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ENSURING FAIR ELECTIONS IN HAITI: LEGAL ANALYSIS OF RECENT DEVELOPMENTS

Haiti faces an electoral crisis that undermines the government's democratic functioning and cripples governance. Legislative elections that were constitutionally required in 2011 and 2013 have been stalled, and as a result, the terms of most members of Parliament expired on January 12, 2015. Consequently, ninety-nine (99) members of the House of Deputies and ten (10) members of the Senate were forced to vacate their seats – leaving just ten (10) members of Parliament remaining. These remaining ten are unable to obtain the quorum necessary to enact laws. With Parliament unable to act, President Martelly now has no parliamentary oversight, and has claimed the power to issue executive orders in order to resolve the current electoral crisis, among other issues of national concern.

This briefing paper explains the electoral crisis and analyzes the constitutional and legal issues at stake as the country prepares for the overdue elections. The current electoral crisis includes:

- The expiration of all House of Deputies seats and one third of Senate seats on January 12, 2015.
- The vacancy of another one third of the Senate since January 2012, when their terms expired without elections for the seats. From that point until January 12, 2015, with ten vacant seats, the Senate did not have a quorum to conduct business unless fifteen of the remaining twenty members participated. Six Senators were able to prevent a vote by refusing to participate.
- The terms of all mayors also expired in 2012. Those elected officials were replaced by “municipal agents,” who were unconstitutionally appointed by President Martelly.
- The Constitution requires Presidential elections to be held by the end of 2015.

Although elections must be held as soon as possible to install democratically-elected legislators and mayors, the elections will only remedy Haiti's political crisis if they are run fairly by a lawfully-constructed electoral council, the body responsible for overseeing elections. The most recent Provisional Electoral Council (CEP) was not constituted in accordance with the Constitution. The Consultative Commission, assembled in November by President Martelly amidst national and international pressure, made a number of constructive recommendations to move past political and legal roadblocks and hold elections in 2015. Among the recommendations were replacing Prime Minister Laurent Lamothe, creating a new CEP and liberating political prisoners. These recommendations and the government's quick implementation of some of the recommendations are a positive step towards ending the political impasse and holding elections in 2015.

But the political crisis was not created overnight, nor can it be resolved overnight. Fair elections will require an impartial, independent and constitutional CEP to facilitate the free participation of all political parties. The process must also install trust among political actors, but also the electorate. The Martelly Administration's repeated efforts to implement election-related policies that fall short of constitutional requirements has deeply undermined the trust that is essential for elections, especially those held without Parliamentary oversight. Many of the government's opponents believe that fair elections are impossible under President Martelly. The mistrust has been aggravated by measures taken by the international community that have convinced Haitians across the political spectrum that the international community, including the United Nations, the United States and the Organization of American States, have taken sides in this election, in favor of President Martelly rather than in favor of fair elections. This perception reduces the international community's ability to play a mediating role.

BACKGROUND: ELECTIONS DELAYED, RIGHTS DENIED

Haiti's elections have been delayed for many reasons, but the principal roadblock has been the lack of a constitutionally-mandated electoral council to oversee the election process. The failure to hold timely legislative elections, and the ensuing difficulties in reaching a quorum in the Senate, has effectively allowed President Martelly to rule without legislative oversight for most of his term. For example, in November 2013, the Senate held a vote of no confidence on the Prime Minister and two other ministers. The Senators present voted overwhelmingly against the ministers, but because of the ten vacant seats they fell just short of the sixteen votes necessary to force the government's resignation.¹ As a result, the vote had no legal effect and the ministers were able to stay in office despite the lack of support from the legislature.

Permanent vs. Provisional Electoral Council

Haiti's Constitution provides for two types of electoral councils: provisional and permanent.² The electoral council plays a crucial role in elections. In addition to organizing and overseeing elections, including determining the results, the council drafts the electoral law that dictates the terms of elections, which is submitted to Parliament for final approval. The Provisional Electoral Council was an interim solution placed in Haiti's 1987 Constitution to oversee the first election of a President, local officials and a complete Parliament. After the first election, a Permanent Electoral Council would be established for future elections according to Article 192 of the Constitution. In practice, a Permanent Electoral Council has never been properly constituted; a Provisional Electoral Council has run every Haitian election since 1990.

The Provisional Electoral Council is to be comprised of nine members pursuant to Article 289 of Haiti's Constitution, chosen from nine different sectors of society (Executive Branch, Catholic Bishop's Conference, Advisory Council, Supreme Court, human rights organizations, the University Council, journalists associations, Protestant religions, and the National Council of Cooperatives).³ The Constitution recognizes that in a situation like the current one, where the three branches of government are not fully operational, public confidence and fairness will be enhanced if the Council is chosen from a broad spectrum of public actors, rather than by government branches with limited legitimacy and independence.

Amendments to Haiti's Constitution, finalized in 2012, simplified the procedures for choosing the Permanent Electoral Council.⁴ The permanent council is to be comprised of nine members as well, but each branch of government – Executive, Judicial and Legislative – appoints three members.⁵ The term of each member is nine years.

Controversial Electoral Council Appointments

Haitian parliamentarians, political opposition and human rights groups claim that President Martelly has delayed elections since he came into office in May 2011 by establishing electoral councils that did not comply with the law and that provided the Executive branch with unfair influence in the election process. Political stalemates resulted when critics resisted these unlawful and unfair initiatives.

Permanent Electoral Council in 2012

President Martelly attempted to appoint a Permanent Electoral Council in 2012, but many of the appointments were controversial. The President of the Council, a close Presidential ally and former Minister of Justice, was forced to resign following a rape accusation by an electoral council employee.⁶ According to human rights groups and some members of Parliament, the judicial branch's selections were not independent because President Martelly illegally named three Supreme Court justices in 2012 (Chief Justice Anel Alexis Joseph was over the maximum age of appointment and the other two were not selected from the official lists submitted by the Senate as required by Article 175 of the Constitution). These appointments allowed President Martelly to influence the nomination of the Superior Council of Judicial Power, a new judicial council headed by Justice Joseph, which selected the Permanent Electoral Council's judicial members.

Many Senators opposed appointing candidates from the legislative branch to the nine-year Permanent Council terms. They felt that a Senate missing one-third of its members lacked the legitimacy to make such a long-term appointment to a critical position. They proposed naming one more Provisional Council to run elections to complete the Senate, after which a Permanent Council could be established to run the elections scheduled for 2013. President Martelly attempted to convene the Permanent Electoral Council with only 6 of the 9 seats filled, but the council lacked legality and credibility, and was never operational.⁷

Collège Transitoire du Conseil Électoral Permanent (CTCEP) in 2013

In December 2012, President Martelly and others, including the Senate, agreed to appoint a compromise entity called, the *Collège Transitoire du Conseil Électoral Permanent* (known by its French acronym "CTCEP"). Named in April 2013, the CTCEP was charged with drafting a new electoral law.⁸ The appointments were made in accordance with the Article 192 method of appointing a Permanent Electoral Council – each branch of government selecting three members, but with an understanding that they would only serve until the election was completed. Similar to the appointment of members to the Permanent Electoral Council in 2012, however, the Executive branch largely controlled the CTCEP appointment process for the Executive and Judicial appointments, and influenced the Legislative appointments. The Senate found it difficult to meet

quorum with one-third of its seats vacant. The CTCEP submitted a proposed electoral law to a Presidential commission on July 1, 2013. The President submitted the law to parliament in September 2013, and after growing tensions and accusations of intentional delays on both sides, both chambers passed the electoral law at the end of 2013.⁹

Provisional Electoral Council (CEP) in 2014

In March 2014, President Martelly and some political parties, parliamentarians, and members of civil society signed the *El Rancho Accord*, which proposed to hold elections on October 26, 2014, rename the CTCEP to a Provisional Electoral Council, and approve necessary amendments to the 2013 electoral law.¹⁰ The *Accord* was not approved by the Senate and was widely denounced as a maneuver by the President to circumvent the legislature's exclusive prerogative to approve the electoral law.¹¹ Although many civil society organizations signed the *Accord*, many others refused, including virtually every political party with a record of electoral success, other than the President's party.

Many parliamentarians, including six of the twenty sitting senators (known as the G6) opposed the *Accord* on constitutional grounds,¹² because the proposed CEP a) would in essence be the former CTCEP composed under the permanent council procedures, although each government branch was permitted to replace one of their appointed members; and b) would be authorized to bypass the legislature and pass electoral law amendments. As a result of these objections, the Senate never voted on the *El Rancho Accord*.

Despite the Senate's constitutional objections and refusal to approve the *El Rancho Accord*, President Martelly implemented a new CEP in May 2014 based on the *Accord* guidelines, which contained 7 of the 9 members from the CTCEP.¹³ The G6 senators, opposition groups and human rights groups protested, and called for a new, constitutionally-mandated CEP. The G6 refused to participate in a vote on the proposed electoral law, as it had been prepared by the President rather than the CEP, as required by the Constitution. There was no vote on the electoral law and elections did not take place on October 26, 2014.

Amidst growing political protests and public calls for the government to step down, President Martelly appointed an eleven-member Consultative Commission on November 28, 2014, to propose a solution to the political crisis.

RECOMMENDATIONS OF THE CONSULTATIVE COMMISSION

On December 8, 2014, the President's Consultative Commission released recommendations for resolving the political crisis and moving forward with elections. The Commission's recommendations respond to calls from opposition parties and human rights groups and address some of the legal issues, but will need to be fully implemented in a manner consistent with the Constitution if there is to be real progress towards inclusive and fair elections. The Commission's key recommendations are:¹⁴

- The immediate release of political prisoners;
- The dismantling of the current Provisional Electoral Council (from the *El Rancho Accord*) and establishment of a new Provisional Electoral Council in accordance with the Constitution;

- The resignation of Prime Minister Laurent Lamothe and the formation of a consensus government;
- The resignation of the president of the Superior Council of Judicial Power, a judicial council tasked with securing judicial independence and appointing members of the judiciary; and
- Voting on the amendments to the 2013 Electoral Law.

President Martelly announced that he accepts the recommendations of the Consultative Commission. At the time of this publication, implementation of several of the recommendations has begun, including the resignation of the *El Rancho* CEP, the release of an estimated 20 political prisoners, and the resignation of the Prime Minister. These recommendations and the status of implementation are discussed more fully below.

LEGAL ANALYSIS OF KEY RECOMMENDATIONS

Establishment of a Constitutional Provisional Electoral Council

The Consultative Commission recommended the establishment of a constitutional CEP by January 12, 2015, to oversee elections. This recommendation echoes what the political opposition has consistently called for since the President created the Permanent Electoral Council in 2012.

The CEP created after the *El Rancho Accord* was unconstitutional; it was essentially the former CTCEP appointed according to the Permanent Electoral Council process. The *El Rancho Accord* allowed each of the three branches to withdraw and reappoint one seat. With 7 of the 9 CTCEP members, the new CEP was essentially the CTCEP. As a provisional council, the CEP should have been established in accordance with Article 289, as the Commission recognized, which calls for the nine members to be selected from nine different sectors of society.

The Executive branch's repeated efforts to control the Permanent Electoral Council, CTCEP and the CEP have contributed to widespread concern that the CEP will not allow for fair and inclusive elections. In 2010 elections, the CEP that was hand picked by then President René Préval and marred by corruption allegations arbitrarily excluded over a dozen political parties without providing an explanation adequately grounded in Haitian law. In light of the exclusions and other irregularities, voters deemed the elections unfair and refused to vote. Less than 23 percent of voters participated in the 2010 Presidential and Parliamentary elections.¹⁵

On December 18, 2014, the nine current CEP members sent a letter to President Martelly announcing that they would resign upon the appointment of a new CEP.¹⁶ On January 7, 2015, the Martelly administration announced that a new CEP would be appointed within 48 hours.¹⁷ On January 11, 2015, the Executive signed an accord with four parties from the political opposition regarding the reconstitution of the CEP.¹⁸ The accord stipulated that a new CEP would be created “in the spirit of Article 289 of the Constitution,” which would include constituents from the nine groups provided for in the Constitution.¹⁹ The proposed CEP deviated from the relevant constitutional provisions in several respects, including the participation of new civil society groups, and prohibiting the participation of government agents and political parties. The corresponding

accord required the approval of Parliament by January 12, 2015, before it could go into effect – giving Parliament a mere 24 hours to approve the plan.²⁰

This accord was neither joined, nor supported by key opposition groups.²¹ As a result, several key parliamentarians did not participate in the January 12, 2015 vote, which contributed to the failure to obtain a quorum to vote on the proposal for the CEP.²² President Martelly has stated that he will appoint a CEP based on the agreement. He has asked the specified organizations to present their nominations.²³ Without the checks and balances of parliamentary oversight, there are serious concerns whether a CEP that meets constitutional requirements can be reconstituted.

Release of Political Prisoners

The release of political prisoners is also a welcome and critical step to ensuring that elections are inclusive and that political opponents to the government can participate in elections without intimidation and unlawful punishment. Since President Martelly took office, leaders of the political opposition, activists and human rights defenders have faced increased harassment, threats and in many cases, arbitrary arrest and prolonged detention.²⁴ The leading role played by the judicial branch in this persecution indicates a troubling lack of judicial independence and failure to provide human rights protections and legal remedies for political opposition groups.

Since the recommendations, over 20 political prisoners have been released. Among them, Enold and Josué Florestal (the Florestal brothers) were released on December 19, 2014. The Florestal brothers were arrested in connection with a murder case after they filed a lawsuit in 2012 against President Martelly's wife, Sophia Martelly, and son Oliver Martelly, for corruption. In October 2014, the Florestal brothers and their lawyer, André Michel (an outspoken leader of RNDP, the political party that finished second in Presidential elections in 2011, 2006, 2000 and 1991), were indicted in the 2010 murder case with little to no factual justification. On December 17, 2014, the case was referred to the court of appeals, which ordered the brothers' liberation.²⁵

Biron Odigé and Rony Timothée, leaders of the opposition organization FOPARK, were also released from custody after being apprehended after participating in a demonstration on October 26, 2014. Lawyer Evel Fanfan confirmed that 17 of 18 individuals arrested in connection to an October 17, 2014 demonstration have also been released.²⁶

A key player in the Executive Branch's use of the courts to attack political opponents is Judge Lamarre Bélizaire, a President Martelly appointee. Judge Bélizaire's 2012 appointment was illegal, because he did not meet Haiti's 5-year legal experience requirement for judges, and had not observed a required break between employment as a prosecutor and installation as a judge. Although cases are supposed to be randomly distributed among the judges of the Port-au-Prince trial court, Judge Bélizaire has received the vast majority of politically-sensitive cases. He handled the cases of the Florestal brothers and Biron Odigé and Rony Timothée, as well as prominent and controversial investigations against former President Jean-Bertrand Aristide, who heads Haiti's most popular political party, *Fanmi Lavalas*.²⁷ That investigation started in August 2014 and has targeted many senior members of *Lavalas*. The investigation has been criticized by human rights groups across the political spectrum as illegal and politically-motivated. Judge has been suspended by the

Port-au-Prince Bar Association for 10 years, starting when he leaves the bench, because of his illegal pursuit of political dissidents.

Resignation of the President of the Superior Council of Judicial Power

According to the law creating the Superior Council of Judicial Power (known by its French acronym “CSPJ”), which is tasked with promoting the independence of the judiciary and names the judiciary’s CEP candidate, the Chief Justice of the Supreme Court serves as the CSPJ President.²⁸ Chief Justice Anel Alexis Joseph’s 2012 appointment by President Martelly to serve on the Supreme Court was illegal because he exceeded the maximum legal age to hold office.²⁹ By extension, his role as head of the CSPJ is also illegal, and provides the Executive with substantial leverage on the position tasked with ensuring judicial independence.

Chief Justice Joseph resigned from the Supreme Court (and thereby the CSJP) on January 7, 2015.³⁰

Resignation of the Prime Minister

Among the Consultative Commission’s recommendations, the Prime Minister’s resignation has received the most attention in the media. The resignation of the Prime Minister is a political, and not a legal issue. Although the Prime Minister’s resignation may serve to ease political tensions, inclusive and fair elections will ultimately depend on the implementation of the recommendations concerning the CEP and the respect of all of the Constitutional requirements for elections.

The Consultative Commission called for the establishment of a consensus government that includes political opposition parties. The President nominated Evans Paul, the leader of a political organization known as KID, as the new Prime Minister on Christmas Day. Under the Constitution, the President chooses the Prime Minister in consultation with the presidents of the Senate and House of Deputies. The President’s choice must be ratified by Parliament. Opposition parties and some senators have said that Mr. Paul cannot be considered a consensus Prime Minister under the Consultative Commission’s recommendations, because he was chosen unilaterally by the President.³¹ Approving Mr. Paul as Prime Minister was one of several issues covered in the January 11th accord, which Parliament failed to ratify.³² Mr. Paul’s appointment was officially confirmed by President Martelly in a presidential address on January 16.³³ In his address, President Martelly announced that there would be a government named within 48 hours.

Voting on Electoral Law Amendments

The Consultative Commission called on the Senate and the House of Deputies — through the convocation of an emergency session — to vote on amendments to the 2013 Electoral Law. In order for the elections to proceed in accordance with the Constitution, the electoral amendments will need to be prepared by the new CEP then transmitted to the President in accordance with Article 191.1, who then submits the law to Parliament for approval. Simple approval of the current amendments by the two houses of parliament without the involvement of a legally-constituted CEP would be once again skirting Haiti’s Constitution.

The agreement to extend parliamentary terms reached on December 29, 2014, by President Martelly, leaders of both house of Parliament and the CSJP was conditioned on passing amendments to the

electoral law before January 12, 2015, when the current legislative terms were set to expire. Parliament convened on January 11, 2015 to consider a vote on the law, but lacked the participation of key opposition parliamentarians, and thus, fell short of the necessary quorum.³⁴ Parliamentarians in the opposition declined to participate in the vote to demonstrate their frustration with the negotiations process.³⁵ A failure to meaningfully consult opposition parliamentarians in the drafting of the December 29 agreement, in addition to the excessive involvement of foreign governments, generated great frustration among the opposition.³⁶

Opposition parliamentarians maintained their dissatisfaction with the negotiation process when a vote was called the following day, as Parliament again lacked the necessary quorum to come to a vote.³⁷ As a result, 99 seats of the House of Deputies and 10 out of 30 seats in the Senate have expired, leaving the Parliament without the quorum necessary to pass future laws.³⁸ As of the time of publication, there are only 10 parliamentarians who remain in office.³⁹

CONCERNS & WHAT CAN THE INTERNATIONAL COMMUNITY DO TO SUPPORT FAIR, INCLUSIVE AND TIMELY ELECTIONS IN HAITI?

Progress in earthquake reconstruction, stabilizing Haiti's democracy and ending poverty will only be possible if the upcoming elections in Haiti are fair and inclusive. The government's implementation of many of the Consultative Commission's recommendations and the December 29 agreement are positive steps toward ending the political crisis and holding elections. However, last-minute concessions and negotiations do not suffice to reverse the political disorder caused by the Martelly administration's failure to hold elections over the last four years. This undue delay has jeopardized governance at the national and municipal levels, and generated a lack of trust in the Martelly administration's willingness to administer fair and free elections in 2015.

It is essential that elections in Haiti follow the Constitutional prescriptions as closely as possible, and are managed to establish the trust of opposition parties and the Haitian voters. Establishing trust will be especially difficult without the counterbalance of a Parliament. Already, many government opponents have concluded that the Administration cannot hold fair elections, and are calling for the President's resignation before elections can be held. The distrust in the electoral process has been aggravated by the perception that the international community has chosen President Martelly over the Haitian voters. The perception is broad-based, is held across Haiti's political spectrum, and is expressed regularly by members of Parliament, in the press and on the streets through demonstrations. The perception was fueled recently by unjustified attacks by MINUSTAH soldiers against demonstrators, including one officer filmed firing live ammunition at protestors, by the U.S. Ambassador's presence at Parliament during the attempted votes on the political accord on January 10 and 11, and the many messages of support for President Martelly just before and after he allowed the expiration of Parliament's mandate.

The Haitian Constitution requires the Electoral Law to be passed by both houses of Parliament. Without a Parliament to approve it, any electoral law, and any elections run under it, will be open to challenge as unconstitutional.

To address these concerns and ensure free and fair elections in Haiti, we encourage members of the international community to:

1. Call for the establishment of a Provisional Electoral Council that complies with Art. 289 of the Constitution and is selected in a fair and inclusive manner in order to ensure credibility;
2. Call on the Martelly administration to ensure the Provisional Electoral Council operates with independence;
3. Call on the Martelly administration and Provisional Electoral Council to ensure inclusion and full participation of all political parties in all facets of the electoral process;
4. Work with human rights groups to identify and encourage the immediate liberation of all political prisoners, and promptly denounce any future arrests of Martelly regime opponents unless clearly justified; and
5. Secure the Haitian public's right to freedom of assembly and expression by refraining from use excessive force on demonstrators and condemning arbitrary arrests and use of force by Haitian police.
6. Respect the right to Haitian self-determination and self-governance

These elections must not repeat the errors of the past.⁴⁰ Illegitimate elections in 2010, contaminated by a corrupt electoral council, illegal exclusion of political parties,⁴¹ ballot-stuffing⁴² and an arbitrary revision of the results⁴³ set Haiti on its way to its current political crisis. A month before the 2010 elections, 45 members of the U.S. Congress warned Secretary of State Hillary Clinton that supporting flawed elections “will come back to haunt the international community” by generating unrest and threatening the implementation of earthquake reconstruction projects.⁴⁴ The U.S. government ignored these warnings and provided the majority of the funding for those elections, directly contributing to the current crisis. The U.S. and other international donors can support rule of law and democracy by conditioning election funding on a lawful and independent electoral council that can run fair and inclusive elections.

¹ *Haiti-Parlement : Trois ministres du gouvernement échappent à la censure grâce à une minorité de sénateurs*, ALTERPRESSE, Nov. 6, 2013, http://www.alterpresse.org/spip.php?article15418#.VK_y8yf6YYp. The Minister of the Interior received 15-3 votes of no confidence, the Minister of Foreign Affairs received 13-5 votes of no confidence and the Minister of Justice received 14-4 votes of no confidence. *Id.*

² HAITI CONST. OF 1987 (Amended 2012), arts. 289, 192. An unofficial version is available at https://www.constituteproject.org/constitution/Haiti_2012.pdf (last visited Dec. 30, 2014). The 2012 Amendments, published in *Le Moniteur* June 19, 2012, are available at http://www.oas.org/juridico/PDFs/mesicic4_hti_amend.pdf.

³ *Id.* art. 289. Parliament approved an amendment to Article 289, published in *Le Moniteur* October 6, 2009, which changed the CEP composition to “representatives of the public sector, political parties and civil society organizations.” That amendment appears to have been superseded by subsequent vote and caught in a quagmire of fraud allegations with 2011 and 2012 amendments. See *Haiti – Constitution: Rapport du Group des juristes indépendants*, HAITILIBRE, Jul. 3, 2012, <http://www.haitilibre.com/article-5106-haiti-constitution-rapport-du-groupe-de-juristes-independants-texte-integral.html>. The original 1987 version of Article 289 appears to remain *en vigueur*.

⁴ *Id.* art 192.

⁵ *Id.*

⁶ *Id.*

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- ⁷ *Haiti-Conseil électoral permanent: Martelly passe aux actes et installe six conseillers au lieu de neuf*, ALTERPRESSE, Aug. 21, 2012, <http://www.alterpresse.org/spip.php?article13271#.VKHRfF4ANg>.
- ⁸ *Haiti- Elections: Swearing in, installation, and election of members of the Bureau of CTCP*, HAITILIBRE, Apr. 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>.
- ⁹ RESEAU NATIONAL DE DEFENSE DES DROITS HUMAINS (RNDDH), Rapport Sur La Situation General Des Droits Humains en Haiti au Cours de La Troisième Année de Présidence de Michel Joseph Martelly 5 (2014), available at <http://rnddh.org/content/uploads/2014/05/Rapport-Droits-Humains-Mai-14.pdf>.
- ¹⁰ *El Rancho: The Church and a Fundamentally Bad Accord*, HAITI SENTINEL, <http://www.defend.ht/columns/blogs/the-editors-blog/5488-el-rancho-the-church-and-a-fundamentally-bad-accord>.
- ¹¹ *Haiti – Politic: Senator Desras Asserts that Parliament is Not Linked to El Rancho Agreement*, HAITILIBRE, Apr. 22, 2014, <http://www.haitilibre.com/en/news-10989-haiti-politic-senator-desras-asserts-that-parliament-is-not-linked-to-el-rancho-agreement.html>.
- ¹² *Haiti – Politic: The dialogue between the Executive and the Senate ends in failure*, HAITILIBRE, Jun. 5, 2014, <http://www.haitilibre.com/en/news-11302-haiti-politic-the-dialogue-between-the-executive-and-the-senate-ends-in-failure.html>.
- ¹³ *Haiti-Elections: Martelly nomme un nouveau Conseil électoral provisoire, sans l'avis du sénat*, ALTERPRESSE, May 6, 2014, <http://www.alterpresse.org/spip.php?article16383#.VKHbAF4ANg>.
- ¹⁴ The full document, including other recommendations, is available here: <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article4393117.ece/binary/Read%20the%20presidential%20commission%27s%20report%20%28PDF%29>.
- ¹⁵ Jake Johnston & Mark Weisbrot, CTR. ECON. & POL'Y RESEARCH, *Haiti's Fatally Flawed Election 2* (2011), available at <http://www.cepr.net/documents/publications/haiti-2011-01.pdf>.
- ¹⁶ *Haiti- Flash: Démission des 9 conseillers du CEP*, HAITI LIBRE, Dec. 19, 2014, <http://www.haitilibre.com/article-12765-haiti-flash-demission-des-9-conseillers-du-cep.html>.
- ¹⁷ Jacqueline Charles, *Haiti Supreme Court chief resigns; new electoral council to come*, MIAMI HERALD, Jan. 7, 2014, <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article5582412.html>.
- ¹⁸ *Haiti – Politic: The Executive signs an agreement with 4 opposition parties*, HAITI LIBRE, Jan 12. 2015, <http://www.haitilibre.com/en/news-12922-haiti-politic-the-executive-signs-an-agreement-with-4-opposition-parties.html>
- ¹⁹ *Id.*
- ²⁰ See HAITI CONST. OF 1987 (Amended 2012), art. 111.
- ²¹ *Political uncertainty in Haiti as parliament is dissolved*, BBC NEWS, Jan. 14, 2015, <http://www.bbc.com/news/world-latin-america-30807811>
- ²² Ezra Fieser, *Haiti Congress Misses Deadline to Avert Political Crisis, Senator Says*, BLOOMBERG NEWS, Jan. 13, 2015, available at <http://www.businessweek.com/news/2015-01-12/haiti-s-leaders-face-midnight-deadline-to-avert-political-crisis>.
- ²³ *Martelly promet "un seul décret" pour les élections*, RADIO KISKEYA, Jan. 13, 2015, available at <http://www.radiokiskeya.com/spip.php?article10344>
- ²⁴ INST. FOR JUSTICE & DEMOCRACY IN HAITI *et al.*, Access to Judicial Remedies in Haiti (2014), available at http://www.ijdb.org/wp-content/uploads/2014/09/HRC_Access-to-judicial-remedies_Sept-12.pdf; see also RNDDH Report, *supra* note 9.
- ²⁵ *Id.*
- ²⁶ *Haiti-Justice: La marche vers une libération complète des prisonniers d'opinions*, ALTERPRESSE, Dec. 16, 2014, <http://www.alterpresse.org/spip.php?article17456#.VJHB98kw8dU>.
- ²⁷ Ctr. For Econ. & Policy Research, *Will Former President Aristide be Arrested? After 10 Years of Investigations, He Has Never Been Charged*, HAITI: RELIEF & RECONSTRUCTION WATCH BLOG (Aug. 14, 2014 3:37 PM), <http://www.cepr.net/index.php/blogs/relief-and-reconstruction-watch/will-former-president-aristide-be-arrested-after-10-years-of-investigations-he-has-never-been-charged>.
- ²⁸ Loi Créant le Conseil Supérieur du Pouvoir Judiciaire, art. 1, available at <http://www.leparlementhaitien.info/lesenat/kr/article/47-49e-legislature/161-loi-creant-le-conseil-superieur-du-pouvoir-judiciaire.html>.

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- ²⁹ Loi Portant de Stature de la Magistrature art. 51 (2007), *available at* http://www.oas.org/juridico/PDFs/mesicic4_hti_loi_magis.pdf (establishing a maximum legal age of 65 for the nomination of any judge).
- ³⁰ Charles, *supra* note 18.
- ³¹ *Id.*
- ³² *Haiti – Politic: The Executive signs an agreement with 4 opposition parties*, HAITILIBRE, Jan. 12, 2015, <http://www.haitilibre.com/en/news-12922-haiti-politic-the-executive-signs-an-agreement-with-4-opposition-parties.html>.
- ³³ *Haiti – Flash: Officiel, Evans Paul installé à la Primature*, HAITILIBRE, Jan. 17, 2015, <http://www.haitilibre.com/article-12963-haiti-flash-officiel-evans-paul-installe-a-la-primature.html>.
- ³⁴ Jacqueline Charles, *Martelly asks Haitians to ‘Give Country a Chance*, MIAMI HERALD, Jan. 12, 2015, *available at* <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article6066399.html>.
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