



## ICCPR: THE RIGHT TO VOTE IN HAITI

Haitians' right to vote under Article 25 of the International Covenant on Civil and Political Rights (ICCPR) has been violated in the plainest sense—they have not been able to vote since 2011. The Senate has struggled to obtain a quorum since May 2012, when one-third of 30 seats expired. The terms of another one-third of the Senate and all 99 members of the House of Deputies will expire in early 2015. If these seats are allowed to expire, the Executive will be authorized to dissolve the Parliament and rule by decree. The current administration has previously committed to holding elections multiple times, most recently by October 26, 2014, only to postpone and ultimately not follow through. While elections have been delayed for many reasons, the principal roadblock has been Haitian President Michel Martelly's lack of political will to hold elections. The executive branch has benefitted in many ways from the lack of elections, including by appointing the mayors of almost all municipalities, and having decreased legislative oversight.

Elections are desperately needed to ensure accountability of the Government of Haiti, but they will only remedy Haiti's ongoing political crisis if they are run freely and fairly by a lawfully mandated electoral council. As described in our report submitted to the Human Rights Committee entitled *The Right to Vote*,<sup>1</sup> prior elections in 2010 and 2011 were marred by delays, unconstitutional electoral councils, arbitrary exclusion of political parties, voter fraud and intimidation, and poorly managed voter registration. The Government of Haiti must be reminded to prioritize Haitians' right to vote and run for political office in accordance with ICCPR Article 25. The right to vote can be respected by holding regular, constitutionally mandated elections before political office terms expire to avoid vacancies; ensuring free and full participation of all eligible political parties; and appointing an impartial, constitutionally mandated electoral council to organize fair and regular elections.

**The current electoral council in charge of elections for 2015 is unconstitutional and a political arm of the executive branch:** President Martelly, and some political parties, parliamentarians, members of civil society signed the *El Rancho Accord*, which proposed to hold elections on October 26, 2014, create a Provisional Electoral Council (CEP), and provide for the approval of amendments to the 2013 electoral law. However, the accord received limited dialogue and consensus among a broad spectrum of political and civil society groups, and has been widely rejected by some of Haiti's most prominent political parties and human rights groups.

Additionally, the *El Ranch Accord* lacks legal authority because it has not been approved by the Parliament on constitutional grounds. Under Article 289 of the Haitian Constitution, a CEP must be chosen from representatives of the public sector and civil society organizations. The current CEP was chosen from the three branches of government. With open seats in the Senate and several illegal appointments to the judiciary, this appointment method gives the Executive branch undue control. The Constitution also states that the electoral council prepares the electoral law, and provides it to the President, who submits it to the legislature. The current electoral law was prepared by the Executive branch, and submitted to Parliament at a time when there was no electoral council. Parliament has not ratified the electoral law on this basis.

Despite these grave constitutional flaws with the CEP and proposed electoral law, the Haitian government refuses to compromise. Instead, members of Haiti's Senate and political opposition are maligned by the President for interfering with elections when they call for an election process that respects the constitution.

**Unlawful CEP and Exclusion of Political Parties (Articles 22, 25(a), 26):** Haitians' right to run for political office without unlawful interference under Article 25(a) was also violated during the 2010 and 2011 elections. The CEP that ran the elections was hand-picked by then President Rene Préal, creating a

bias against opposition political parties. As a result, the CEP arbitrarily excluded over a dozen political parties, including Haiti's most popular political party, *Fanmi Lavalas* (FL), without legal authority. The CEP's unlawful exclusion of political parties violated the parties' right to freedom of association under the Haitian Constitution as well as Articles 22, 25, and 26 of the ICCPR. The ICCPR grants the Haitian people the right to free association without political discrimination, as well as the right to vote in fair elections. In this case, the CEP flouted the rights of these parties in clear violation of their right to free association.

**Voter Registration Procedures (Article 25(b)):** During the 2010 elections, thousands of registered voters were unable to vote as a result of confusing and poorly managed voter registration practices. Haitian citizens must register with the National Office of Identification (ONI), which manages the electoral register, in order to obtain a national identity card required to vote. Voter registration lists were unreliable and thousands of voters were prevented from voting because they could not find their names on the list. The ONI was unable to distribute more than 100,000 national identity cards that otherwise eligible voters needed to vote. General Comment No. 25 obligates the Haitian Government to take "positive measures" to overcome difficulties or impediments to freedom of movement which prevents Haitian citizens from exercising their rights effectively. The Haitian government must establish an accessible voter registration process to enable universal participation of voters and to maintain a current and accurate voter registry.

**Voter Intimidation (Articles 9, 25):** Under ICCPR Article 25 and General Comment No. 25, "voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind." Observers reported that during the 2010 elections, the Haitian National Police (PNH) and the UN Stabilization Mission in Haiti (MINUSTAH) were unresponsive to security issues at polling stations and failed to protect voters as they exercised their political rights. The lack of security at polling stations is a serious violation of Haitians' rights to security of the person in violation of ICCPR Article 9. Brazen voter intimidation tactics are frequently used to obtain votes. Armed men are known to have blockaded polling stations when UN peacekeepers and international observers are absent. These thugs are able to persuade voters to cast their ballot for whichever political party is able to afford their services.

## **RECOMMENDATIONS:**

The Government of Haiti is urged to take the following steps to protect Haitians' right to vote and run for political office:

1. Hold regular, constitutionally mandated elections before political office terms expire to avoid vacancies;
2. Take all measures necessary to ensure that elections are free and fair;
3. Take all measures necessary to ensure free and full participation of all eligible political parties;
4. Hold a legal and inclusive voter registration process to guarantee universal suffrage;
5. Provide all eligible voters with voter identification cards so that they can participate in elections;
6. Ensure that an impartial, constitutionally mandated electoral council is appointed to organize fair and regular elections; and
7. Work in good faith with Parliamentarians and opposition party members to guarantee free and fair Parliamentary and Presidential elections in 2015.

## **QUESTIONS:**

1. What steps has the government taken to ensure the free and full participation of all eligible political parties?
2. What steps has the government taken to work in good faith with Parliamentarians and opposition party members to guarantee free and fair Parliamentary and Presidential elections in 2015?

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<sup>1</sup> *The Right to Vote*, Institute for Justice and Democracy in Haiti *et al.*, Submission for the 112<sup>th</sup> Session of the United Nations Human Rights Committee, October 8 & 9, 2014, (Sept. 12, 2014) *available at* [http://www.ijdh.org/wp-content/uploads/2014/09/HRC\\_Right-to-Vote\\_Sept-12.pdf](http://www.ijdh.org/wp-content/uploads/2014/09/HRC_Right-to-Vote_Sept-12.pdf).