



Organización No Gubernamental con estatuto consultivo ante el ECOSOC y
representación permanente ante la ONU de Nueva York y Ginebra

January 4, 2010

H.E. Jose Miguel Insulza
Secretary-General
Organization of American States
17th Street & Constitution Ave., N.W.
Washington, D.C. 20006

Re: OAS Participation in Flawed Haitian Elections

Dear Secretary-General Insulza:

We are writing to urge the Organization of American States (OAS) to refuse to support the Parliamentary elections in Haiti scheduled for February and March 2010, by sending observers or other means, unless the Haitian government demonstrates that the elections will be fair and inclusive. Moreover, we urge the OAS to fulfill its mandate to encourage the Haitian authorities to establish, "as soon as possible," a Permanent Electoral Council in compliance with Haiti's 1987 Constitution.¹ If it is not possible to establish a Permanent Council in time for the scheduled elections, those elections should be held by a provisional council chosen according to article 289 of Haiti's Constitution.

Haiti's Provisional Electoral Council (*Conseil Electoral Provisoire* or CEP) has disqualified 14 of the 69 parties that registered for the upcoming elections, including Haiti's most popular party, Fanmi Lavalas (FL). The Council has not provided a comprehensive explanation for the disqualifications of these parties -- all of which are recognized by Haiti's Ministry of Justice -- and the partial explanations it has offered lack a sound legal basis. For example, the CEP claims that the mandate sent from South Africa by former President Jean-Bertrand Aristide, the exiled leader of Fanmi Lavalas (FL), is not authentic. But FL presented an original mandate, authenticated by a Haitian notary, and Dr. Aristide sent a fax of the mandate directly to the CEP and confirmed its authenticity in an interview with a Haitian radio station. The Council has not stated any legal authority for disallowing the mandate, but the document clearly complies with the flexible mandate requirements of Haitian law, set forth in article 1749 of Haiti's Civil Code.

Political parties across the spectrum have condemned the political parties' exclusion as illegal, as have Haitian human rights groups and lawyers' organizations. Virtually no organization in

¹ *Support for the Strengthening of Political Stability and for Socioeconomic Development in Haiti*, Organization of American States General Assembly Resolution AG/RES. 2424(XXXVIII-O/08).

Haiti, other than the ruling party, its allies, and members of the international community support the exclusion.

The CEP not only lacks a good reason for its decision, it also lacks legitimacy to do so. As you know, the Council is a *Provisional* Council chosen by Haiti's President, René Prével, from nominees presented by civil society organizations also chosen by President Prével. This selection of an electoral council violates Haiti's 1987 Constitution, which requires an independent *Permanent* Council, precisely to avoid the type of manipulation that the political parties' exclusion represents.

The unjustified exclusion of the political parties violates Haitians' right to vote in free and fair elections as guaranteed by Haiti's Constitution and international law, including Article 20 of the OAS' American Declaration of the Rights and Duties of Man and Article 23 of the OAS' American Convention on Human Rights. We fear that sending OAS observers to elections that are designed from the outset to frustrate free voting will be interpreted as a sign of OAS support. We also note that the Inter-American Democratic Charter declares that the "essential elements of representative democracy" include "the holding of periodic, free, and fair elections . . . as an expression of the sovereignty of the people."

Democracy and development in Haiti can only proceed through fair, inclusive elections. The OAS refused to send monitors to observe elections held in Honduras in November 2009 because conditions for free and fair elections clearly did not exist. The situation in Haiti presents an equally clear violation of rights guaranteed in Inter-American regional instruments and the OAS should refuse to support, in any way, the current elections unless the CEP includes all properly-registered political parties and runs fair, credible elections.

The American Association of Jurists, and its affiliates in all countries of the American continent, will continue to monitor the organization of elections in Haiti, the establishment of the Permanent Electoral Council, and the OAS participation in the elections. We would be happy to answer any questions you might have about this letter, and look forward to hearing from you about OAS efforts to ensure that Haiti's upcoming elections are worthy of OAS support.

Sincerely,



Vanessa Ramos

President

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cc: Ricardo Antonio Silva Seitenfus, OAS Representative in Haiti
Duly Brutus, Permanent Representative of Haiti to the OAS