

Promotion du dialogue pour la
réforme démocratique en **Haiti**

Pwomosyon dyalòg pou refòm
demokratik an **Ayiti**

Promoting dialogue
for democratic reform in **Haiti**



Policy Recommendations on Democratic Governance for Presidential Candidates in Haiti

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WORLD LEADERSHIP ALLIANCE
CLUB DE MADRID



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Now that the reconstruction after the 2010 earthquake has largely ended, the withdrawal of MINUSTAH is under way, and elections have been called and will renew the country's democratic institutions, Haiti has an opportunity to enter a political cycle that will bring it stability and allow it to tackle its real, deep-rooted problems, such as poverty, unemployment, a collapsed economy, and the weakness of its institutions. The current elections should offer solutions to these problems, and the political leaders cannot allow themselves to postpone indefinitely tackling the priorities responsibly. The people are looking at the presidential candidates and expecting to see leadership qualities, proposals and a long-term vision of the country.

This paper presents some possible solutions to the priorities in the area of democratic governance on which the Club de Madrid (CdM) has been working side by side with Haitian political stakeholders since 2010. It is intended to encourage exchanges with the presidential candidates on the following topics:

- ◆ Constitutional reform
- ◆ Development of a political party system
- ◆ Institutional independence, reform of the judiciary, and professionalisation of the public administration
- ◆ Improving the management of public finances and tax reform
- ◆ Decentralisation
- ◆ Relations between Haiti and the Dominican Republic.

The Club de Madrid is willing to pursue efforts to support the Haitian leaders in implementing these proposals through strategic political advice and thematic workshops to share meaningful experiences, based on the capital of trust and independence developed since 2010.

1. Constitutional Reform

In May 2011, the 1987 Constitution was amended. Some significant changes were introduced, such as dual nationality and a minimum quota of 30% for women. However, some important points that are raised when the Constitution is debated should be tackled through constructive and truly inclusive dialogue. For example, there is the question of the political system: Haiti should choose between having either a more presidential or a more parliamentary system, because the current in-between position with its mechanism of counter-weight has often led the country to legislative paralysis, with blockages and crises of governance that have stopped the heads of state and the government, whoever they were, from governing and therefore the country from advancing. Should more power be given to the President of the Republic, for example, by giving him

the power to dissolve parliament if there is a legislative blockage, so as to possibly get a parliamentary majority? Should he be granted the right to choose his own prime minister and dismiss him if he so wishes? In this case, we would have a more presidential system. Should he be permitted to run for two successive terms? It should be noted that one of the aims of the 1987 Constitution was indeed to lessen the powers of the president, who in the past had been an autocrat. Have the fears of the past melted away or are they still real?

If the powers of the president are strengthened, this will surely be at the expense of parliament. Also, some political analysts believe that parliament should not ratify the formation of the government; it should only comment on the prime minister's general policy statement, which would simplify the installation of a prime minister. Some also feel that there is a certain duplication between the duties of the Senate and Chamber of Deputies and it is therefore necessary to make a distinction between them.

The issue of the frequency of elections, which are thought to be held too close together, also merits to be addressed. The current electoral calendar provides for elections every two years and at times there can be elections in three consecutive years. Because of the country's economic difficulties and the political and social instability in every election period, an unsuccessful attempt was made in 2012 to standardise the terms of the various elected bodies, in order to reduce the frequency of elections. The operation did not succeed, due to a lack of a solid consensus. It would be appropriate to look at this option again.

One issue to be resolved is the status of the Electoral Council (CEP), which is still provisional and not permanent almost 30 years after the adoption of the Constitution. The continuing discussions and political crises surrounding the composition and independence of the provisional CEP start up again during each electoral cycle. The CdM considers that constitutional reform should lead to the installation of a permanent CEP. In fact, a number of studies have shown that a permanent CEP would make it possible to capitalise on building up its capabilities, and therefore lead to higher quality and ownership of the elections. In addition, evidence from a variety of countries shows that the indefinite extension of a provisional CEP puts electoral integrity at risk, creates distrust and influences the behaviour of political aspirants.

Because of the problems created by the issue of discharges for former ministers who wish to stand for an elected position, Haiti would gain by entrusting the sole responsibility for granting discharges to a professional, independent Supreme Court of Auditors and Administrative Disputes (CSCCA), without going through Parliament.

Lastly, the amendment process also warrants discussion. The current constitutional process is very laborious. It includes voting for the amendment declaration at the end of one legislature and its being ratified by the next legislature. The process was designed in this way to ensure that the executive could not change the constitution to its own advantage, and so that the amendment would benefit from a broad national consensus, since the two



legislatures would not necessarily have the same political configuration. Any changes to this process should benefit from a consensus obtained through inclusive talks leading to a formal political pact.

Proposals:

- ◆ To reform the Constitution as it draws near its 30th anniversary, through a practical, inclusive mechanism that seeks a consensus, e.g. a national political pact.
- ◆ To make a choice between a presidential or a parliamentary system, so as to allow the government to govern. In the former case, the president would choose his prime minister, have him or her form a government and would be free to change prime ministers without the involvement of Parliament. In the latter case, the prime minister and government would be designated by Parliament.
- ◆ To standardise the terms of elected members as either 4 or 5 years, which would reduce the frequency of elections.
- ◆ To entrust the responsibility of granting discharges solely to a professional, independent Supreme Court of Auditors and Administrative Disputes (CSCCA), without going through Parliament.
- ◆ To create a permanent CEP, with members chosen under a multi-party model, with representatives from the different social sectors, experts or a mixed model

2. Development of a Party Political System

For the democratic transition begun in 1986 to be successful, Haiti must develop and organise a political party system that is worthy of the name. 166 political parties registered for the last elections. A serious effort must be made to reduce party fragmentation and to develop and institutionalise three or four strong political forces in the country, well organised and with differentiated, precise, structured policy proposals. Numerous studies have shown that a more organised and less dispersed political system makes the formation of parliamentary majorities easier – thereby allowing Parliament to really play its supervisory role – and is linked to the government's being more stable and effective. To achieve this, a number of initiatives seem necessary.

First of all, the Political Parties Act could introduce “barriers to entry” to registering political parties, especially by increasing the requirements for representativeness, e.g. a given number of signatures.

Secondly, it would be desirable to organise talks and cooperation between the political parties, so that they can get to know each other better, exchange ideas about priority domestic issues and discover affinities in their political orientation. Some attempts were made between 2004 and 2006 with the creation of the

Political Parties Convention. A structure like this should be revitalized and given, among other things, a mission to work towards creating party alliances and stable coalitions, and consolidating political forces through technical assistance and political advice. Political parties seem very distanced from the concerns of the different sectors of society, and too often they lack the ability to define proposals for economic policy, a development plan, the national budget, reform of the state, etc. It is hoped that they will pay more attention to consulting civil society, the private sector, the academic community and other national stakeholders.

Political parties can also strengthen themselves based on their representatives in Parliament. Often, after parliamentarians are elected under one party's banner, they become independent from the party, do not inform it of the issues being debated in the two chambers and do not consult it on the positions to adopt. Political parties need support to help them to strengthen their links with their parliamentary members, which would help them to increase their visibility in the interval between elections and to develop.

Apart from those with links to the illegal economy, political parties have serious financial issues. Beyond the support that they can obtain from the private sector by maintaining contact with associations and groups who have a political agenda to promote, two types of public funding exist. One is financing for electoral campaigns, which is generally given. The other is funding for the political parties' normal operating expenses¹, which unfortunately has not been respected by the Haitian state. Political parties could get together to plead the case for mobilising public funding.

Proposals:

- ◆ To amend the Political Parties Act in order to reduce their number
- ◆ To revitalize initiatives for creating party alliances and stable coalitions, as well as consolidating the political forces through technical assistance and political advice
- ◆ To encourage and fund party operations between electoral periods, and to set limits to private funding

3. Institutional Independence, Reform of the Judiciary and Professionalization of the Public Administration

A system of checks and balances forms the basis of democratic governance, through the separation of powers and the work of independent, effective, transparent and accountable institutions. The budget allocations given to

¹ Under article 35 of the Political Parties Act, the equivalent of 1% of the internal resources of the national budget



Parliament must also be used to carry out studies and surveys of governmental action. The Budget Regulation Act must be examined by the CSCCA, presented to Parliament and voted on, before the examination of a new budget, in accordance with the law. A functioning Supreme Court of Auditors and Administrative Disputes (CSC-CA), composed of competent judges chosen by Parliament, is a necessary condition for exercising control over the executive. Whether it is the CSC-CA, ULCC (Anti-Corruption Unit) or the UCREF (Central Financial Intelligence Unit), all these institutions appointed to monitor finances cannot be effective unless there is a functioning justice system that is independent of the executive branch and the power of money.

And justice in Haiti needs serious reform. Firstly, so that it can end the dichotomy between those whose lives are ruled by traditional law and those for whom the benchmark is formal law. Secondly, justice must not only be accessible to a tiny proportion of the population that has the benefit of a certain level of education and financial resources. Reform of the criminal code is under way and is waiting for parliamentary vote in order to be implemented. Today, a vague aspiration can be seen in the judiciary for independence from the executive. This trend must be strengthened. In fact, the Supreme Council of the Judiciary (CSPJ) must exercise its constitutional functions, especially in regard to the selection, evaluation and sanctioning of judges. Appropriate treatment must be given by the judiciary to cases filed by the anti-corruption bodies.

Also, as MINUSTAH is gradually leaving the country, it is essential for Haiti to make progress on the security sector reform. After more than 10 years of support from MINUSTAH, the National Police (PNH) still lacks the capacity needed to fulfil its mandate alone. The White Paper that is being drawn up should offer a solution to this problem.

The country needs a public administration that is capable of providing an acceptable level of service to the people and of propelling the country towards lasting development. The efforts begun by the OMRH (Office of Management and Human Resources) to recruit civil servants through competition, to evaluate them regularly and to respect human resource management procedures must be continued and supported by all the ministries. It is essential to strengthen the ability of sectoral ministries to decentralise services, identify, study and evaluate investment projects, and respect procurement rules and procedures.

Proposals:

- ◆ To strengthen the control of Parliament and anti-corruption institutions over governmental actions
- ◆ To resolutely pursue the reform of the judiciary
- ◆ To consolidate the security sector reform
- ◆ To support the reform of the public administration with determination

4. Improving the Management of Public Finances and Tax Reform

There have been several initiatives to reform public finances since 1987. Unfortunately, a real awareness on the part of high-ranking state officials of the significant weaknesses in public financial management has been lacking, as has the political will to undertake reform.

Three main directions can be distinguished in this reform:

- ◆ Revenue mobilisation by the Tax Directorate (DGI) and Customs
- ◆ Revenue management by the Treasury
- ◆ Budgetary expenditure

Revenue mobilisation is far from achieving the performance required by the needs of the population and the country. 85% of the DGI's revenues come from 500 big taxpayers. Customs only receive 25% of what they should collect on the border between Haiti and the Dominican Republic. The border structures for collecting customs duties need to be strengthened in terms of infrastructure and personnel. The contributions of regions other than Ouest and the informal sector are insignificant. Adapted support can be given to the informal sector through professional training, validation of the experience gained, and access to credit so as to integrate them into the formal productive and tax-paying sector. Today, the taxation rate in Haiti is 12% while it is around 18 to 25% in other developing countries in the region. Cooperation with civil society organisations and the press could help to promote tax compliance.

Regarding its management of public resources, Haiti suffers from unsatisfactory performance according to the PEFA (Public Expenditure and Financial Accountability Program) indicators, in terms of predictability, multi-year planning, transparency, accountability, effectiveness, the gap between expenditure and budget, and the absence of budget monitoring at local level, among other items. The country is trying to introduce more coherence by creating a Single Treasury Account. Some efforts have been made to conform to international principles and rules regarding the quality of public finance management but a great deal remains to be done.

For the budget, the emphasis must be more on the results than the means. The Study and Programming Units (UNEP) of the sectoral ministries must seriously increase their planning capabilities. Operating expenses must be related to investment expenses. All elected representatives must be thoroughly alerted to these issues so that they can make a contribution to the effective implementation of this reform.

Fiscal policy must promote economic growth as well as reduce inequalities through redistribution. Political leaders must take an interest in the effects of taxation on the economy, such as local production and job creation.



Socially, Haiti is considered the most unequal country in the Western hemisphere, with 20% of the population living on 1.4% of the income and 2% of the population having 26% of the income. Such disparities inflict damage on social cohesion and lead to terrible social tensions that can become explosive and upset a particularly fragile political stability. The tax system is one of the preferred ways of revitalizing the social contract between the citizens and the state. Without discouraging investors, tax policy can provide the state with the resources needed to provide the population with basic services, such as water, sanitation, education and health.

Fiscal policy and the quality of public finance management should be at the core of the political debate during the campaign.

Proposals:

- ◆ To introduce more efficiency, transparency, accountability and effectiveness into public finance management
- ◆ To implement a fiscal policy aimed at a tax rate of 18%, which would be fairer and progressive, would foster growth and target the sectors almost not affected by taxation to date
- ◆ Implement results-based budgeting

5. Decentralisation

Most leaders have not made the necessary arrangements to hand over the regional authorities of the new powers granted under the 1987 Constitution. As long as the essential part of these powers is concentrated in the state, and local authorities do not have the power of decision over priorities and resources, or adequate resources, the public will not be able to fully participate in the lives of their cities or benefit entirely from basic services.

The legal framework for decentralisation is far from being in place. During the 2004-2005 transition period, five decrees on decentralisation were pronounced but were never applied. New draft bills have been drawn up that have never been voted by Parliament. There is also an overall vagueness about the provisions governing communities, municipalities and regions. The administrative procedures and the powers devolving to each of these bodies and to the state have not been properly defined. In this confusion, traditional practices and arbitrariness reign.

The planning framework should also be revisited in the light of the new constitutional provisions so as to properly articulate communal development plans with the national plan. The Constitution intends public finance to be

decentralised. It is true that the municipalities now have a budget but the most significant resources are managed by the central administration, and therefore do not depend on the real needs of the population but rather on partisan political aims. The revenue collected under the Local Government Development and Management Fund (FGDCT), which is managed at this time by the Ministry of the Interior and Local Government, as well as the investment funds earmarked for local authorities, managed by the Ministry of Planning, should go directly into the local budgets.

Proposals:

- ◆ To finalise the legal framework for decentralisation following an inclusive dialogue with the participation of representatives of the State, local governments and civil society organisations to find a realistic, operational compromise over decentralisation
- ◆ To truly decentralise public finances as the Constitution enshrines

6. Relations between Haiti and the Dominican Republic

An economic and trade imbalance exists between the two countries, as well as economic and political dependence. The Dominican Republic's budget is US\$10 billion while that of Haiti is 3 billion. Dominican exports to Haiti are around \$1.600 million while Haiti's only total 60 million US dollars. 600.000 people live on the Haitian side of the border in a very precarious situation and very often they depend on Dominican services for essential social needs such as healthcare and education. More than 500.000 Haitians work in the Dominican Republic, often illegally and without any identity documents. Renewed high-level political talks strengthening binational relations with an overall, long-term vision and promoting policies and programmes for social inclusion as well as cross-border projects are essential for re-establishing mutually profitable and harmonious relationships between two countries that share the same island and therefore have so many interests in common, be it health, environment, exploitation of natural resources, tourism, industry and agriculture.

The situation can also be improved by the important work being done to identify Haitian citizens who live in the border areas and improve their living and social conditions. Better control of trade on the Haitian side of the border is needed to reduce smuggling, which, according to the Haitian Private Sector Forum, means a loss of 11 billion Gourdes for the public treasury. Improving relations between Haiti and the Dominican Republic necessarily involves formalising these relations and promoting frank talks, in which the interests of the two countries would be considered with the greatest attention, in the greatest transparency and with



the participation of stakeholders from civil society and the business sectors of the two countries.

To restart political talks, it would be desirable to revitalise the Mixed Bilateral Commission. It would therefore be necessary to establish priorities and an agenda shared between the two structures, to synchronise the operations of the two secretariats' sub-commissions, and to set up a simple mechanism to monitor the decisions taken in order to ensure that the measures are followed by the competent ministries. In time, it would be appropriate to start an in-depth reflection on the evolution of the Mixed Bilateral Commission and for the two countries to define their preferences, either for a single, shared binational entity that would manage the common priorities of the two countries or for continuing to have two different national commissions that would meet to discuss sectoral issues.

Proposals:

- ◆ To restart high-level political talks to strengthen binational relations with an overall, long-term vision
- ◆ To revitalise the Mixed Binational Commission, to set priorities and a shared agenda for the two structures and define a simple mechanism for monitoring decisions. To start reflecting on the possible evolution of the MBC into a single, shared structure
- ◆ To allocate the necessary budgetary resources to border areas in order to improve basic services and implement a public and private investment programme
- ◆ To strengthen the four official border posts and the mixed mobile brigades (customs, immigration, police) in order to combat smuggling

The **Club de Madrid** is an independent non-profit organization composed of more than 100 democratic former Presidents and Prime Ministers from more than 60 different countries, constituting the world's largest forum of former Heads of State and Government, who have come together to address the challenge of democratic governance and political conflict as well as that of building functional and inclusive societies, where the leadership experience of our Members is most valuable.

For more information visit the organization's website:
www.clubmadrid.org

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Promoting dialogue for democratic reform in Haiti

A Club de Madrid Initiative implemented with the financial support of the European Union the Club de Madrid and the European Union have launched a project aiming at supporting Haitian leaders to overcome the current political challenges and, at the same time, promoting dialogue to address Haiti's structural obstacles to democratic reform. The main objectives of the project are:

- ▶ To establish multi-stakeholder areas for dialogue and negotiation so as to bring together the country's key players in order to reflect on commonly identified democratic governance priorities.
- ▶ To accompany Haitian leaders in the management of immediate political challenges and support them in their search for solution.
- ▶ To promote dialogue regarding democratic reforms in the medium and long-term in order to find pragmatic agreements leading to political actions.

For more information visit the project's website:

http://www.clubmadrid.org/en/programa/promoting_dialogue_for_democratic_reform_in_haiti



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