

September 19, 2013



### **The United States Government Should Support Prompt and Fair Elections in Haiti**

The U.S. government should support prompt elections in Haiti, but also insist that those elections be fair and inclusive. Elections in 2009 and 2010 excluded many qualified candidates and parties without legal justification, leading to fundamental governance problems that were not only predictable, but were anticipated by members of U.S. Congress on both sides of the aisle. Two more election cycles are overdue, leading to a Senate with 1/3 of its seats open and struggling to obtain a quorum. Further, since he took office, President Michel Martelly has appointed 129 non-elected “municipal agents” to replace elected mayors whose terms expired last year.<sup>1</sup>

#### **Haiti’s history of election difficulties leading to political crisis**

The Provisional Electoral Council (CEP) that conducted Haiti’s 2009 senatorial elections and the 2010/11 presidential and parliamentary elections excluded candidates and parties, including Haiti’s largest party, *Fanmi Lavalas*, without providing a cognizable legal justification.<sup>2</sup> The U.S. State Department initially protested the 2009 exclusions, but later withdrew the objections and provided the lion’s share of the election funding. When the CEP repeated its unjustified exclusions in 2010, 45 House members warned Secretary of State Clinton that the exclusions would “*undermine both Haitians’ right to vote and the resulting government’s ability to govern.*” Senator Richard Lugar added that “[*the*] *absence of democratically elected successors could potentially plunge the country into chaos.*”<sup>3</sup> Again, the U.S. government provided the lion’s share of the funding, to the tune of \$15 million.

In fact the 2010 first round voting was so chaotic- replete with large-scale, unabashed ballot-stuffing, logistical delays, and registration problems that almost all of the presidential candidates called for the voting to be cancelled at mid-day. <sup>4</sup> It was also largely boycotted by the voters- less than a quarter voted, in what was the lowest turnout for a presidential election in the Americas since 1947.<sup>5</sup>

In response, the Congressional Black Caucus issued a statement urging “*the United States and the international community to uphold the ideals of fairness and support a new Haiti election process that is free and fair, respecting the rights of the Haitian people.*”<sup>6</sup> This warning was ignored, and the second round voting was held after the U.S. Government directed the CEP to reverse the order of the second and third place finishers in the official results.<sup>7</sup> This decision set Haiti on its way to its current political crisis.

#### **Current electoral crisis in Haiti**

While Haiti has historically struggled to hold regular and timely elections, the current situation results from a political deadlock. Elections for legislative representatives scheduled for November 2011 have yet to be held or scheduled, and 129 non-elected “municipal agents” have replaced elected mayors whose terms expired in 2012.

Coupled with the delayed elections is controversy concerning the electoral council, whose make up was changed in a set of 2010 constitutional amendments. The amendments were controversial because members of Parliament stated those published were not the actual amendments adopted in session.<sup>8</sup> Amidst pressure from the U.S. and other governments, President Martelly formally adopted the contested amendments in 2012.

Since 2012, each CEP appointment has been fraught with controversy, including a rape accusation of a CEP

employee by one appointee and the unlawful appointment of another official who exceeds the legal age to hold office.<sup>9</sup> Without one-third of the senate, the legislature was not able to appoint their three members. As a result the CEP has been nonfunctional and unable to hold elections.

To remedy the CEP crisis, President Martelly appointed a bicameral commission in October 2012, the *Collège Transitoire du Conseil Électoral Permanent* (CTCEP).<sup>10</sup> The CTCEP first met in April 2013, and submitted a proposed electoral law to a Presidential commission July 1. After sitting on the proposed law for two months, the Presidential commission submitted it to the House of Deputies only days before its last session of the year, leading to controversy over whether the House actually approved the law. The Prime Minister declared after the session that the electoral law was adopted, but House members say there was never an affirming vote.<sup>11</sup>

The electoral law will not be passed until January 2014, the earliest, further delaying the elections. On September 11, protesters took to the streets of Port-au-Prince to protest the slow pace of scheduling elections. These protests will likely continue until elections are held to end the political deadlock.

### **Recommendations**

The U.S. government must support timely, organized, fair, and free elections in Haiti. These elections must not be rushed and should account for the problems of the last elections, including permitting all eligible political parties to participate, updating voter registration lists, and making ID cards available to all eligible voters. The U.S. House of Representatives can support these efforts by making clear to the U.S. Administration and the Haitian government that it considers fair and inclusive elections necessary for continued aid to Haiti to be a wise and efficient use of U.S. taxpayers' funds. As Vice President Biden told President Martelly in June 2013, the importance of elections in solidifying Haiti's democratic foundation must be underscored.<sup>12</sup>

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<sup>1</sup> *Haiti must break political impasse to achieve progress*, UN envoy tells Security Council, UN News Centre, March 2, 2013, <http://www.un.org/apps/news/story.asp?NewsID=44435>.

<sup>2</sup> Institute for Justice & Democracy in Haiti, *Haiti's November 28 Elections: Trying to Legitimize the Illegitimate*, November 22, 2011, [http://www.ijdh.org/haiti/s-november-28-elections-trying-to-legitimize-the-illegitimate-ijdh/#.UjoNJBb\\_5Rc](http://www.ijdh.org/haiti/s-november-28-elections-trying-to-legitimize-the-illegitimate-ijdh/#.UjoNJBb_5Rc).

<sup>3</sup> Brian Concannon, Jr., *Haiti's Flawed Elections: They Told Us So*, Boston Haitian Reporter, November 2, 2010, available at <http://www.bostonhaitian.com/node/253>.

<sup>4</sup> Jason Beaubien, *Wary, And Wary, Haitians Prepare For Elections*, NPR, October 7, 2010, <http://www.npr.org/templates/story/story.php?storyId=130402973>; see also *Elections that Do Not Reflect the Will of the People*, <http://www.ijdh.org/on-the-violation-of-voting-right-in-haiti-elections-that-do-not-reflect-the-will-of-the-people-bureau-des-avocats-internationaux-canada-haiti-action-network-transafrica-forum-louisiana-justice-in/#.Ujje3dJQGuj>.

<sup>5</sup> Dan Beeton, *CEPR Examines OAS Report on Haiti's Election, Finds it "Inconclusive, Statistically Flawed, and Indefensible"*, Center for Economic and Policy Research, January 11, 2011, <http://www.cepr.net/index.php/press-releases/press-releases/cepr-examines-oas-report-on-haitis-election-finds-it-qinconclusive-statistically-flawed-and-indefensibleq>.

<sup>6</sup> Mark Weisbrot, *Haiti's Growing momentum towards democracy*, The Guardian, February 2, 2011, <http://www.theguardian.com/commentisfree/cifamerica/2011/feb/02/haiti-usforeignpolicy>.

<sup>7</sup> *Supra* note 5.

<sup>8</sup> Charlie Hinton, *Haiti's Constitutional Horror Show*, Counterpunch, October 5, 2012, <http://www.counterpunch.org/2012/10/05/haitis-constitutional-horror-show/>.

<sup>9</sup> *Id.*

<sup>10</sup> *Haiti- Elections : Swearing in, installation, and élection of members of the Bureau of CTCEP*, HaitiLibre.com, April 30, 2013, <http://www.haitilibre.com/en/news-8385-haiti-elections-swearing-in-installation-and-election-of-members-of-the-bureau-of-ctcep.html>. See also *To rebuild Haiti, Restoring Democracy is a Must*, Bloomberg, April 7, 2013, <http://www.bloomberg.com/news/2013-04-07/to-rebuild-haiti-restoring-democracy-is-a-must.html>.

<sup>11</sup> Robenson Geffrard, *Le vote des députés jette la confusion*, Le Nouvelliste, September 11, 2013, <http://lenouvelliste.com/article4.php?newsid=121186>.

<sup>12</sup> The White House, Office of the Press Secretary, *Readout of Vice President Biden's Call with President Michel Martelly of Haiti*, June 20, 2013, <http://www.whitehouse.gov/the-press-office/2013/06/20/readout-vice-president-biden-s-call-president-michel-martelly-haiti>.