



Haiti's November 28 Elections: Trying to Legitimize the Illegitimate

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Introduction

Voices from across the political spectrum in both Haiti and the U.S., joined by human rights groups, and most importantly, Haitian voters—have warned both the Haitian and U.S. governments that the deeply flawed elections in Haiti currently scheduled for November 28 risk putting the country into turmoil and endangering all investment in reconstruction. But the U.S. and Haitian Administrations refuse to listen.

The November elections may be the most important in Haitian history. Voters will choose the entire House of Deputies for four years, a President for five years, and one-third of the Senate for six years. These officials will have the responsibility of guiding Haiti's reconstruction for at least the next four years, which will require making many hard, important decisions that will shape Haitian society for decades.

Since our June report calling for fair elections, [*The International Community Should Pressure the Haitian Government for Prompt and Fair Elections*](#), widespread election irregularities continue to threaten to send the nation into a political crisis. As it stands, the elections planned for November 28 are neither fair nor credible. The United States and other international donors have committed to funding and working with the Provisional Electoral Council (CEP), ignoring allegations of fraud, unconstitutional activity, and the politically motivated exclusion of candidates and entire political parties.

On October 7, 2010, U.S. Congresswoman Maxine Waters (D-CA) and 44 other Members of Congress sent a letter urging Secretary of State Hillary Rodham Clinton to support free, fair and open elections in Haiti.¹ The letter warned that supporting flawed elections “will come back to haunt the international community” by generating unrest and threatening the implementation of earthquake reconstruction projects. In July, Republican Senator Richard Lugar warned even more directly that “[t]he absence of democratically elected successors could potentially plunge the country into chaos.”² In September, over 2 dozen U.S.-based human rights, religious, development and solidarity organizations urged Secretary Clinton to withhold all aid until a new CEP had been formed and demonstrated a commitment to fair elections.³

¹ *Lawmakers Urge Clinton to Ensure Haiti Elections Are Inclusive*, REUTERS, October 8, 2010 available at http://www.nytimes.com/2010/10/09/world/americas/09haiti.html?_r=1.

² Brian Concannon, Jr., *Haiti's Flawed Elections: They Told Us So*, Boston Haitian Reporter, available at <http://www.bostonhaitian.com/node/253>.

³ Letter to Secretary of State Hillary Clinton, September 13, 2010, <http://ijdh.org/archives/14601>.

The warnings were disregarded. The CEP's Treasurer, Jacques Belzin, stated in an interview on October 14 that the U.S. had already contributed four of the five million dollars it pledged to the CEP the elections.

Several political parties, including *Fanmi Lavalas*, *Alternative*, UCAAD, *Rassemblement* and *Liberation* are calling for a boycott of the elections unless meaningful steps are taken to restore confidence in the scandal plagued CEP.⁴ Reports from the numerous displaced persons camps are filled with anger, frustration and calls to boycott the elections due to its lack of fairness and transparency.⁵ With the cholera outbreak in mid- October, more and more Haitians are asking their government to postpone the elections and focus resources on trying to control the potential epidemic.⁶

The actions by the CEP and the support of international actors have set Haiti on course for the staging of an illegitimate and undemocratic election that may lead to widespread social unrest, adding political fuel to the social and physical devastation unleashed by the earthquake and cholera epidemic.

Election Flaws

The CEP lacks credibility in Haiti because: a) it was hand-picked by President Préval; b) a predecessor CEP, containing many of the same members improperly excluded all candidates from Haiti's largest political party, *Fanmi Lavalas* (FL) from Senatorial elections in April and June 2009; c) it excluded 15 political parties from the upcoming Parliamentary elections without adequate justification; and d) it has been marred with allegations of corruption.

Exclusion of *Fanmi Lavalas* from the April/June 2009 Elections

In the April/June 2009 elections for 12 of the 30 seats in the Senate, the CEP barred *Fanmi Lavalas* from participating on the grounds of a politically motivated, last minute technicality. The CEP registered *Fanmi Lavalas* as a party, but excluded every FL candidate from taking part in the elections. The CEP allowed someone with no authority to represent FL to register additional candidates after the period for registration had ended, and then excluded the party for submitting two different lists.⁷ When the factions then jointly submitted one list of candidates, the CEP further required an original signature (non-facsimiled) from party leader former President Jean-Bertrand Aristide. The CEP created this new requirement knowing that President Aristide was in exile in South Africa and would be unable to deliver it in time.⁸

⁴ Katherine Schulten, *Haiti News: Opposition Parties Call For Election Boycott*, Ayitinou.com, September 21, 2010, available at <http://www.ayitinou.com/article-posts/29-haitian-articles/2542-haiti-news-opposition-parties-call-for-election-boycott.html>.

⁵ Judith Scherr, *Empty Promises, Empty Votes*, IPS, September 29, 2010, available at <http://ipsnews.net/news.asp?idnews=53000><http://ipsnews.net/news.asp?idnews=53000>.

⁶ *Four Candidates Seek Delay in Election*, ABC News, November 21, 2010 <http://www.abc.net.au/news/stories/2010/11/21/3072136.htm?section=justin>.

⁷ Judith Scherr, *Why Aristide's Party Won't Vote, Interview with Dr. Maryse Narcisse of Fanmi Lavalas*, November 17, 2010, available at <http://www.counterpunch.org/scherr11172010.html>.

⁸ *The International Community Should Pressure the Haitian Government for Prompt and Fair Elections*, IJDH, June 30, 2010, http://ijdh.org/wordpress/wp-content/uploads/2010/07/Elections-Process-6-30-10_final-1.pdf, p. 3

The CEP's exclusion of FL was not justified under Haitian law. The CEP's mandate does not give it authority to exclude legally recognized political parties, such as FL.⁹ Moreover, if the two groups claiming to be FL tried to register for the elections, a more fair remedy would have been for the CEP to decide which groups was the representative of the party the Council had accepted for registration, rather than excluding both groups. Otherwise, any party could get pushed off the ballot by a group of people filing a duplicate set of candidates.

The CEP not only lacks a good reason for excluding political parties and candidates, it also lacks the constitutional legitimacy to do so. Despite the permanent council required by Haiti's 1987 Constitution, every CEP that has run elections since 1987 has been provisional.¹⁰ The CEP's composition is suppose to be made up with nine representatives from the private sector, the Catholic, Episcopal, and Lutheran churches, the human rights sector, the Supreme Court, and political parties. President Préval has not only chosen which 9 groups participate in the nominations, he has also required each group to submit the names of two people, from which the President selected one. President Préval's system ensures that he retain control over all 9 members of the Council.¹¹ The CEP's close relationship with President Rene Préval has raised doubts about its ability to be politically neutral.¹²

Under Haitian law the CEP does not have the legal authority to exclude any legally recognized political party, but it has continued to ignore both internal and international pressure to reverse its decision.¹³ When the CEP first announced the disqualification of *Fanmi Lavalas* and other parties from Senate elections held in April and June 2009, the U.S., the U.N. and the OAS denounced them as undemocratic. The U.S. Embassy warned that the exclusion would "inevitably" raise questions about the election's credibility. But the CEP called the international community's bluff and kept the excluded parties out. The international community blinked by not only accepting the flawed elections, but paying for them, too: international donors supplied \$12.5 million, 72 percent of the election's cost. Haitian voters, knowing a fraud when they see one,

⁹ The Haitian Constitution dictates that political parties "may be established and may carry out their activities freely" and "the conditions for their recognition and operation, and the advantages and privileges reserved to them" must be determined by law. See, 1987 CONSTITUTION, art. 31-1. The Electoral Law of 2008, which is the governing law for electoral procedure, only requires candidates to provide an affidavit establishing his/her political party and that he/she was designated as a candidate by that party. See, Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 94(1). Declarations of candidacy are accepted if the candidate's party first registered with the CEP. Electoral Law of 2008, *Le Moniteur*, July 25, 2008, Arts. 98 and 105.1. Article 106 of the Electoral Law only requires that lays out the requirements political parties must follow to register with a Permanent Electoral Council. Political parties need only show the party's act of recognition, which has not been defined in the Electoral Law. Electoral Law 2008, *Le Moniteur*, July 25, 2008, art. 106. Dr. Maryse Narcisse, spokesperson for *Fanmi Lavalas*, stated recently in an interview that FL registered as a political party in 1996 and again in 2008 as requested by the government, and has a certificate of official recognition by the Ministry of Justice. See *supra* note 7.

¹⁰ IJDH, *supra* note 8, p. 5.

¹¹ Stephen Lendman, *Haiti's Electoral Charade*, PACIFIC FREE PRESS, Apr. 17, 2009, <http://www.pacificfreepress.com/news/1/4034-haitis-electoral-charade.html>.

¹² Alice Speri, *Haiti Election Commission Under Scrutiny for Ties to President Rene Preval*, The Christian Science Monitor, September 16, 2010 available at <http://www.csmonitor.com/World/Americas/2010/0916/Haiti-election-commission-under-scrutiny-for-ties-to-President-Rene-Preval>.

¹³ See *supra* note 7.

boycotted. The CEP's official participation rate of 11 percent for the April elections was low enough, but most observers put the real figure at three to five percent.¹⁴

Exclusion of *Fanmi Lavalas* from the Proposed February 2010 Elections

On November 26, 2009, the CEP announced that FL would again be banned from participating in elections for all 99 seats in the Chamber of Deputies and 10 of 30 seats in the Senate, then scheduled for February 28, 2010. Again, FL had complied with election requirements under Haitian law.¹⁵ President Aristide faxed a mandate to the CEP authorizing an FL representative, Dr. Maryse Narcisse, to take all necessary actions to register the party.¹⁶ An original mandate from Aristide with a certificate from a Haitian Notary certifying Aristide's signature was hand-delivered to the CEP.¹⁷ President Aristide confirmed on local Radio Solidarity that he had given authority to FL representative Dr. Narcisse to register the party.¹⁸

The CEP switched gears, abandoned its request for President Aristide's original signature, and instead cited FL for failing to submit an original party authorization for the April 2009 elections.¹⁹ CEP President Gaillot Dorsainvil told local radio stations, "The *Lavalas* Family party will not be allowed to participate in the next election because the electoral council's legal counsel said the party did not meet all legal requirements."²⁰

The February elections were postponed due to the January 12, 2010 earthquake.

Exclusion of *Fanmi Lavalas* from the November 28, 2010 Elections

Voters on November 28 will choose the entire House of Deputies for four years, a President for five years, and one-third of the Senate for six years. The CEP announced in July that the head of each political party submitting a candidate for President must register presidential candidates in person. This requirement, which is new and has no basis in Haitian law, immediately disqualifies FL.²¹ The head of FL, President Aristide, has been in exile since 2004 and the Haitian government has refused to issue him a passport. The CEP knows that he cannot enter Haiti to personally deliver the candidate list. As such, FL will not be represented in the Presidential elections.

FL is also excluded from the Parliamentary elections, as are at least 14 other political parties. The CEP has never issued a comprehensive explanation for the disqualification, but President Préval stated that the candidate list agreed upon in November 2009 for the proposed February 2010 elections would be carried over to these elections.²² The reasons for excluding the other 14 parties continue to be unclear, as the CEP lacks any transparency and shrugs its obligations to explain its decisions.

¹⁴ *Id.*

¹⁵ 1987 Constitution of Haiti, Article 92; Civil Code of Haiti, Article 1749.

¹⁶ Judith Scherr, *supra* note 7; *see also* IJDH, *supra* note 8, p. 3.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ IJDH, *supra* note 8, p. 3.

²⁰ Joseph Guyler Delva, *Aristide party barred from Haiti's February ballot*, Nov. 25, 2009, REUTERS, <http://www.reuters.com/article/idUSTRE5AP03K20091126>.

²¹ *See supra* note 9.

²² Nicole Phillips, *Members of Congress are Right to Urge Changes of Haiti's Flawed Electoral Process*, The Hill, October 11, 2010 available at <http://thehill.com/blogs/congress-blog/foreign-policy/123601-members-of-congress-are-right-to-urge-changes-to-haitis-flawed-electoral-process>.

The exclusion of FL is significant due to the fact that this is the most popular political party in the nation. It has won every election it has entered, and if allowed to participate in the coming election it would rival current President René Préval's party, Inite. International human rights lawyer Ira Kurzban pointed out the significance of this exclusion by relating the banning of FL in Haiti to that of the exclusion of both the Democratic and Republican parties from the 2012 Presidential elections in the United States. Kurzban goes on to say that "No one would consider it a fair election, and certainly the people of the United States would rise up, claiming the election is unconstitutional and undemocratic. Yet the upcoming presidential and parliamentary elections in Haiti on Nov. 28 are just that — unfair, unconstitutional and undemocratic."²³

In response, some proponents of the November 28 elections minimize *Fanmi Lavalas'* exclusion by claiming that there are several *Lavalas* candidates in the presidential race, including Yvon Neptune, Leslie Voltaire, Jean-Henri Ceant and Yves Cristallin. While it is true that these and other candidates were at one time associated with the *Lavalas* social movement created in the 1980s, the social movement is separate from the political party, *Fanmi Lavalas*, which was created in 1996. This downplaying of the exclusion is misleading, as none of the former *Lavalas* supporters is part of the *Fanmi Lavalas* political party.

The CEP's exclusion of FL and other eligible political parties is intentional and makes it impossible to have fair or credible elections. When FL was excluded in the April 2009 elections, Haitians boycotted the elections and one-third of the senate took office with as few as 3% of the vote. Many Haitians are planning another boycott of these elections. If the voter turnout is low again, the new President and Parliament could take office without the vote or political support of its people, thus further weakening the government.

Scandals Surrounding the Electoral Council Running the Elections

The CEP has also been compromised by corruption allegations. The CEP's Catholic Church representative, Jean Enel Desir, who long ignored calls to step down due to allegations of corruption, resigned on August 16.²⁴ Desir cited to health concerns as the reason for stepping down. In June, Desir was under investigation by the government's Corruption Fighting Unit (ULCC) for charges of embezzlement and influence peddling.²⁵ It is assumed that Desir was the individual cited in Senator Richard Lugar's report for having been accused of stealing another member's salary.²⁶ The President and Director General of the CEP were also accused by a Haitian senator of awarding a significant contract to the relative of a CEP official.

Since the release of the CEP's approved list of Presidential candidates, there has been concern whether the 19 other candidates who did not make the list were excluded on constitutional grounds or if they were politically motivated.²⁷ The controversy surrounding CEP member Jean Enel Desir's allegations of fraud and his resignation only 4

²³ *Unfair and Undemocratic*, Miami Herald, Ira Kurzban, September 08, 2010, available at <http://www.miamiherald.com/2010/09/08/1813042/unfair-and-undemocratic.html>.

²⁴ *Who Will Be Eligible To Run*, Miami Herald, August 8, 2010, available at <http://www.miamiherald.com/2010/08/17/1780165/who-will-be-eligible-to-run-for.html>.

²⁵ *Preval Veut Mentenir le CEP*, Haiti Libre, June 16, 2010, available at http://www.haiti-liberte.com/archives/volume3-48/Haiti_Liberte_Juin_16-22_web.pdf.

²⁶ *Haiti: No Leadership-No Elections*, Committee on Foreign Relations, June 10, 2010, available at <http://lugar.senate.gov/issues/foreign/lac/haiti/pdf/report.pdf>.

²⁷ *2010 Haiti Presidential Candidates List*, Belpolik.com, <http://www.belpolitik.com/haitianpolitics.php/25>.

days before the list of approved Presidential candidates was released raises suspicion around the politics behind the list.²⁸ An electoral observation mission led by the Organization of American States (OAS) and CARICOM (Caribbean Community) requested that the CEP disclose its reasons for rejecting the candidates,²⁹ but currently little effort has been made by the CEP to engage in any level of transparency.

The limited constitutional nature of the CEP members' elections, plus the corruption allegations while presiding over these elections, calls into question the validity of the CEP's authority, neutrality, and objectivity. As the U.S.-based International Foundation for Electoral Systems (IFES) noted in its May report, "giving the mandate of organizing the upcoming elections to the current CEP would mean that the electoral process will be considered flawed and questionable from the beginning."³⁰

Flawed Election Preparation

The earthquake destroyed 40 percent of the country's polling stations. Further, thousands of homeless people do not have the required identification to cast their vote come November 28.³¹ Due to overwhelming demand and scarce resources, the Office of National Identification (ONI) has reported that it is currently "not up to the task assigned, namely, providing the national identification card for citizens who file the request."³²

Given the displacement of a significant percentage of the population after the earthquake, it became necessary for potential voters to register in their new locations in order to be able to vote. Rather than provide additional support to the institutions legally established to register voters who change their residence, like ONI and the Office of Electoral Registry,³³ the CEP extra-legally created Centers of Operation and Verification (COVs) to register displaced voters in their new locations.³⁴ The COVs have been criticized for duplicating the role of ONI, creating a parallel process for voter registration without a clear legal grounding.³⁵ Additionally, having no formal mechanism for reconciling ONI's

²⁸ *Who Will Be Eligible to Run*, Miami Herald, September 8, 2010 available at

<http://www.miamiherald.com/2010/08/17/1780165/who-will-be-eligible-to-run-for.html>.

²⁹ *Haiti- OAS-CARICOM Mission Appeals for More Transparency*, Caribbean Daily News, August 21, 2010, available at <http://www.caribbeandailynews.com/haiti-oas-caricom-mission-appeals-for-more-transparency/>

³⁰ Sophie Laguény & Rudolf Dérose, *Post-Disaster Assessment on the Feasibility of Organizing Free and Fair Elections in Haiti*, International Foundation for Electoral Systems, May 13, 2010 at 13, <http://www.ifes.org/Content/Publications/ Reports/2010/Post-Disaster-Assessment-on-the-Feasibility-of-Organizing-Free-and-Fair-Elections-in-Haiti.aspx>.

³¹ Jason Beaubien, *Weary, And Wary, Haitians Prepare For Elections*, NPR, October 7, 2010 available at <http://www.npr.org/templates/story/story.php?storyId=130402973>.

³² *Haiti-Elections: National Office of Identification Fingered*, Haiti Libre, September 28, 2010 available at <http://www.haitilibre.com/en/news-1293-haiti-elections-national-office-of-identification-fingered.html>.

³³ Décret relatif à la Carte d'Identification Nationale (CIN) 2005, available at www.cephaiti2010.org and follow link to "Statistiques/Inscriptions (ONI)", then link to "Informations Légales".

³⁴ The COVs were not created under any existing or pending legislation. Interview with CEP, October 14 2010.

³⁵ According the Electoral Law of 2008, the list of registered voters should come from the ONI (see Art. 25) and should be updated in a permanent manner (as opposed to the ad hoc manner in which the COVs were created) so that modifications to the list conform to the Constitution and the Electoral Law (see Art. 28).

list of voters' with the lists compiled by the COVs leaves open the possibility for double-voting and other forms of fraud.³⁶

The OAS has helped the CEP set up mobile clinics to help people get new identification cards, but many Haitians reported that the process is chaotic and extremely time consuming.³⁷ In an attempt to handle the massive displacement of voters, the CEP announced that it would place mobile election units in the camps to help facilitate voter participation. In addition, Venezuela promised to donate 30 vehicles for the elections.³⁸

Another concern is ensuring that the approximately 200,000 to 300,000 people who died in the earthquake will be removed from the electoral list. Death declarations are required by law before removing a name from the electoral registry.³⁹ But death certificates were difficult to obtain after the earthquake because most of the dead from the earthquake were buried in mass graves without any documentation.⁴⁰ There appears to be no general system in place for updating the ONI list and removing decedents from it on a regular basis. An inflated and inaccurate registration list makes it difficult to prevent ballot box stuffing with dead voters' registrations.

Efforts to Legitimize Illegitimate Elections

Election Support from the United States

There has been some inconsistency in the statements of the United States government, as they have been calling for the restoration of order and democracy in Haiti, while at the same time supporting an illegitimate election. Secretary of State Hillary Clinton has spoken of the importance of elections in bringing both stability and legitimacy to Haiti,⁴¹ but has not acknowledged the calls headed by Maxine Waters and 44 other Members of Congress to withhold funding for the election unless the CEP takes greater steps towards inclusion and transparency.

The U.S. government and international community has made repeated statements about the importance of the upcoming elections to reconstruction of Haiti, but has been little discussion regarding the exclusion of *Fanmi Lavalas* and 14 other political parties from

³⁶ According to a member of the CEP, individuals in each COV is trained to understand the system, and this individual is responsible for giving the list to the ONI to update and amend the original list to reflect the new voting locations of displaced persons. Voters are also given a document when they change their location through a COV that they can show to gain access to the voting bureau in their new location. However, the lack of a centralized process for updating the ONI electoral list is a serious concern. If a COV representative fails to have a name stricken from the original ONI list, this could technically result in one voter having authorization to vote twice -- once in their pre-earthquake location, and once in their new location. Meeting with CEP, Oct. 14, 2010.

³⁷ See *supra* note 31.

³⁸ *Haiti-Elections: Update on the Electoral Process*, Haiti Libre, August 10, 2010, available at <http://www.haitilibre.com/en/news-1377-haiti-elections-update-on-the-electoral-process.html>.

³⁹ Electoral Law of 2008, Art. 29.

⁴⁰ It is a very difficult process to have someone declared dead without their body. See *Les morts - sont-ils legalement mort?*, LE NOUVELLISTE, March 17, 2010. See also *Haiti-Elections: Le CEP a 12 jours*, Haiti Libre, November 16, 2010, available at <http://www.haitilibre.com/article-1677-haiti-elections-le-cep-a-12-jours-du-scrutin.html>.

⁴¹ Andrew Quinn, *Clinton Says Elections Key to Haiti Stability*, Reuters, March 09, 2010, available at <http://www.alertnet.org/thenews/newsdesk/N09242953.htm>.

participating in the election. Despite several letters and reports demonstrating the flaws in the election, including Senator Richard Lugar's July report, the State Department continues to support the flawed elections.

When asked about the CEP's arbitrary exclusion of both candidates and political parties on September 15, U.S. State Department Spokesperson Phillip Crowley's response was, "Why don't you ask us again tomorrow and we'll see if we have more to say about this."⁴² No public comment was ever made about the exclusion. Mr. Crowley confirmed the U.S. government's support for the flawed elections at a press briefing on November 22, 2010, "the United States, along with the international community, has been providing significant support to the Provisional Electoral Council. We've helped to train 5,500 domestic observers in preparation for the upcoming elections."⁴³

The International Community's Funding of Illegitimate Elections

The election in Haiti is estimated to cost \$29 million altogether, with the Haitian government footing \$7 million and international donors supplying the rest. Canada pledged \$5.8 million for the support activities of the CEP and Elections Canada, which will be providing technical support.⁴⁴ Brazil donated \$500,000.⁴⁵ The United States government pledged \$5 million, plus \$10 million spent by the International Foundation for Electoral Systems (an NGO supported by USAID and US Department of State) and USAID.⁴⁶ The rest of the electoral funding is to be covered by the European Union.

The CEP is in charge of monitoring all campaign donations of more than \$2,500, but there is widespread concern regarding the CEP's capacity to monitor such financing. The lack of a functioning parliament - due to the expiration of many members' terms in May 2010⁴⁷ - makes the effort to monitor illegal spending that much more difficult. Suspicions have been raised in regards to President Préval's recent withdrawal of \$107 million from the Petro Caribe fund for road construction⁴⁸, as opponents say that this money will go to fund his candidates - namely Jude Celestin, the former head of the state-run road building department⁴⁹ and President Préval's son in law.⁵⁰ The

⁴² U.S. Department of state. Daily Policy Briefings. September 15, 2010. <http://www.state.gov/r/pa/prs/dpb/2010/09/147203.htm>.

⁴³ U.S. Department of state. Daily Policy Briefings. November 22, 2010.

⁴⁴ *Canada Pledges \$5.8 Million to Haiti Elections*. CBC News. October 5, 2010 (<http://www.cbc.ca/politics/story/2010/10/05/haiti-election-aid.html>).

⁴⁵ *International Funding of Electoral Process Begins*. Haiti Libre, September 19, 2010 (<http://www.haitilibre.com/en/news-1222-haiti-elections-the-international-began-to-fund-the-electoral-process.html>).

⁴⁶ *CEPR Criticizes US Funding "Elections" in Haiti*, Center for Economic and Policy Research, October 14, 2010, available at <http://www.cepr.net/index.php/press-releases/press-releases/cepr-criticizes-us-funding-for-elections-in-haiti>.

⁴⁷ Levi J. Jordan, *Six Months Later: Roadblocks to Haiti's Reconstruction*, American Society Website, July 12, 2010 available at http://www.as-coa.org/articles/2508/Six_Months_Later:_Roadblocks_to_Haitis_Reconstruction/.

⁴⁸ Jacqueline Charles, *In Haiti, Where Money is Scarce, Campaigns a Costly Endeavor*, Miami Herald, September 3rd, 2010, available at <http://www.miamiherald.com/2010/09/02/v-print/1805922/in-haiti-where-money-is-scarce.html>.

⁴⁹ *UN Pledges Support For Haiti as Campaign Begins Ahead of November 28th Elections*, Caricom News Network, available at http://csmenetwork.com/2/index.php?option=com_content&view=article&id=9587:haiti-un-pledges-support-for-haiti-as-campaign-begins-ahead-of-november-28-elections&catid=1:latest-news&Itemid=50.

preponderance and superior quality of campaign posters from Préval's party, Inite, also raises suspicions about how much funding Inite has received and from what sources.

Concern about the Neutrality of International Political Actors

The OAS and CARICOM have committed to sending 193 election observers for the election.⁵¹ Additional observers from the European Union have also been promised, although the exact number has yet to be disclosed.

Election observers from the OAS and CARICOM are largely overlooking instances of scandal and irregularities within the CEP. While they expressed that they are currently offering a sympathetic ear to the concerns of the Haitian people, CARICOM Assistant Secretary General Colin Granderson went on to say that "when you ask for proof, it's very difficult for them to give you proof."⁵²

United Nations Secretary General Ban Ki-Moon also called for "transparent and credible elections" in Haiti.⁵³ MINUSTAH head Edmond Mullet confidently asserted that conditions existed for successful, credible elections in Haiti. In a statement to Reuters, Mullet openly avoided any acknowledgement of the exclusion of the 14 political parties and went on to state that "You have quite an interesting diversity of candidates from different groups and ideologies...so the choice is there."⁵⁴

Secretary General of the OAS, Jose Miguel Insulza⁵⁵ and CARICOM Assistant Secretary General Colin Granderson⁵⁶ downplayed and trivialized the concerns of frauds and irregularities regarding the election. The lack of acknowledgement of the electoral conditions that have been openly unfair and non-transparent raises serious questions about the political neutrality of those entrusted to monitor the elections.

Result of Unfair Election - Calls for an Election Boycott Rising

Haitians are fighting the unfair elections in the streets, in the press, and at political meetings. Political organizations from across the spectrum — many of whom have agreed on little else for decades — have condemned the CEP's exclusions. Haitian voters have seen enough electoral charades to recognize one when they see it, and interest in the elections is as low as the elections' stakes are high.

Haiti's 1987 constitution calls for free and fair elections, where every Haitian's right to vote is protected and guaranteed. The outright violation and undermining of these rights

⁵⁰ Kenneth Kidd. *Haitian Election a Mix of Anger, Money and Corruption*, Toronto Star, November 18th, 2010, available at <http://www.thestar.com/haiti/governance/article/875966--haitian-election-a-mix-of-anger-money-and-corruption>

⁵¹ Wadner Pierre, *Haiti Gears Up for Polls-Again, Sans Lavalas*, IPS, July 30,2010, available at <http://ipsnews.net/news.asp?idnews=52330>.

⁵² See *supra* note 12.

⁵³ CARICOM SUMMIT: *Transparent Elections Needed For Haiti*, Jamaica Observer, July 5, 2010 available at <http://www.jamaicaobserver.com/news/CARICOM-SUMMIT--Transparent-elections-needed-for-Haiti>.

⁵⁴ Joseph Guylor Delva, *US Lawmakers Warn of Flaws in Haiti Vote Process*, Reuters, October 08,2010 available at <http://www.alertnet.org/thenews/newsdesk/N08243279.htm>.

⁵⁵ *Haiti-Elections: Frauds and Neutrality, Minustah Tries to Reassure*, Haiti Libre, September 18, 2010, available at <http://www.haitilibre.com/en/news-1217-haiti-elections-frauds-and-neutrality-minustah-tries-to-reassure.html>.

⁵⁶ See *supra* note 12.

and guarantees by the actions of the CEP has led to a volatile political situation where many Haitian political parties as well as individuals are choosing to opt out of the election. This is especially true in the displaced persons camps, where many residents state that they are not ready or willing to participate in the election under the current conditions.⁵⁷

In announcing a boycott, the designated head of *Fanmi Lavalas*, Dr. Maryse Narcisse, stated, "For us, this isn't just the exclusion of *Fanmi Lavalas*... What they wanted to exclude is the majority - the people - from the electoral process....For us, the elections that are coming are not fair or honest. They are not democratic." Narcisse went on to say that "We are not participating... for us this is a selection, not an election."⁵⁸ *Fanmi Lavalas* is not alone. Four other political parties (*Alternative*, UCAAD, *Rassemble* and *Liberation*) dropped out of the race due to concerns regarding the credibility of the CEP to run fair elections.⁵⁹

Conclusion

As the 45 members of the U.S. House of Representatives warned Secretary of State Clinton, the current electoral situation is "undermining the Haitian people's right to vote as well as the resulting government's ability to govern".⁶⁰ The next Haitian government will need to ask its citizens to make sacrifices in order to implement the reconstruction plans. People will have to relocate their homes and businesses, go without water, government services, even food and tolerate many inconveniences as the damaged cities are taken down and rebuilt in new ways.

A government can obtain these kinds of sacrifices in two ways: it can develop trust or it can use force. A government elected by a small fraction of the voters who could chose only parties approved by the outgoing government will be hard-pressed to develop trust. We may have seen the future as Hurricane Tomas was approaching Haiti, and residents of the Corail-Cesselesse displacement camp refused an evacuation order, even though they knew the camp risked deadly flooding and landslides, because they did not trust the government's promises that they could return after the storm. In the days leading up to the elections, Haitians have been demonstrating against the flawed elections and the uncontrollable spread of cholera. Haitian police and UN peacekeeping forces have attempted to quell the protests by firing bullets and teargas canisters into the crowds.

If the new Haitian government cannot induce trust, it will have to obtain its citizens' cooperation through force. Forcing large numbers of people to do anything is difficult; forcing people who have nothing to lose and have already suffered as much as they can bear, with a small and inexperienced police force, will be next to impossible. Trying to apply this force risks the chaos that Senator Lugar warned of.

Neither the Haitian nor United States governments appear willing to heed any of these warnings. The United States is sending \$15 million to support the elections, while the State Department dodges questions about the elections' flaws at press conferences. The

⁵⁷ See *supra* note 5.

⁵⁸ See *supra* note 5.

⁵⁹ See *supra* note 4.

⁶⁰ See *supra* note 54.

Haitian government has closed any discussion of allowing excluded candidates, while the government's candidates run an apparently well-financed campaign – there seem to be more posters for President Préval's INITE coalition than all other parties combined in Port-au-Prince.

President John F. Kennedy warned that “those who make peaceful revolution impossible make violent revolution inevitable.” The Haitian and United States Administrations seem bent on putting this maxim to the test, despite the risks. Haitian voters have tried to communicate their opposition to exclusionary elections in many ways: boycotting the 2009 votes, demonstrating in the streets, rejecting the elections in the press and in political meetings. They will keep trying until they find a way that their government, and ours, will listen to.

The [Institute for Justice & Democracy in Haiti \(IJDH\)](#), established in 2004, fights for human rights and justice in Haiti and for fair and just treatment of Haitians in the United States.

The [Bureau des Avocats Internationaux \(BAI\)](#), Haiti's leading human rights law firm, has helped poor Haitians fight for justice since 1995.