

June 2, 2009

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Organization of American States
17th Street & Constitution Ave., N.W.
Washington, D.C. 20006

Ban Ki-moon
Secretary-General
United Nations
First Avenue at 46th Street
New York, NY 10017

Dear Secretary-General Ban and Secretary-General Insulza:

We, the undersigned, are concerned by the unqualified statements of support for Haiti's flawed April 19, 2009 Senate elections by you and your organizations. Secretary-General Insulza claimed that the elections were "part of an invigorated and persistent democratic exercise ... contributing to the institutional consolidation of that country." The United Nations peacekeeping mission in Haiti (MINUSTAH) "applauded" the publication of the election results on April 28.¹

These statements overlook the fact that the great majority of eligible Haitian voters seem to have boycotted the election due to the unjustified exclusion of the largest political party, Fanmi Lavalas (FL), from the ballot. Far from being characterized by mere "indifference," as you described it, the low turn-out was a sign of the widespread support for the boycott. The election was also marked by various disruptions that prevented people from voting. Some current senators and leaders from across Haiti's political spectrum have called for the April 19 election to be invalidated due to the poor turnout and exclusion of FL. We therefore call on the OAS to revise its line on the April 19, 2009 Senate elections in Haiti, and instead support the holding of new elections.

When the disqualification of FL candidates from the ballot was announced, the international community promptly denounced it as a threat to democracy. The U.S. government², the Canadian government³, the UN⁴, and you yourself⁵, all issued statements voicing concern in advance of the election. Although the denounced irregularities were never corrected, the denunciations disappeared as the election approached.

¹ "Haiti: UN Applauds Publication of Senate Elections Results Despite Low Turnout," UN News Centre, April 28, 2009 (<http://www.un.org/apps/news/story.asp?NewsID=30627&Cr=haiti&Cr1=election>)

² Jacqueline Charles, "40 barred from Haitian Senate race -- including Lavalas slate." Miami Herald, February 7, 2009. (<http://www.miamiherald.com/579/story/892401.html>) Accessed May 1, 2009.

³ Ibid.

⁴ Associated Press. "UN tells Aristide party to fight in Haiti election," March 14, 2009. (<http://www3.whdh.com/news/articles/world/BO107518/>). Accessed April 30, 2009.

⁵ Organization of American States. "Insulza Expresses Concern Over Haitian Situation And Calls For Calm Among Political Actors." Press Release, February 7, 2009. (http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-029/09) Accessed April 30, 2009.

Eliminating the party most likely to win elections – in this case, FL - should not be done except for a very good reason, and through a well-explained, transparent process. Haiti's Provisional Electoral Council (CEP) gave neither a good reason nor used a transparent process for disqualifying FL. There were a number of aspects of the process that made it seem arbitrary and irregular. First, the CEP imposed a requirement on these elections it did not impose in previous elections. Candidates were allowed to run in 2006 as Fanmi Lavalas without a signature from President Aristide, even though the party had announced that it was not participating in those elections. Second, the CEP did not even follow its own procedures for reviewing candidates: under the rules, the Departmental offices first rule on the candidates, then the CEP rules if there is an appeal. In this case, the CEP ruled directly on all of the candidates' eligibility. Third, the CEP moved the goalposts, imposing different requirements as the process continued.

The CEP's requirement that FL obtain the signature of party leader, Jean Bertrand Aristide, was especially unfair, considering Aristide's unique circumstances. As you know, the United States has repeatedly expressed its opposition to Aristide's return to Haiti. This was made clear in 2004, when, after flying Aristide to the Central African Republic (a voyage that Aristide says he did not make willingly), the Bush administration stated that it not only did not want Aristide in Haiti, it did not even want him in the Western Hemisphere.⁶ When Aristide did return to the Caribbean, to Jamaica, briefly in March 2004, US Ambassador to Haiti James Foley condemned the trip, warning that Jamaica was "taking on a risk" by accepting Aristide, albeit briefly.⁷ Foley's words were understandably perceived as a threat by Jamaica and by Caricom. Then-acting charge d'affaires Timothy Carney reiterated the position following Haiti's 2006 elections when he stated, "There has never been any doubt about the U.S. position on Aristide's return since Secretary of State Condoleezza Rice was here last autumn and said he was a man of the past."⁸

Since Aristide is half a world away, exiled to another continent under international pressure, FL officials obtained his signature via fax. This also was rejected by the CEP as insufficient.

Other FL leaders have been kept intimidated, especially former Prime Minister Yvon Neptune and Amanus Maette, by the threat of arrest in cases hanging over their heads indefinitely. Neptune's situation has been particularly outrageous, as the Inter-American Court found the Government of Haiti was violating his rights in regards to the trumped up charges against him, and ordered the government to stop persecuting him last June. The government has refused to comply with this ruling.

⁶ Statements by then-National Security Advisor Condoleezza Rice, then-Secretary of Defense Donald Rumsfeld and other administration officials to this effect are cited in Democracy Now!, "Defying Washington: Haiti's Aristide Arrives in Jamaica." March 15, 2004. (http://www.democracynow.org/2004/3/15/breaking_news_br_democracy_now_broadcast) Accessed May 1, 2009.

⁷ Democracy Now!, 2004.

⁸ Carol J. Williams, "'Belgian Option' Helped Avert Crisis in Haiti." *The Los Angeles Times*. February 19, 2006.

It is also worth noting that these arbitrary decisions to keep FL candidates off the ballot were made by a Provisional Electoral Council with no constitutional mandate to oversee these elections.⁹

As the electoral authorities proceeded with the elections, despite the controversy and international statements of concern, FL called for a boycott of the elections. This is an understandable response in light of the facts which you have previously acknowledged, and the resulting poor turnout is proof of the effectiveness of the boycott. It appears that the majority of eligible voters either honored the boycott by not casting ballots, or were prevented from voting due to irregular circumstances.

The April 19 voting was also marred by a number of irregular circumstances. Many polling stations were closed due to protests. As the Associated Press reported, "Voting for one of 12 vacant seats in the rural Central Department was canceled on election day after protesters raided polling places and a poll supervisor was shot." Some Port-au-Prince voters were unable to reach the polls after authorities halted transportation. These events have understandably led some in Haiti to question the election's legitimacy. AP cites Radio Kiskeya reports that "At least four senators have said the election should be invalidated because of the poor turnout and are threatening to vote against seating the winners." Many candidates of other political parties said the elections had no legitimacy.¹⁰

The CEP decision not to allow the FL candidates continues a pattern of years of political persecution of FL party leaders, activists, and members which started with the removal of the constitutional government, continued with the killing of thousands, physical and sexual assaults on many others¹¹, and the wrongful imprisonment of hundreds, including prominent FL leaders such as former Prime Minister Yvon Neptune, former Interior Minister Jocelerme Privert, Annette "So Anne" Auguste, and Father Gerard Jean-Juste (who was prevented from running in the 2006 elections on the FL ticket by the CEP, as he was imprisoned on trumped-up charges at the time¹²). Even since Preval's election, political persecution against FL has continued, with well known FL leader, Lovinsky Pierre Antoine kidnapped and possibly "disappeared" in 2007, shortly after announcing his intention to run for the Senate (which the government never effectively investigated,

⁹ See Concannon, Brian. "Haiti's Stealth Elections: What's At Stake?" Institute for Justice and Democracy in Haiti, December 8, 2006. "Every one of Haiti's elections over the last nineteen years has been run by a Provisional Council. All but the first of those Councils was chosen through a formula not recognized by the Constitution. And all but the first of the elections they ran was contested by the losing parties, who challenged (with good reason) the Provisional Council's legitimacy."

¹⁰ Candidates who have challenged the election's legitimacy include Marie-Denise Claude of the Fusion of Social Democrats (FUSION), David Bazile of the Party of National Unity (PUN), Lespwa candidate Moise Jean-Charles, General Secretary of the Union party, Chavane Jeune, Independent Candidate Ronald St. Jean, and Victor Benoit, President of the Fusion of Social Democrats, among others.

¹¹ See Kolbe, Athena R, MSW, and Royce A Hutson, "Human rights abuse and other criminal violations in Port-au-Prince, Haiti: a random survey of households." *The Lancet*, September 2, 2006. Vol. 368 No. 9538 pp 864-873.

¹² Ben Ehrenreich. "Haiti's Hope." *LA Weekly*, April 14, 2006.

according to the UN and Amnesty International¹³) The bogus “La Scierie massacre” case hanging over Neptune’s and Deputy Amanus Maette’s heads (in which opposition groups at first claimed that more than 50 people were killed by Aristide supporters in a February 11, 2004 incident, but investigators and reporters have only been able to confirm that three to five people were killed in a clash between pro- and anti-Aristide groups¹⁴), and the continued imprisonment of Ronald Dauphin and other FL political prisoners are other examples.

These events mark a shameful and dark period in Haiti’s history, and characterized the interim government of Haiti (2004-2006) as a blatant human rights abuser and an anti-democratic regime, in addition to being an unconstitutional and illegal one.¹⁵

In light of these circumstances, we believe that democracy in Haiti can only proceed when all parties are represented, and can only fail when the largest party, FL, is blocked from the ballot. Rather than endorse runoff elections currently scheduled for June 21, and the eventual seating of Senate candidates resulting from an irregular and unrepresentative election, the OAS and the UN should support free and fair elections with all candidates represented on the ballot – including those from the most popular political party. To this end, we call on the OAS and UN to revise their acceptance of the April 19, 2009 Senate elections in Haiti, and instead support the holding of new inclusive and fair elections.

Sincerely,

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¹³ Amnesty International, “Document - Haiti: Appeal Case: Lovinsky Pierre-Antoine is still missing.” January 28, 2008. Index Number: AMR 36/003/2008 (<http://www.amnesty.org/en/library/info/AMR36/003/2008/en>). Accessed May 4, 2009.

¹⁴ Peter Hallward, *Damming the Flood: Haiti, Aristide, and the Politics of Containment* (Verso, 2007), pp. 159–60.

¹⁵ The process by which the interim government of Haiti was installed in 2004 violated articles 129, 137, 138, 149, and 155 of Haiti’s constitution. Interim Prime Minister Gerard Latortue was ineligible to assume his post under additional articles regarding his lengthy of residency in Haiti; Latortue had been living in the United States (article 157 of the Haitian constitution) prior to accepting the office of Prime Minister.

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Latin America Solidarity Coalition

Legal Action for Women

Marin Interfaith Task Force on the Americas

National Lawyers Guild Haiti Committee

Nicaragua Center for Community Action

Nicaragua Network

Payday Men's Network

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