOs and the government, particularly in pursuit of unifying national development efforts and rationalizing resources.

The Haitian constitution explicitly enshrines freedom of speech and prohibits the censorship of journalists "except in the case of war."[1] The Haitian state lacks a record of trying to silence journalists through heavy-handed legal means such as fines or imprisonment. In practice, however, Haitian journalists have frequently been the targets of violence, although this trend has ameliorated somewhat since the most recent return to democratic rule. The murder of radio journalist Jean Dominique in 2000 was a seminal event of press repression, and the case remains unsolved. Several more-recent cases have also provoked concern. In January 2005, Abdias Jean, a young Haitian radio journalist, was allegedly shot by police officers while investigating a story of police brutality. That July, Jacques Roche, the host of a popular television show, was kidnapped for ransom and later killed. In two separate cases during 2007, photographer Jean-Rémy Badio and Alix Joseph of Radio Provinciales in Gonaives were gunned down by unknown assailants after receiving death threats from local gangs.

The Haitian media today reflects the polarized fault lines of the society as a whole. Divisions within the media exist along lines of race, class, and status, with splits between pro- and anti-Aristide outlets also playing a role. Haiti's media culture, especially in the area of public and community radio, is rooted in a culture of resistance to dictatorship that fueled its emergence during the Duvalier era, and most journalists lack the training and professional standards to serve as the type of objective sources of information that would strengthen Haitian democracy. Haiti's political divide is reflected in media sources, press agencies, and audiences, and in media and journalist associations, such as the rivalry between the National Association of Haitian Media (ANMH) and the Association of Independent Media of Haiti (AMIH).

Radio is the form of media that has proliferated most rapidly in the post-Duvalier era, and today over 90 percent of the population of 8 million is reached by more than 290 FM stations operating without a license. Port-au-Prince, for example, has 41 stations for a population of roughly 3 million, and the smaller city of St. Marc has 37 stations operating in a community of 300,000. There are more than 70 community radio stations, often linked with political groups or parties, and 41 of these are affiliated with Rasanbleman Medya pou Aksyon Kominote (RAMAK), the country's largest media association. Television stations, by contrast, are far less prevalent, with about 20 in Port-au-Prince and another 15 in the provinces.[2] Many television stations have been established in the last three years by radio and newspaper owners seeking to expand their influence, but the total television audience in Haiti is below 10 percent due to expensive equipment and lack of electricity. Haiti has two main newspapers, *Le Nouvelliste* and *Le Matin*, with estimated total readership of about 75,000 each. In addition, there are three weekly news bulletins targeting different political tendencies.[3] Internet use, though marginal in Haiti due to illiteracy and lack of electricity and infrastructure, is expanding throughout the country, as is cell phone and text messaging use.

The legal framework for regulating the media in Haiti is unwieldy and poorly coordinated, with competing responsibilities among several ministries and lax oversight. The National Telecommunications Council (CONATEL) is part of the Ministry of Public Works and issues radio and television broadcasting licenses but does not regulate content or the usage of the airwaves, and license delivery is often irregular, while the main stations operate illegally without being subject to any control. Most media is not state funded; if anything, support for government-funded media should increase as Haiti lacks a reliable source of information for official news. At present, it is not uncommon for President Préval or parliamentary members to give a major speech, for example, that is not covered by private media nor broadcast on government-owned outlets. Transcripts and recordings may be made available several days later, but the government's inability to carve out a niche in Haiti's fragmented media landscape has complicated the task of governing and led to frequent misunderstandings and frustration among the Haitian public.

CIVIL LIBERTIES   3.97

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE	2.50
GENDER EQUITY	3.67
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS	3.00
FREEDOM OF CONSCIENCE AND BELIEF	6.67
FREEDOM OF ASSOCIATION AND ASSEMBLY	4.00

The civil liberties protections codified in Haitian law are frequently violated by state authorities, and victims have little recourse. This unfortunate reality stems from the fact that Haiti's deeply deteriorated security situation lacks easy remedies. The armed uprising of 2004 exacerbated trends that have been in evidence since the late 1990s, including the gradual disintegration of the Haitian police force, the prevalence of guns throughout the country, the absence of judicial institutions, and the violent activities of politically affiliated gangs, many of which retain linkages to members of the disbanded Haitian military. The return of former military officers (some credibly accused of terrible human rights abuses), the breakdown of the penal system and the release of many prisoners, and the apparent impunity for violence all mean that armed elements continue to be a powerful force for destabilization in Haiti. Any efforts to restore security and the rule of law to Haiti will require a sustained international peacekeeping presence, the disarmament of militant groups, and the reconstitution of a national police force.

International peacekeepers returned to Haiti in 2004 under the mandate of a UN Security Council Resolution that authorized a peacekeeping mission led by Brazil. This force, which numbers 9,100 and is known as the United Nations Stabilization Mission in Haiti (MINUSTAH), will have to be maintained until

a national police force can be established and made functional—at least a decade. Although Haiti's security situation has generally improved since 2006, largely attributable to improved performance by the United Nations, it remains plagued by ongoing social problems that pose a continued risk of renewed violence. The UN Security Council has extended the mandate of the peacekeeping mission until October 15, 2010, with a total force of 6,940 military troops and 2,211 police officers.[4] This one-year renewal marked a welcome sign of the international community's continued commitment to Haiti. Concurrently, the Haitian National Police (HNP) initiated a vetting process to examine officers' records in detail; hundreds suspected of corruption have been purged and new recruits have been selected and trained. Recent polls indicate that Haitian confidence in the police has improved markedly in the past two years.

Haiti continues to be plagued by high crime rates, especially kidnapping and property crime. To some degree, the crime level in Haiti is judged more by perception than by hard statistics. The HNP do not collect murder or kidnapping statistics, nor do local NGOs. The United Nations estimates that Haiti's murder rate is roughly 30 per 100,000 annually, which would rank the country among the most dangerous in the world, but this figure has not been systematically verified. At the same time, there are few protections against arbitrary arrest and detained suspects often languish for months or even years without facing trial. Prison conditions are reported to be among the worst in the world, and it is common for prisoners to be crammed into small, dirty cells that are overcrowded and often rife with disease. Haiti's 1987 constitution created the Office of Citizen Protection, but its role as an ombudsman's office is severely circumscribed due to lack of resources. Human trafficking, especially in children, persists. The United Nations estimates that there are 300,000 involuntary child domestic laborers in Haiti (known as *restavecs*, which is Creole for "stay with"), whose families are forced by extreme poverty to send them to work in more prosperous households.[5]

The Haitian constitution does not explicitly outlaw gender discrimination. The minimum legal age of marriage is 15 for women and 18 for men, resulting in frequent early marriages, especially in rural areas. In 1994, Haiti established a Ministry for the Status of Women, but it has engineered few significant policy changes. Haiti has appointed two female prime ministers since its first democratic election in 1990: Claudette Werleigh (November 1995–February 1996) and Michèle Pierre-Louis (September 2008–November 2009). Still, gender discrimination remains pervasive. Haitian law prohibits and punishes rape and domestic violence, but women are still frequently its victims. A domestic association called Solidarité des Femmes Haïtiennes (SOFA) has estimated that 8 in 10 Haitian women have been victims of domestic abuse, with the husband or partner as the perpetrator in half of all cases.[6] Haitian law provides leniency for husbands who murder their wives if the woman has committed adultery, but the same does not hold true for the much rarer cases where wives have killed philandering husbands. In rural areas, some rape survivors have obtained

justice in the form of financial settlements from their assailants, in effect treating the crime as a civil rather than a criminal offense. Medical care for pregnant women is especially poor; loss of mother's life during childbirth reaches 680 per 100,000 live births, one of the highest rates in the world.[7] Despite ongoing gender disparities, Haiti is not characterized by oppressive cultural practices such as female genital mutilation or strict dress codes for women. In general, Haitian women do not share an equal place in Haitian society, which makes it difficult for them to have their civil liberties respected to the same degree as Haitian men. Unemployment—estimated at somewhere between 70 and 80 percent in Haiti—is an equal opportunity burden.

Haiti is a largely black and Creole-speaking population with few ethnic minorities. Those that do exist are frequently of European, Arabic, or Jewish descent and are relatively more affluent than black Haitians. All Haitians are entitled to full equality under the law, although indigent Haitians have little legal recourse, while wealthy Haitians who commit crimes often escape punishment. Homosexuality between consenting adults is legal in Haiti. Gay Haitians may face discrimination and harassment, but Haiti does not exhibit the virulent homophobia that exists in much of the English-speaking Caribbean and violence against homosexuals is rare. Still, no Haitian political party has backed the cause of defending or promoting the civil liberties of homosexuals. Regarding people with disabilities, the Haitian constitution states that "the handicapped . . . shall have the means to ensure their autonomy, education and independence." In practice, however, disabled citizens receive minimal state support and often face lives of extreme hardship.

The Haitian government generally respects the right of religious freedom and different religious groups coexist amicably. Roman Catholicism is the dominant religion, representing about 80 percent of the population, with Protestantism the most significant second religion at 15 percent, but the African-based spiritist religion of voodoo is also widely practiced. In 2003, the Haitian government officially recognized voodoo as a religion, and marriages in voodoo ceremonies now enjoy full legal status.[8] The Haitian government does not usually interfere in the practices of religious organizations.

Haitian law has long guaranteed the rights to freedom of association and assembly, but these have been violated in practice, especially during moments of high political tension. In the waning months of Aristide's rule, mass protests against his government became increasingly frequent and often resulted in violent clashes between pro- and antigovernment forces and with the HNP. Following his exile in 2004, Aristide supporters began to organize rallies and protests against the interim Latortue government, which sometimes led to violent incidents. Once Préval took power in 2006, protests diminished but still occurred on occasion. The April 2008 spike in food prices prompted thousands to protest and resulted in several deaths; the sources of the unrest were not systematically investigated despite credible claims that narco-traffickers and others

chafing at the government's recently launched anticorruption program were among the instigators. In June 2009, Haiti became embroiled in weeks of protest over a parliamentary decision to raise the minimum wage from US$1.70 to US$4.90 a day, with university students demanding that Préval sign the controversial measure.[9] Later that month, thousands of mourners gathered to commemorate the passing of Gerard Jean-Juste, a controversial priest and advocate for the poor, but the event ended in rock throwing directed at UN peacekeepers and gunfire that left one man dead, an act for which the United Nations denied culpability.[10] However, annual marches by Aristide partisans on his birthday and on the anniversary of his second ouster have not devolved into violence.

Haitian law stipulates that trade union freedom is guaranteed and that union membership is voluntary, but unions have not historically been important actors in Haiti and workers' rights in the country are among the least respected in the hemisphere. Violence against trade unionists, infringement on workers' rights, and even child labor are all widespread. Protections for unions are frequently violated through means including the arbitrary dismissal of union employees and the provision of incentives and benefits to nonunion labor.[11]

RULE OF LAW   2.63

INDEPENDENT JUDICIARY	2.40
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS	2.20
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES	3.25
PROTECTION OF PROPERTY RIGHTS	2.67

Haiti's judicial system functions poorly and is rife with abuse. Due to the generalized weakness of the Haitian state, cases are frequently allowed to languish for years. As a result, even the effective pursuit of justice carries a whiff of illegitimacy because most cases do not progress in the absence of heavy political pressure. This means that the judiciary is highly vulnerable to external political pressure that is often a determining factor in the cases that are pursued. The continuing problem of impunity corrupts the system enormously, with perpetrators of terrible crimes circulating freely among Haitians and serving as a reminder of the justice system's dysfunction.

The most dramatic recent example of how politics dictates the administration of Haitian justice involves the case of Yvon Neptune, the former prime minister under Aristide. In 2004, the interim Latortue government arrested Neptune, but waited 14 months before officially charging him with any crime, a period in which Neptune went on a hunger strike and was temporarily taken into UN custody. In September 2005, he was charged with participating in a violent attack by Lavalas supporters in St. Marc, but no evidence was ever produced. Following Préval's election in February 2006, the Haitian government

ordered Neptune's release and he was freed from prison in July 2006, but the charges were never dropped. In July 2008, the Inter-American Commission for Human Rights issued a 60-page decision on the Neptune case that lambasted the Latortue government for arresting Neptune illegally and criticized the Préval government for failing to end his "legal insecurity."[12] Haiti has a Supreme Court (known as La Cour de Cassation) that is assisted by local community courts. One is eligible to be a Supreme Court judge after serving 7 years on the appeals court or 10 years as a lawyer. When a vacancy appears on the Court, any qualified person can submit their candidacy to the Senate, which votes to provide three names to the president, who appoints the judge of his or her choosing to a 10-year renewable term.

Haiti's Ministry of Justice and Public Safety is responsible not only for police forces and prison management but also for judiciary policy, which creates an inherent conflict of interest. Weak civil-service procedures, inconsistent legal education, and low salaries for judicial personnel (estimated at US$350 per month) contribute to the development of corruption and disinterest in monitoring administrative and professional personnel. Lawyers and judicial personnel must work in a system that lacks practice and respect for organizational and administrative procedures, and which usually leaves room for interpretation of the roles and responsibilities of justice. Given this background of weaknesses in the formal Haitian judicial system, informal justice practiced by traditional social and religious figures such as village elders and voodoo priests is frequently used to settle disputes.[13]

Haiti's criminal justice system respects the presumption of innocence in theory, but in practice thousands of prisoners are held without proper legal procedures being followed. The backlog of cases is systemic and the accused are often held indefinitely as they await their court dates. The legal code calls for the state to present its case in both Creole and French, but many cases go to trial in French despite the fact that most defendants speak only Creole. Lower-level judicial authorities, such as justices of the peace, are known to act outside of their jurisdiction to accuse individuals of crimes or even preside over trials that have no legal basis due to political ambition, corruption, bribes, or threats. Accused Haitians have right to counsel, but it is not constitutionally or legally required, and it is rare for politically connected individuals to face trial for wrongdoing.[14]

At the time of Aristide's ouster in 2004, it was clear that Haiti's 5,000-member police force was far too small to maintain order in a country of 8 million. The political uprisings, coupled with widespread police desertion, meant that Haiti's already small force lost two-thirds of its officers by the time Latortue arrived in power. Most studies suggest that an appropriately sized force would number closer to 20,000, which is substantially larger than what the international community has been willing to finance in the past. Building a new police force has been a costly and time-consuming initiative and has required international

leadership and resources. The HNP's fragility in the face of drug traffickers' superior weaponry and monetary resources—used to corrupt individual officers—means that those resources have often gone to waste. Nonetheless, the Haitian government's political will to tackle the gangs, combined with better cooperation between the United Nations and the HNP, has led to the capture or killing of major gang leaders and the reestablishment of a state presence in some of the country's most dangerous slums since 2006. This progress has restored the confidence of the Haitian population in the UN mission and increased support for the government as a whole. Due to heavy international involvement and funding, the size of the Haitian police force has grown from a rump force of 1,500 in March 2004 to 8,300 in November 2008, a significant improvement but still far below the target of 14,000 officers by 2011.[15] Absent substantial efforts to increase the HNP's size and strength as international resources shift toward development, social peace will remain tenuous.

The vetting and training of police recruits at Haiti's revamped police academy has improved considerably over past years, but it remains an open question whether the country's newly minted police officers will eventually fall prey to the culture of incompetence and corruption that tainted their predecessors. The Haitian military was disbanded in 1995, but some former military officers continue to participate in gang- and drug-related activities and remain a destabilizing force; civilian control over the country existed to only a limited degree even before the entry of the UN peacekeeping force. The level of cooperation between the peacekeepers and the government has improved markedly in recent years but remains a point of political tension in Haiti as an important faction of Parliament views the UN presence as a violation of Haitian sovereignty and would like to see the mission draw to a close. The prevalence of police-administered extrajudicial justice has declined, but Haiti has not achieved a method for holding police fully accountable for human rights abuses.

Haitians have the right to own property individually or collectively, but only a small minority have formal title to the property that they live on. State enforcement of property rights and contracts is severely lacking. The *2009 Index of Economic Freedom* awarded Haiti one of the lowest possible scores for property rights, noting that "protection of investors and property is severely compromised by weak enforcement, a paucity of updated laws to handle modern commercial practices, and a dysfunctional and resource-poor legal system . . . most commercial disputes are settled out of court if at all."[16] In 1999, a private sector group brought to Haiti Peruvian economist Hernando de Soto, famous for his efforts to increase the economic capital of the poor through property titling. De Soto estimated that US$5.2 billion (US$3.2 billion in the countryside) existed in the hands of poor people but was "dead" because of the lack of clear title, bureaucratic red tape, intimidation tactics used by private sector forces, and corruption. Since the early 2000s, this issue has not been addressed.

ANTICORRUPTION AND TRANSPARENCY   2.04

Corruption poses an insidious challenge to political legitimacy and economic growth in Haiti. The transition away from authoritarian rule failed to end corrupt practices and even created new opportunities to harness public resources for private enrichment. Abuse by public officials tends to be most prevalent in sectors where the government exercises greater control over economic resources, but it is also widespread in Haiti's private sector. Corruption in Haiti typically takes two forms: administrative corruption and state capture. Administrative corruption, such as bribery, may occur at all levels of government, ranging from the small fee paid to expedite paperwork to multimillion-dollar kickbacks solicited to secure government contracts. State capture is an even more pernicious phenomenon in which officials and party leaders shape the legal and regulatory environment to favor their own interests. While President Préval is not perceived to be personally corrupt, neither has he had much success in reforming Haiti's culture of corruption. Transparency International traditionally ranks Haiti as the most corrupt country in the Americas in its annual Corruption Perceptions Index, and in 2008 Haiti was ranked 177th out of 180 countries–only Iraq, Myanmar, and Somalia were lower.[17]

Haiti's institutional weakness is coupled with an excess of bureaucratic regulations that multiply the opportunities for corruption. Public officials often leverage their positions for private gain, such as by demanding payments or bribes to expedite paperwork for identity documents or legal transactions. In addition, bribes and graft are common in social services such as education and health care. The Haitian government does not play a large role in the country's economy, accounting for only 14.4 percent of GDP in 2008, actually a rise from previous years due to an increase of foreign aid to Haiti's public sector.[18] Even this relatively small presence is poorly regulated, and Haiti lacks respected processes for financial disclosures, although the president signed a bill in January 2008 that requires high-level public officials to declare their assets. Campaign finance is virtually unregulated, allowing both legitimate and corrupting actors to help elect Haitian officials and subsequently wield considerable influence.

Haiti largely lacks anticorruption mechanisms and allegations of corruption are infrequently investigated. Media avidly report on anticorruption cases launched by the government but lack the resources and investigative skills to ferret out reports of wrongdoing independently. Whistleblowers may lose their jobs and find little legal recourse. While acts of bribery are punishable by one to three years of imprisonment, the deficiencies of the Haitian legal system

have made enforcement of these laws difficult.[19] In 2004, the Haitian government ratified the OAS Inter-American Convention against Corruption and created an Anti-Corruption Unit (ULCC) within the Ministry of Economy and Finance that was charged with conducting a comprehensive survey of governance, investigating alleged acts of corruption, and developing a national anticorruption strategy. The government embraced its proposed strategy in March 2009.[20] In 2007, President Préval announced a major anticorruption initiative in which he declared that "this war without end against corruption will be long and hard, but we will win because it's a fight for life."[21] The announcement was acclaimed at the time, but there has been little follow-up.

Prosecutions are rare, especially at the highest levels of government. While the constitution requires that high-level officials and parliamentarians accused of corruption be tried before the Senate, this is an extremely rare occurrence, and no cases were heard in 2008.[22] The country's most high-profile corruption scandal involves former president Aristide, who has been accused of extorting millions of dollars of government funds, in part by entering into a fraudulent agreement with the telephone company IDT. No legal proceedings have been initiated against Aristide, however.[23] In addition, numerous cases of influence peddling have surfaced in Parliament in recent years. In September 2008, several officials in the office of the prime minister and the Parliament were investigated for misappropriation of public funds in a case involving the National Insurance Office (ONA). The ULCC recommended that legal action be taken against ONA director Sandro Joseph for money laundering; while prosecution stalled, Joseph was removed from his position.[24]

Haiti's corruption problem is complicated by limited public access to government information and a lack of transparency in government dealings. Article 40 of the constitution enjoins the Haitian government to publicize all laws, orders, and treaties on issues affecting the national life, orally and through print and electronic media, in both Creole and French. Apart from this provision, however, Haiti lacks freedom of information legislation, although in 2007 the Haiti Heritage Foundation, the local branch of Transparency International, prepared a draft bill on freedom of information to be submitted to Parliament.[25] In recent years, the government has done a better job of presenting an annual budget and tracking expenditures, mainly to please foreign donors, but this information often does not make its way to the Haitian public. An automated system for budget management that is meant to further increase transparency in expenditure accounting has been operational since 2005 and was further expanded to all line ministries in 2008 and 2009.[26] In addition, the Supreme Auditing Tribunal has been slowly working to catch up on the auditing of government accounts, although it is still years behind.[27] Concern about limiting corruption often leads the Haitian government to spend its foreign aid resources slowly, which hampers delivery of foreign assistance to the neediest Haitians. At the urging of international donors, in early 2005, the government created the National Commission for

Public Procurement (CNMP) to implement competitive procurement methods. Nevertheless, reports of corruption in procurement persist, due in part to the fact that contracts—notably those involving the state-owned Electricite d'Haiti—often circumvent the CNMP.[28] In June 2009, Parliament passed a new public procurement law to bring its procurement procedures in line with international standards.[29]

RECOMMENDATIONS

- Develop domestic capacity to hold regular elections, maintain a viable civil registry, and verify the eligibility of political candidates so that the country can assume the responsibility of managing and financing its electoral process and reduce its dependence on the international community.
- Dramatically revamp and upgrade the caliber of government communications and increase the transparency of government deliberations through the use of frequent press briefings, community radio, and the publication and release of key government documents in both Creole and French.
- Confront the glaring problems in the Haitian judiciary and penal system by investing in infrastructure, increasing judicial pay, systematizing professional legal norms, hiring lawyers and judges to address the backlog of cases, and ameliorating the inhumane prison conditions that result from overcrowding.
- Ensure that the vetting and training process for the Haitian National Police receives enough funding and attention so that the country will achieve its full complement of 14,000 trained police officers by 2011.
- Simplify the business code in order to minimize the bureaucratic process required for registering business and property titles.
- Develop social programs geared toward protecting the rights of woman and children and reducing domestic violence, including by creating violence prevention programs in poor urban and rural areas.

NOTES

For URLs and endnote hyperlinks, please visit the *Countries at the Crossroads* homepage at http://freedomhouse.org/template.cfm?page=139&edition=8.

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